

**Location** **Westthorpe Gardens And Mills Grove London NW4 2TU**

**Reference:** **22/3125/S73** Received: 13th June 2022

Accepted: 17th June 2022

Ward: Hendon Expiry 16th September 2022

**Case Officer:** **Erica Mason**

Applicant: c/o Agent Metropolitan Thames Valley Housing

Proposal: Variation of condition 1 (Approved Plans) of planning permission reference 18/7495/FUL dated 01/09/2020 for 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westthorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.'  
Variation to include amendment to the tenure and occupancy for Block 1.1, 1.2 and 1.3  
(AMENDED TENURE SITE PLAN, PLANNING STATEMENT AND ACCOMMODATION SCHEDULE)

## **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 Chair (or in their absence the Vice-Chair) 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. Age restriction of Retirement Living units

Age Restriction of 55 to apply to the 48 affordable rented retirement living units

**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:

Plans / Documents submitted with current application reference 22/3125/S73:  
Tenure Site Plan - WTG-IWD-XX-XX-DR-A-S73151 Rev P3 (16 June 2022)  
Occupancy site plan WTG-IWD-XX-XX-DR-A-S73152 Rev P1 (June 2022)  
SO Review of Proposed Tenure Switch (May 2022)  
Rapeleys LLP Covering Letter (22 June 2022)  
Updated Accommodation Schedule (16 June 2022)  
RPS Consulting Services Ltd. Transport Technical Note (06 July 2022)

Plans / Documents submitted with approved application reference 18/7495/FUL:  
P4926\_1100 (Planning - Existing Site)  
P4926\_1101 (Planning - Red Line Boundary)  
P4926\_1102 C (Planning - Proposed Site Plan)  
P4926\_1103 A (Planning - Occupancy Site Plan)  
P4926\_1104 A (Planning - Tenure Site Plan)  
P4926\_1105 B (Planning - Roof Site Plan)  
P4926\_1106 C (Planning - Site Transport Strategy)  
P4926\_1107 A (Planning - Site Refuse and Recycling Strategy)  
P4926\_1108 A (Planning - Site Fire Strategy)  
P4926\_1115 (Planning - Coordinating Site Plan)

P4926\_1200 B (Planning - RL GF Plan)  
P4926\_1201 B (Planning - RL F1 Plan)  
P4926\_1202 B (Planning - RL F2 Plan)  
P4926\_1203 B (Planning - RL F3 Plan)  
P4926\_1204 B (Planning - RL F4 Plan)  
P4926\_1205 B (Planning - RL F5-6 Plan)  
P4926\_1206 B (Planning - Building 2 Floor Plans)  
P4926\_1207 B (Planning - Building 3 Floor Plans)  
P4926\_1208 B (Planning - Building 4 Floor Plans)  
P4926\_1209 B (Planning - Building 5 Floor Plans)

P4926\_1210 B (Planning - Building 6 Floor Plans)  
P4926\_1211 B (Planning - Building 7 Floor Plans)  
P4926\_1212 B (Planning - Building 8 Floor Plans)  
P4926\_1213 B (Planning - Houses 9 (H1 3B5P))  
P4926\_1214 B (Planning - Houses 10 (H2 4B6P))

P4926\_1240 (Planning - RL Basement Plan)  
P4926\_1241 A (Planning - RL Sections)  
P4926\_1250 (RL Unit Layouts)  
P4926\_1251 A (Typical Apartment Layouts - 1B2P)  
P4926\_1252 (Typical Apartment Layouts - 2B3P)  
P4926\_1253 (Typical Apartment Layouts)  
P4926\_1254 A (Planning - Typical House Layouts - 3B5P)  
P4926\_1255 A (Planning - Typical House Layouts - 4B6P)  
P4926\_1256 A (Planning - Typical House Layout - 4B6P Cat.3)  
P4926\_1257 (RL Unit Types Cat.3)  
P4926\_1350 (Planning - Site Elevation and Sections)  
P4926\_1450 B (Planning - RL Elevations 1)  
P4926\_1451 B (Planning - RL Elevations 2)  
P4926\_1452 B (Planning - Building 2 Elevations)  
P4926\_1453 B (Planning - Building 3 Elevations)  
P4926\_1454 B (Planning - Building 4 Elevations)  
P4926\_1455 B (Planning - Building 5 Elevations)  
P4926\_1256 B (Planning - Building 6 Elevations)  
P4926\_1457 B (Planning - Building 7 Elevations)  
P4926\_1458 B (Planning - Building 8 Elevations)  
P4926\_1459 B (Planning - Houses 9 Elevations)  
P4926\_1460 A (Planning - Houses 10 Elevations)  
P4926\_1471 (Planning - Strip Elevations (Retirement Living))  
P4926\_1472 (Planning - Strip Elevations (Buildings 2-8))  
P4926\_1273 (Planning - Strip Elevations (Houses))

17080-TLP-PA01 (Landscape Masterplan)  
17080-TLP-PA02 (Landscape Layout)  
17080-TLP-PA03 (Landscape Layout with topo underlay)  
17080-TLP-PA04 (Hard Landscape Material Palette)  
B17080-TLP-601 (Tree Survey)  
B17080-TLP-602 (Arboricultural Impact Assessment and Arboricultural Impact Assessment)

Air Quality Assessment  
Affordable Housing Statement  
Bat Survey Report  
Construction Logistics Plan  
Daylight and Sunlight Report  
Delivery and Servicing Plan  
Design and Access Statement  
Design and Access Statement Addendum  
Energy Strategy  
Essentials Utility Search Report  
Explosive Ordnance Desktop Threat Assessment  
Fire Safety Strategy Report  
Flood Risk Assessment & Drainage Strategy

Framework Residential Travel Plan  
Heritage Statement  
Historic Environment Assessment  
Landscape Design Statement  
Landscape Design Statement Addendum  
Phase 1 Desk Study Report  
Phase 2 Ground Investigation Report  
Planning Statement  
Preliminary Ecological Appraisal Report  
Preliminary Unexploded Ordnance Risk Assessment  
Noise Impact Assessment  
Overheating Assessment  
Refuse and Recycling Strategy  
Statement of Community Involvement  
Townscape and Visual Impact Assessment  
Transport Addendum Note  
Transport Assessment  
Tree Survey, Arboricultural Impact Assessment and Method Statement  
Verified Photomontages: Methodology and Supporting Evidence

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 01 September 2020.

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

- 3 a) 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 shall be as the details approved in writing by the Local Planning Authority under reference 20/6192/CON dated 22 February 2021.

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

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation in accordance with policies CS NPPF, CS1, CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012), Policies DM01, DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), and Policies D4, D5, D8 and G7 of the London Plan 2021.

- 4 a) Materials to be used for the development shall be as approved in writing by the Local Planning Authority under reference 21/2209/CON dated 01 June 2021.

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 Policy D4 of the London Plan 2021.

- 5 The enabling works including stopping up of any required public highway and footpaths enabling development phasing as specified within the Phasing Strategy setting out the delivery of the phases across the whole site, shall be as approved in writing by the Local Planning Authority, under reference 20/5815/CON dated 28 January 2021.

Reason: In the interests of existing and future occupiers and highways safety in accordance with Policy D2 of The London Plan (2021).

- 6 a) The development or site works shall be implemented in accordance with the approved 'Demolition and Construction Management and Logistics Plan' approved in writing by the Local Planning Authority under reference 20/5815/CON dated 28 January 2021 and reference 23/1068/CON dated 04 May 2023.

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.

- 7 The Ground Works and Site Preparation Works, shall commence within a Development Phase as per the Construction Environmental Management Plan which sets out the construction and environmental management measures associated with that Development Phase, approved in writing by the Local Planning Authority under reference 20/5815/CON dated 28 January 2021 and reference 23/1068/CON dated 04 May 2023.

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

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties, in the interests of highway and pedestrian safety and in the interests of protecting the environment and trees in

accordance with policies CS9, CS13, CS14, DM01, DM04 and DM17 of the Barnet Local Plan and policies D14, G7, SI 1, SI 2, SI 7, SI 8 and SI 10 of the London Plan 2021.

- 8 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 interests of good air quality with regard to Policy SI 1 of The London Plan (2021).

- 9 The details of cycle parking / storage shall be as approved under application reference 22/3778/CON dated 01 December 2022.

Thereafter, before the development hereby permitted is occupied, cycle parking spaces in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards 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, Policy DM17 of Development Management Policies (Adopted) September 2012 and Policy T5 of The London Plan 2021.

- 10 a) The details of the Electric Vehicle Charging facilities to be installed in the development shall be as shall be as approved under application reference 22/3778/CON dated 01 December 2022.

b) The development shall be implemented in full accordance with the details approved by this condition prior to the first occupation of the development or the commencement of the use and thereafter be maintained as such in perpetuity.

Reason: To ensure that the development makes adequate provision for electric vehicle charging points to encourage the use of electric vehicles in accordance with Policy T6 of the London Plan 2021.

- 11 The disabled parking spaces shall be provided as approved under application reference 22/3778/CON dated 01 December 2022 and be clearly marked with a British Standard disabled symbol where appropriate and permanently retained for the use of disabled persons and their vehicles and for no other purpose. The provision of such spaces shall be carried out in accordance with the needs level of each completed phase or block.

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 T6 of The London Plan 2021.

- 12 a) The details of interim parking arrangements serving the relevant block shall be as approved under application reference 20/6192/CON dated 22 February 2021.

b) By full completion of the approved development, the parking spaces shall be provided and shall not be used for any purpose other than parking of vehicles in connection with the approved development.

Reason: To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with Policy DM17 of the Development Management Policies DPD (adopted September 2012) and Policy T6 of the London Plan 2021.

- 13 a) Prior to the occupation of any phase or block, the interim Delivery and Service Plan (DSP) / Full Delivery and Servicing Plan (DSP) shall be implemented as approved by the Local Planning Authority under reference 22/4145/CON dated 25 October 2022.

b) The development thereafter shall only be operated in accordance with the above approved Delivery Plans.

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, Policy DM17 of Development Management Policies (Adopted) September 2012 and Policy T4 of the London Plan 2021.

- 14 Prior to the occupation of each phase or block, the refuse and recycling collection strategy shall be implemented as approved by the Local Planning Authority under reference 22/4145/CON dated 25 October 2022.

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

- 15 Prior to the practical completion of the entire approved development, a Car Park

Management Plan detailing the allocation of car parking spaces, all on site parking controls and charges and enforcement measures to be put in place to deal with any unauthorised parking shall be submitted to and approved in writing by the Local Planning Authority. The development shall be managed in accordance with the approved Car Parking Management Plan from the first occupation of the building and in perpetuity thereafter.

Reason: To ensure that parking is provided and managed at the development in the interests of highway safety and the free flow of traffic in the area and in accordance with policies CS9, DM17 of the Barnet Local Plan and policy T6 of the London Plan 2021.

- 16 Private parking provision for residential units shall be used for the purpose of residential parking and servicing only.

Reason: to ensure the development meets the needs of its future occupiers and to comply with the requirements of policies T6 of the London Plan 2021.

- 17 No works on the public highway including creation or modification of a vehicular access as a result of the proposed development shall be carried out as approved under reference 22/3778/CON dated 01 December 2022, in relation to Phase 1.

Reason: To ensure that the works on the public highway are carried out to the satisfaction of the highway authority in the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012, policy DM17 of Development Management Policies (Adopted) September 2012 and policy T6 of the London Plan 2021.

- 18 a) The Air Quality Assessment details as approved under reference 20/6192/CON dated 22 February 2021, shall be implemented.

b) The approved measures shall be implemented in its entirety in accordance with details approved under this condition before any of the development is first occupied or the use commences and retained as such thereafter.

Reason: To ensure that the amenities of occupiers are protected from the poor air quality in the vicinity in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policy SI 1 of the London Plan 2021.

- 19 The details of all extraction and ventilation equipment relating to the proposed air source heat pumps to be installed as part of the development shall be as approved under reference 21/0240/CON dated 18 June 2021.

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



Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policy CS14 of the Local Plan Core Strategy (adopted September 2012) and Policy SI 1 London Plan 2021.

- 20 The mitigation measures set out in the Noise Impact Assessment by Cas Allen dated 16th November as approved under this condition shall be implemented in their entirety prior to the first commencement or first occupation of each phase or block 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 policies DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policy D14 of the London Plan 2021.

- 21 The level of noise emitted from the 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 D14 of the London Plan 2021.

- 22 a) The mitigation measures detailed within the Noise Report shall be implemented as approved under reference 21/0240/CON dated 18 June 2021.

b) The measures as 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 October 2016) and Policy D14 of the London Plan 2021.

- 23 a) Prior to the first commencement of the community kitchen, a detailed assessment for any kitchen extraction units, which assesses the likely impacts of odour and smoke on the neighbouring properties is carried out by an approved consultant. This fully detailed assessment shall indicate the measures to be used to

control and minimise odour and smoke to address its findings and should include some or all of the following: grease filters, carbon filters, odour neutralization and electrostatic precipitators (ESP). The equipment shall be installed using anti-vibration mounts. It should clearly show the scheme in a scale diagram and shall be submitted to and approved in writing by the Local Planning Authority

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

Reason: To ensure that the amenities of the neighbouring occupiers are not prejudiced odour and smoke in the immediate surroundings in accordance with policies DM01 of the Development Management Policies DPD (adopted September 2012), Policy CS14 of the Local Plan Core Strategy (adopted 2012) and D1 of the London Plan 2021.

- 24 The Method Statement detailing the remediation requirements shall be as approved under references 20/6192/CON dated 22 February 2021 and reference 22/5325/CON dated 02 December 2022 shall be as approved by the Local Planning Authority under application reference dated and shall be implemented before the development is occupied.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety in accordance with Policy CS NPPF of the Local Plan Core Strategy DPD (adopted September 2012), DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policy SD 1 of the London Plan 2021.

- 25 The details of the boilers shall be as approved by the Local Planning Authority under reference 20/6192/CON dated 22 February 2021.

Reason: To comply with the London Plan's SPG on Sustainable Design and Construction(adopted October 2016) and Policy SI 1 of the London Plan 2021 in relation to air quality.

- 26 a) The site works shall be implemented in accordance with the Bat Mitigation Method Statement approved by the Local Planning Authority under reference 21/2774/CON dated 14 July 2021.

b) The site demolition, construction and maintenance of the proposed development shall strictly adhere to the bat mitigation actions that are to be implemented on the site.

Reason: To ensure that nature conservation interests are not prejudiced by the development in accordance with Policy DM16 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policy G6 of the London Plan 2021.

- 27 The development shall proceed and be carried out in strict accordance with the findings and recommendation of the Preliminary Ecological Appraisal Report submitted in support of the application (Greengage Environmental Ltd, November 2018) and the details of ecological enhancements contained within shall be incorporated into the finished scheme.

Reason: To ensure that nature conservation interests are not prejudiced by the development in accordance with Policy DM16 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policy G6 of the London Plan 2021.

- 28 a) Prior to the occupation of each relevant phase or block, the scheme of hard and soft landscaping as approved by the Local Planning Authority under reference : 22/3783/CON dated 01 December 2022, shall be implemented.

b) The approved landscaping scheme should be implemented no later than 3-months post practical completion of the entire development.

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 Policy G5 and G7 of the London Plan 2021.

- 29 a) The details of the location, extent and depth of all excavations for services in relation to trees on and adjacent to the site, shall be implemented as approved by the Local Planning Authority, as submitted under reference 21/0240/CON dated 18 June 2021.

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

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policy G7 of the London Plan 2021.

- 30 a) Each phase or block shall adhere to the approved dimensioned Tree Protection Plan and 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) as approved in writing by the Local Planning Authority under reference 20/5816/CON dated 02 March 2021.

b) Prior to the commencement of each phase or block, 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 G7 of the London Plan 2021.

31 a) The detailed tree felling / pruning specification shall be implemented as approved in writing by the Local Planning Authority under reference 20/5816/CON dated 02 March 2021.

b) All tree felling and pruning works shall be carried out in full accordance with the approved specifications under this condition and in accordance with British Standard 3998 (Recommendation for Tree Works).

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 G7 of The London Plan 2021.

32 a) Prior to the first occupation of the relevant phase or block, the green roof should be implemented in accordance with details as approved by the Local Planning Authority under reference 22/3783/CON dated 01 December 2022.

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

Reason: To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their homes in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and Policy G7 of the London Plan 2021.

33 The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in condition 30 shall be implemented in accordance with the details as approved by the Local Planning Authority under reference 22/3783/CON dated 01 December 2022. This condition is discharged in relation to phase 1 of the development.

This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.

Reason: To ensure all specified on site monitoring and tree protection measures are adhered to in accordance with Policy G7 of the London Plan 2021.

34 a) The scheme detailing all play equipment to be installed in the communal amenity space should be implemented as approved by the Local Planning Authority under reference 22/3783/CON dated 01 December 2022.

b) The approved play equipment should be implemented no later than 3-months post practical completion of the entire development.

Reason: To ensure that the development represents high quality design and to accord with Policy CS7 of the Local Plan Core Strategy (adopted September 2012), Policy DM02 of the Development Management Policies DPD (adopted September 2012), the Residential Design Guidance SPD (adopted 2016), the Planning Obligations SPD (adopted April 2016) and Policies D3 and GG3 of the London Plan 2021.

35 a) The details of the means of enclosure, including boundary treatments, shall be implemented as approved by the Local Planning Authority under reference 22/3783/CON dated 01 December 2022.

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

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

36 Prior to the practical completion of the entire development, the Landscape Management Plan approved by the Local Planning Authority under reference 22/4145/CON dated 25 October 2022, shall be implemented.

The development shall be implemented in accordance with the agreed details and maintained in accordance thereafter.

Reason: To ensure a satisfactory appearance to the development and protect the amenities of the area and future and neighbouring occupiers in accordance with policies DM01 and DM02 of the Barnet Local Plan and Policy G7 of the London Plan 2021.

- 37 Prior to occupation, the details in relation to water network upgrades and the housing and infrastructure phasing plan for Thames Water, as approved by the Local Planning Authority under reference 22/5192/CON dated 30 November 2022, shall be implemented.

Reason: The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development.

- 38 a) The surface water drainage scheme shall be implemented in accordance with details approved by the Local Planning Authority under reference 21/0240/CON dated 18 June 2021.

b) The scheme shall subsequently be implemented in accordance with the approved details before development is completed.

Reason: To ensure that the proposed development can be adequately drained and to ensure that there is no flood risk on or off site resulting from the proposed development.

- 39 a) Prior to the practical completion of the entire development, the External Lighting Assessment as approved by the Local Planning Authority shall be implemented as submitted under reference 22/3783/CON dated 01 December 2022.

b) Any identified light pollution mitigation should be implemented no later than 3-months post practical completion of the entire development.

Reason: To ensure the development provides adequate amenities of neighbouring residential properties as well as the future occupiers of the proposed dwellings and to accord with policy DM01 of the Barnet Local Plan 2012.

- 40 Prior to the first occupation, the Solar Photovoltaic panels as approved by the Local Planning Authority shall be implemented as submitted under reference 22/3783/CON dated 01 December 2022, shall be installed.

Reason: to ensure that the development is sustainable and complies with the requirements of Policies SI 2 and SI 3 of the London Plan 2021.

- 41 a) Before the occupation of each phase or block, the details of the privacy screens approved by the Local Planning Authority under reference 22/4145/CON dated 25 October 2022, shall be implemented.

b) The screens shall be retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02

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

- 42 Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouses (Use Class C3) within each block 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 above mentioned 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 the Mayors Housing SPG and Policy D7 of the London Plan 2021.

- 43 Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 35% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

Reason: To ensure that the development is sustainable and minimises carbon dioxide emissions and to comply with the requirements of policies DM01 and DM02 of the Barnet Development Management Policies document (2012), Policy SI 2 of the London Plan 2021 and the 2016 Mayors Housing SPG.

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

Reason: To encourage the efficient use of water in accordance with policy CS13 of the Barnet Core Strategy (2012) and Policy SI 5 of the London Plan 2021 and the 2016 Mayors Housing SPG.

- 45 The community cafe use hereby permitted shall not be open to members of the public before 07:00 or after 21:00 on weekdays and Saturdays or before 10:00 or after 19:00 on Sundays and Bank and Public Holidays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties

in accordance with Policy D3 of the London Plan 2021.

- 47 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order), the following operations shall not be undertaken without the receipt of prior specific express planning permission in writing from the Local Planning Authority on the buildings hereby approved:

The installation of any structures or apparatus for purposes relating to telecommunications or any part of the development hereby approved, including any structures or development otherwise permitted under Part 24 and Part 25 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any equivalent Order revoking and re-enacting that order.

Reason: To ensure that the development does not impact adversely on the character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with Policies CS5 and DM01 of the Local Plan.

- 48 Prior to the first occupation of each phase or block consented under this planning permission, the details in relation to security and crime prevention measures as approved by the Local Planning Authority, under reference 22/4145/CON dated October 2022, shall be implemented.

Reason: To ensure that appropriate security and crime prevention measures are provided as part of the development in accordance with policy DM01 and DM02 of the Barnet Local Plan and Policy D11 of the London Plan 2021.

- 49 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) and Policy D3 of the London Plan 2021.

### **RECOMMENDATION III:**

- 1 That if the above deed of variation has not been completed has not been completed by 30.09.2023, 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, older person living, carbon off-set, tree management and highways mitigation. The proposal would therefore not address the impacts of the development, contrary to Policies CS4, CS5, CS9 and CS10 of the Local Plan Core Strategy (adopted September 2012), policies DM01, DM04, DM09, DM10, DM13 and DM17 of the Development Management Policies (adopted September 2012) and the Planning Obligations SPD (adopted April 2013).

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

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

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](mailto: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 The applicant is advised that any development or conversion which necessitates the removal, changing, or creation of an address or addresses must be officially registered by the Council through the formal 'Street Naming and Numbering' process.

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

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

Further details and the application form can be downloaded from: <http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf> or requested from the Street Naming and Numbering Team via [street.naming@barnet.gov.uk](mailto:street.naming@barnet.gov.uk) or by telephoning 0208 359 4500.

- 5 There are water mains crossing or close to your development. Thames Water do

NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development does not reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.

<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>

- 6 The developer can request information to support the discharge of this condition by visiting the Thames Water website at [thameswater.co.uk/preplanning](https://thameswater.co.uk/preplanning). Should the Local Planning Authority consider the above recommendation inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Planning Department (telephone 0203 577 9998) prior to the planning application approval.
  
- 7 The proposed development is located within 15m of our underground water assets and as such we would like the following informative attached to any approval granted. The proposed development is located within 15m of Thames Waters underground assets, as such the development could cause the assets to fail if appropriate measures are not taken. Please read our guide working near our assets to ensure your workings are in line with the necessary processes you need to follow if you are considering working above or near our pipes or other structures.  
<https://developers.thameswater.co.uk/Developing-a-largesite/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)
  
- 8 The applicant is advised to engage a qualified kitchen extraction consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory smoke and odour control. Please note that:
  - Flue(s) must be 1.5 m\* above eaves or any open able windows in the vicinity (within 20 metres of the flue) if there are sensitive premises in the vicinity. The final discharge must be vertically upwards. There should be no hat or cowl on the top of the flue. If flues are to be attached to neighbouring noise/vibration sensitive premises they must incorporate anti-vibration mounts, flexible couplings and silencers. \*If the flue is in a Conservation area then this height may be reduced to 1m above eaves.
  - 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: DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (DEFRA, January 2005); DEFRA Odour Guidance for Local Authorities (DEFRA, March 2010). 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 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 non-infection 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."

- 10 The Applicant is reminded that a European Protected Species Mitigation (EPSM) license obtained from Natural England, will have to be in place to facilitate works, even if undertaken under a low impact license.

The ecological enhancements contained within the Preliminary Ecological Appraisal Report (Greengage Environmental Ltd, November 2018) approved under application 18/7495/FUL -including bat boxes - are required by Condition 27, to be incorporated into the finished scheme. Those bat boxes shall be installed in accordance with the details discharged in the Bat Mitigation Method Statement (produced by Greengage; dated March 2021), approved for Condition 26, reference 21/2774/CON dated 14 July 2021.

## **OFFICER'S ASSESSMENT**

### **1. Site Description**

The host site comprises of the Westhorpe Gardens and Mills Grove Estate, located off Tenterden Grove, within the ward of Hendon. The estate consisted of 102no. residential dwellings across 6 x 3 storey blocks of flats and rows of traditional 2 storey terraced houses. There is forecourt parking, 38 garages and areas of un-used undercroft parking below the existing flat blocks. Existing vehicular access to the site is from Tenterden Grove, with separate accesses for Westhorpe Gardens and Mills Grove. Works relating to Phase 1 of planning approval reference 18/7495/FUL dated 01 September 2020 have been largely completed.

The surrounding area is characterised by suburban residential properties ranging from large detached and semi-detached houses along Parson Street and Tenterden Grove/Gardens to the north and east and semi-detached houses along Finchley Lane (A504) to the south. To the north of the site are Edinburgh House and Markham Court, 5 and 4 storey flatted buildings. To the west of the site are two separate cul-de-sac developments of Corrigan Close and Linfield Close which comprise of 2 storey detached houses.

The site is not subject of any specific designation or Local Plan allocation, but is located within Flood Zone 1, has a Public Transport Accessibility Level (PTAL) of 2 and lies between two Special Archaeological Significance Areas. The site is not located within a designated conservation area and there are no statutory or locally listed buildings within the site. However, there are two Grade II Listed Building within close proximity of the site; 'Montfort House' to the north-west and 'The Vicarage' to the west.

There is a Tree Preservation Order (TPO) covering the whole site.

## 2. Site History

Reference: 18/7495/FUL

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved following legal agreement

Decision Date: 01 September 2020

Description: Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.

Reference: 20/5102/NMA

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 18 November 2020

Description: Non-material amendments to planning permission reference 18/7495/FUL dated 01/09/2020 for Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping. Amendments include rewording of condition 4, 18, 19, 22, 24 and 38.

Reference: 20/5815/CON

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 28 January 2021

Description: Submission of details of Condition 5 (Phasing Strategy), 6a (Demolition and Construction Management and Logistics Plan), 7 (Construction Environmental Management Plan) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 20/5816/CON

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 02 March 2021

Description: Submission of details of Condition 30 (Tree Protection Plan), 31 (Tree Felling Plan) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 20/6192/CON

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 22 February 2021

Description: Submission of details of condition 3 (Levels), 12 (Parking strategy), 18 (Air quality mitigation), 24 part 1 (Soils remediation), 25 (Boiler details) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 21/0240/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 18 June 2021

Description: Submission of details of condition 19 (Air source heat pumps) 22 (Acoustics) 29 (Co-ordinated service plan) 38 (Surface water drainage) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 21/1674/NMA

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 15 April 2021

Description: Non-material amendments to planning permission reference 18/7495/FUL dated 01/09/20 for 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westthorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.' Amendment to include changing the wording of condition 4 (Details - Materials) to read 'Prior to installation of relevant works, 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'.

Reference: 21/1758/NMA

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 6 April 2021

Description: Non-material amendments to planning permission reference 18/7495/FUL dated 01/09/20 for ' Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westthorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.' Amendments include alterations to the design and fenestration of Buildings 1-8 and Houses 8 and 10 and updating of tenure mix, technical reports and related conditions (see covering letter).

Reference: 21/2209/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 01 June 2021

Description: Submission of details of condition 4 (External Materials) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 21/2774/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 14 July 2021

Description: Submission of details of Condition 26 (Bat Survey) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 21/5925/NMA

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 30/11/2021

Description: Non-material amendments to planning permission reference 18/7495/FUL dated 01/09/20 for 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.' Amendments include alterations to balcony doors and balustrades, entrance doors and canopies, garden and patio balustrading, privacy screen, bin and cycle stores. Changes to levels, external finishes, windows, rainwater downpipes.

Reference: 22/2854/NMA

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 06 July 2022

Description: Non material amendment to planning permission 18/7495/FUL dated 01/09/2020 for `Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.` Amendments include provision of new block entrance to Building 1.1 and Building 1.3, elevational changes to Building 1.2, unit Typology changes in Building 1.1 and 1.3 and internal layout changes linked to building management and regulatory changes.

Reference: 22/3124/NMA

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Pending consideration

Decision Date: N/A

Description: Non-material amendments to planning permission reference 18/7495/FUL dated 01/09/20 for 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.' Amendments include changing the development description to read 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment of 251 residential units which includes 46 units to be provided for retirement living, across 9 no. part 4 / 5 / 6 / and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community café within the retirement block and associated parking and landscaping'.

Reference: 22/3778/CON

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 01 December 2022

Description: Submission of details of condition 9 (Cycle Parking), 10 (Electric Vehicle Charging Facilities), 11 (Disabled Parking Spaces) and 17 (Highway Works) all in relation to Phase 1 of the development of planning permission 18/7495/FUL dated 01/09/2020.

Reference: 22/3783/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 01 December 2022

Description: Submission of details of conditions 28 (Hard and Soft Landscaping - in relation to Phase 1), 32 (Green Roof), 33 (Arboricultural Protection Measures - in relation to Phase 1), 34 (Details - Play Equipment), 35 (Boundary Treatment - in relation to Phase 1), 39 (External Lighting Assessment), and 40 (Solar Panels) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 22/4145/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 25 October 2022

Description: Submission of details of conditions 13 (Interim Delivery and Service Plan), 14 (Interim Refuse and Recycling Collection Strategy), 36 (Landscape Management Plan) and 48 (Security and Crime Prevention) pursuant to planning permission 18/7495/FUL dated 11/08/2022.

Reference: 22/4341/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Pending Consideration

Decision Date: N/A

Description: Submission of details of conditions 15 (Car Park Management Plan) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 22/5192/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 30 November 2022

Description: Submission of details of condition 37 (Thames Water Infrastructure) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 22/5325/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 02 December 2022

Description: Submission of details of condition 24 (Land Contamination - Remediation) in relation to Phase 1 of the development pursuant to planning permission 18/7495/FUL dated 01/09/2020.

Reference: 23/1068/CON

Address: Westthorpe Gardens And Mills Grove NW4 2TU

Decision: Approved

Decision Date: 04 May 2023

Description: Submission of details of condition 6 (Demolition and Construction Logistics Management Plan) 7 (Construction and Environmental Management Plan) pursuant to planning permission 18/7495/FUL dated 01/09/2020.



Reference: 23/1274/CON

Address: Westhorpe Gardens And Mills Grove NW4 2TU

Decision: Pending consideration

Decision Date: N/A

Description: Submission of details of condition 30 (tree protection plan and method statement), 31 (Tree Felling Specification) pursuant to planning permission 18/7495/FUL dated 01/09/2020.

### **3. Proposal**

This application seeks:

'Variation of condition 1 (Approved Plans) of planning permission reference 18/7495/FUL dated 01/09/2020 for 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.' Variation to include amendment to the tenure and occupancy for Block 1.1, 1.2 and 1.3'.

The changes to the tenure mix would allow for the scheme to continue providing 100% affordable housing, split as follows:

Previously approved Tenure Mix under planning approval reference 18/7495/FUL dated 01/09/2020:

Affordable Rent (Over 55s): 48 x 1B2P (Total 48)

Market Sale (Over 55s): 17 x 1B2P and 14 x 2B3P (Total 31)

Shared Ownership: No Shared Ownership units

Total: 79no. residential units

Proposed Tenure Mix under current planning application:

Affordable Rent (Over 55s): 40 x 1B2P and 6 x 2B3P (Total 46)

Market Sale (Over 55s): No Market Sale units (Total 0)

Shared Ownership: 1 x 1B1P, 21 x 1B2P and 11 x 2B3P (Total 33)

Total: 79no. residential units

### **4. Public Consultation**

Consultation letters were sent to 925no. neighbouring properties. Site notices dated 30 June 2022 were erected and an advertisement was placed in the Barnet Times dated 28 June 2022.

74 responses by way of objections and comments and a petition with objections to the proposal was received, containing a representation of 272no. signatures. Objection and comments are summarised as follows:

-The plan doesn't provide enough parking spaces to accommodate families or young workers many of whom will require more than one parking space per household.

-Highways, traffic, access and parking issues on Tenterden Grove, Tenterden Gardens, Brinsdale Road, Parson Street and Finchley Lane from this development will worsen

- Development is a long walk away from transport links resulting in greater car use

- Blind spots
- Traffic report was undertaken during school holidays
- Roads are not wide enough for traffic to pass in both directions often leading to gridlock
- Increase in traffic on a school road and 3 synagogues and a church in the vicinity
- Buses include school buses and are insufficient
- Underground parking, sufficient car-charging points should be provided and new traffic survey required
- Double yellow lines which were in place along Tenterden Grove should have been repainted before construction started so that they were clearly marked - and would have stopped the workforce parking their cars
- Damage caused from lorries parking on pavements and kerbs - dangerous for pedestrians - should be replaced by the developer when work is finally completed
- An additional 400 car spaces should be provided on site as the development will be occupied by families with more than one car
- Original review of the area is no longer valid, as post-covid - there is insufficient parking in the streets
- Assumed under previous proposal that retirement housing would attract less car use

(Planners Comments: Highways issues were assessed by the Highways Department following the submission of RPS Consulting Services Ltd. Transport Technical Note (06 July 2022). The note along with the previously submitted and approved Parking Survey is considered to have an acceptable impact on the development. Furthermore, TfL was consulted and raised no objections to the scheme).

- Development already overcrowded for the area

(Planners Comments: The proposal relates to the same amounts of dwellings as previously approved - and therefore no further impact is considered to be caused from the proposed amendments).

- Air quality, noise, dust pollution issues and overcrowded street

(Planners Comments: Condition 18 (Air Quality Assessment), conditions 21 and 22 (Noise) and conditions 6 and 7 (Construction Management) of the parent application was assessed to ensure that the above issues are adequately dealt with. Also, no further dwellings are proposed in comparison to the approved scheme and thus will not lead to overcrowding.)

- Infringement on neighbours' privacy and rights to light
- Height of the buildings) is entirely out of keeping with the overall residential and low-rise nature of the neighbourhood
- These Issues and justification of changes should have been identified in advance during the initial proposal and assessment
- Market housing changes the mixed neighbourhood that was proposed and is negative to the overall balance of the scheme as approved
- There was a sizeable opposition to the original development of 251 homes and is too large for the surrounding area
- Detrimental impact on residential amenities and the visual impact of a development
- Proposal does not respect character and appearance, local context, street pattern, scale and proportions of surrounding buildings

(Planners Comments: No new extensions to the approved scheme are proposed and therefore no privacy and rights of light infringements are envisaged. Furthermore, the

scheme seeks to allow for 100% of affordable homes. Therefore, providing dwellings for those who cannot afford the Market sale dwellings. Overall, this is considered to be positive.)

- Variation is a huge change and invalidates the current planning permission
- Works on the development stop immediately and a new application be applied for
- Renewed evaluation of the whole project required
- The 31 units which are in high demand should remain as approved to give other parts of the local community the opportunity to benefit from high quality new build private housing available in Hendon
- Substantial reduction in amount of affordable retirement options for local residents

(Planners Comments: The application has been assessed on its' own merits and the submission meets the National and local Requirements - and was thus registered. Scheme discussed in more detail within the main part of the report, below.)

- Online website is not currently allowing online comment - now submitted by email

(Planners Comments: Neighbour re-consultation actioned)

- Most of the retirement accommodation in this area is provided by expensive private organisations including conversion of the Hendon Hall Hotel
- Elderly residents will be disadvantaged as they will not have the required housing
- Hendon has an ageing population within Barnet and withdrawing this provision creates a bigger issue, again with no further provision provided
- Increased demand for retirement accommodation as the demographics change within the borough.

(Planners Comments: Issues discussed within the main report below)

- Environmental impact and unsustainable
- Green space is being destroyed, trees cut down and this will increase rain-water run-off, increase the local heat-island effect of urbanisation

(Planners Comments: Condition 28 (Hard and Soft Landscaping) and condition 30 (Tree Protection and Method Statement) were discharged and therefore the scheme is acceptable in the above regards)

- On site advert does not specify the homes for over 55s - and one can only assume that Metropolitan used the mix of occupancy as a way of obtaining approval for a development that was extremely objected to in the original application

(Planners Comments: The Local Planning Authority (LPA) have no control over the content of the developer's advertisement)

## **Statutory Consultations**

### **Highways Comments**

Initial comments:

- No significant transport impacts are anticipated as a result of the proposed change of tenure as the number of units remains the same at 79 and the % unit mix change is minimal.

- However, a technical note should be provided to back up the proposed variation.
- The change from over-55 units to shared ownership may result in some variations to trip patterns.
- Confirmation required relating to compliance with the London Plan 2021 policies on cycling provision.
- Clarify that due consideration has been given to the effect on the parking provision assumptions and that no changes are anticipated or proposed, especially with regards to overspill. Any trip generation & mode share changes, even if minimal, should be reviewed and submitted.
- Clarifications can be provided in the form of a short note or letter.

Further comments:

- Following the submission of RPS Consulting Services Ltd. Transport Technical Note (06 July 2022), the Highways Department confirmed the acceptability of the scheme in relation to Highways.

### **Transportation and Regeneration Department Comments**

- The Council accepts that retirement living units attract a lower level of private vehicle demand (this principle has been applied to other approved schemes in the Borough - and other London Boroughs). Therefore, as noted the change to market sale would lead to a variation in the car-based trip generation. The revised calculation provided by the applicants indicates that a maximum of 9 additional vehicles may require to be accommodated on site or in the surrounding streets.
- For the original application and to comply with Council Transport policy the applicants undertook parking surveys to demonstrate that any impact to surrounding streets would not adversely affect existing demand (Surveys are required in all cases where limited parking is being provided). The surveys indicated that there is significant overnight spare capacity in the area (up to 30 in the immediate vicinity and over 100 in the surrounding streets).
- In combination with the comprehensive mitigation package secured by legal agreement, including provision of a car club, CPZ review, and detailed travel plan to encourage active travel, it is considered that the impact of a potential 9 additional vehicles parked in the surrounding road network does not materially change the transport impact of the proposed development; hence there are no objections from a transport perspective to the proposed tenure changes and no additional surveys or parking space provision are required in this instance.

### **Transport for London Comments**

- TfL has No Objection to the proposed variation to the consent subject to all planning conditions and planning obligation for transport, highway, and public realm will be re-secured in the new consent.

### **Environmental Health Comments**

- Environmental Health has no further comments and the original conditions remain the same.

### **Ecology Officer Comments**

- No objections on ecological grounds in relation to the submitted proposed occupancy site plan (Hill Partnerships Limited, 08/06/2022, WTG-IWD-XX-XX-DR-A-S73152 P1) and tenure plan (Hill Partnerships Limited, 08/06/2022, WTG-IWD-XX-XX-DR-

A-S73151) as these will have no material impact on ecology, protected species, trees or landscaping.

### **Trees Officer Comments**

- No objections raised.

### **Met Police - Crime Prevention**

- No objections raised, as it does not appear that the site will be changing - other than the type of tenure for the units.
- Planning condition 48 of the parent application relates to Crime Prevention. Although there is no direct mention of 'Secured by Design' (SBD), it is recommended that the applicant submits an application for the SBD process.

(Planners Comments: Condition 48 (Crime Prevention) was discharged 22/4145/CON dated 11 August 2022).

- The Design Out Crime officer (DOC) was consulted on the Discharge of Condition application and confirmed that they are satisfied that the applicant has taken steps to incorporate crime prevention measures for their site.

## **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 20th 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 benefit.

#### 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.

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

Relevant Policies:

D1 - Form and Character

D4 - Good Design

D5 - Inclusive Design  
D6 - Housing Quality and Standards  
D14 - Noise  
G1 - Green Infrastructure  
GG4 - Delivering Homes Londoners Need  
G5 - Urban Greening  
G6 - Biodiversity and Access to Nature  
G7 - Trees and Woodlands  
H1 - Increasing Housing Supply  
H4 - Delivering Affordable Housing  
H6 - Affordable Housing Tenure  
H10 - Housing Size Mix  
S4 - Play and Informal Recreation  
SI 1 - Improving Air Quality  
SI 2 - Minimising Greenhouse Gas Emissions  
SI 13 - Sustainable Drainage  
T3 - Transport capacity, connectivity and safeguarding  
T4 - Assessing and Mitigating Transport Impact  
T5 - Cycle Parking  
T6.1 - Residential Car Parking

### Barnet's Local Plan (2012)

Barnet's Draft Local Plan on 26th November 2021 was submitted to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Department of Levelling Up, Housing and Communities. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2021 (as amended).

The Regulation 22 Local Plan sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. 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.

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

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04, DM08, DM16, DM17.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

## Supplementary Planning Documents

Residential Design Guidance (adopted October 2016)

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.

Local Plan Supplementary Planning Document: Planning Obligation (adopted April 2013)

Local Plan Supplementary Planning Document Affordable Housing (adopted February 2007)

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

The main issues for consideration in this case are:

- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.
- Highways Issues

### **5.3 Assessment of Proposal**

The applicant, Metropolitan Thames Valley Housing (MTVH) and Hill Group, confirmed that they have undertaken a review of Phase 2 of the scheme since November 2021, ahead of site enabling works. The applicant has a S96a Non-Material Amendment (NMA) application running alongside the current proposal, seeking to amend the description of development under approval reference 18/7495/FUL dated 01 September 2020. This is being considered separately under planning reference 22/3124/NMA.

The current application seeks planning approval as follows:

Variation of condition 1 (Approved Plans) of planning permission reference 18/7495/FUL dated 01/09/2020 for 'Demolition of existing 102 residential dwellings across 6 x 3 storey block of flats, 2 storey terraced houses and Westhorpe Cottage. Redevelopment for 251 residential units which includes 79 units to be provided for retirement living, across 9 no. part 4/5/6 and 7 storey blocks and 15 no. 3 storey houses with ancillary shared spaces including community cafe within the retirement block and associated parking and landscaping.' Variation to include amendment to the tenure and occupancy for Block 1.1, 1.2 and 1.3'.

As noted above, this application seeks a minor material amendment to the previously approved scheme. The differences between the current application and the previous application are detailed above, and this appraisal will therefore assess only the nature of the changes from the approved scheme, and whether these result in a development which would conflict with the Development Plan. Therefore, in relation to the character and appearance of the development and potential impact on the neighbouring amenities and future occupiers, the principle of its' acceptance was already established under the parent application, reference 18/7495/FUL.

MTVH have undertaken a review in detail of the Over 55s Retirement Living market in respect of demand in mixed tenure intergenerational schemes. The exploration compared the facilities provided by Westhorpe Gardens in comparison to developments delivered in other schemes in the local vicinity. The likely sales periods and incentives needed to facilitate the sale of 31no. market sale homes for Over 55's was considered. It was concluded that the consented tenure is no longer a preferred option, due to the expected

low demand. This was stated as being due to limited facilities and the mixed tenure provided under the scheme. The expected sales period of 3-4 years would lead to significant holding and marketing costs - hence the need for the proposed tenure discussed above.

It was considered by the applicant that the proposed non age restricted shared ownership would be less restrictive than the approved over 55's marketable units. Thus, whilst any age group could apply for the revised housing, including over 55's, applicants would not be restricted by age group. This element of the scheme would better accommodate the demand for shared ownership, providing an affordable route into home ownership in the vicinity.

The applicant provided support for this stance within the submitted SO Review of Proposed Tenure Switch (May 2022).

### Tenure changes

In respect of the tenure mix, the proposal does not result in a change in general internal arrangement amendments.

The original planning application reference 18/7495/FUL dated 01/09/2020 secured 48no. dwellings consisting of affordable Rented units for the over 55's and no shared ownership properties. The proposal also included 31no. market sale units for the over 55's. This tenure was secured by a S.106 Agreement Legal Agreement.

The current proposal seeks to provide 100% affordable housing by way of 46no. affordable rental properties for the over 55's, 33no. shared ownership properties with no age restriction - and no market value housing is proposed. A Deed of Variation (DoV) is currently in progress to accommodate the tenure change.

It should be noted that this element of the scheme relates to Blocks 1.1, 1.2 and 1.3 only of the overall development.

Therefore, building 1.1 and 1.2 becomes affordable rent for Over 55's - 46no. units and Building 1.3 becomes non age restricted shared ownership - 33no. units.

The result of the changes subject of the current application is an increase from 48no. affordable dwellings to 79no. affordable dwellings. The total number of units remains as previously approved - however, the resultant scheme allows for 100% affordable housing. The development has been built out by Metropolitan Thames Valley Housing (MTVH), a housing association.

The removal of the age restrictions to the proposed shared ownership units would require a change in the description of the approved scheme. The new description of development as set out above will allow for the amended tenure for Blocks 1.1, 1.2 and 1.3, facilitating an overall development of 100% affordable housing development consisting of a variety of affordable housing tenures.

No further amendments are required under the current application. Therefore, the change to the description is considered to be acceptable.

### Highways



It is noted that objections were received with regards to potential parking issues due to the change in tenure. RPS Consulting Services Ltd. Transport Technical Note (06 July 2022) was submitted by the applicant. The Technical Note drew reference from the approved Parking Survey. Both the LPA's Highways officer and TfL were consulted. No objections were raised to the proposed scheme. Therefore, it is considered that the scheme would not have a harmful impact on the Highway. Furthermore, the following conditions have been discharged to allow for an acceptable proposal in relation to both car and cycle parking:

Condition 9 - Cycle Parking / Storage  
Condition 10 - Electric Charge Points  
Condition 11 - Disabled Parking Space  
Condition 12 - Parking Strategy

Furthermore, the Transportation section was consulted and confirmed that...

It should be noted that in terms of car parking, the original application (ref: 18/7495/FUL) proposed the following the car parking provision:

114 spaces for 172no units for the market sale units (0.66 ratio); and  
31 spaces for the 79no units for the retirement units (0.39 ratio).

A reduced ratio for retirement units was accepted by both the Council and TfL based on existing retirement living developments in the borough. The application agreed suitable transport obligations within the S106 relating to the provision of car club spaces, review of CPZ, permit restrictions, bus contribution and implementation of a travel plan.

Through this application 33 retirement units would be converted to private sale units. Based on the accepted parking ratios of the original application, this would generate the following parking provisions:

46 retirement units x 0.39 - 18 spaces  
33 market sale units x 0.66 - 22 spaces.

This would generate a requirement of 40 spaces which is an increase of 9 spaces above the original approval. Notwithstanding this increase, any ability to accommodate additional parking within the site would result in the loss of landscape and amenity space at ground floor level. This was the same position which was considered within the original application, and it was considered that an increase of the surface level parking would not be welcomed as it would compromise the landscaping / public realm. The creation of basement levels to facilitate parking would have a detrimental impact on the viability and the level of affordable housing secured. The agreed mitigation is still considered appropriate and can deal adequately with the increase parking requirement of 9 additional spaces.

The Transportation and Regeneration Department were consulted during the application process and provided the following comments:

- The Council accepts that retirement living units attract a lower level of private vehicle demand (this principle has been applied to other approved schemes in the Borough - and other London Boroughs). Therefore, as noted the change to market sale would lead to a variation in the car-based trip generation. The revised calculation provided

by the applicants indicates that a maximum of 9 additional vehicles may require to be accommodated on site or in the surrounding streets.

- For the original application and to comply with Council Transport policy the applicants undertook parking surveys to demonstrate that any impact to surrounding streets would not adversely affect existing demand (Surveys are required in all cases where limited parking is being provided). The surveys indicated that there is significant overnight spare capacity in the area (up to 30 in the immediate vicinity and over 100 in the surrounding streets).

- In combination with the comprehensive mitigation package secured by legal agreement, including provision of a car club, CPZ review, and detailed travel plan to encourage active travel, it is considered that the impact of a potential 9 additional vehicles parked in the surrounding road network does not materially change the transport impact of the proposed development; hence there are no objections from a transport perspective to the proposed tenure changes and no additional surveys or parking space provision are required in this instance.

In light of the above advice, it is considered that the change in tenure would have an acceptable impact on the Highway and resultant parking provision.

#### Other issues

As mentioned above, it should be noted that the current application is supported by a further application reference 22/3124/NMA submitted pursuant to Section 96a (otherwise referred to as a "Non-Material Amendment" application) of the Town and Country Planning Act 1990 (as amended) to amend the descriptions of development and vary condition 2 of both planning permissions. The amendments within the Section 96a application update the tenure of residential units referred to within the description of development.

These amendments are required to facilitate the Section 73 applications submitted herewith in light of the judgement handed down by the Court of Appeal in *Finney V Welsh Ministers*, which concluded that Section 73 of the Act may not be used to obtain a varied permission when the change sought would require a variation to the terms of the operative part of that permission. Should a resolution to grant the two current Section 73 applications be agreed, then the Local Planning Authority will issue delegated approval of the Section 96a applications. Alternatively, should the committee resolve to refuse the application, then S96a applications will be refused.

#### **5.4 Response to Public Consultation**

Discussed in section 4 - 'Public Consultation' of the planning officers report.

#### **6. Equalities 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. The equality duty of Barnet Council's Equality Policy covers a list of protected characteristics. In relation to the above approval, age is considered to be the main characteristic. Whilst the over 55's marketable housing is proposed to be eliminated from the scheme, the proposal retains housing for the over 55's and thus complies with the Equalities policy in this regard.

#### **7. Conclusion**

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

# Site Location Plan

