



## Planning Committee

**Wednesday 10 July 2024 at 6.00 pm**

Conference Hall - Brent Civic Centre, Engineers Way,  
Wembley, HA9 0FJ

Please note this will be held as a physical meeting which all Committee members will be required to attend in person.

**The meeting will be open for the press and public to attend or alternatively can be followed via the live webcast. The link to follow proceedings via the live webcast is available [HERE](#)**

### Membership:

#### Members

Councillors:

Kelcher (Chair)  
S Butt (Vice-Chair)  
Akram  
Begum  
Chappell  
Dixon  
Johnson  
J.Patel

#### Substitute Members

Councillors:

Agha, Bajwa, Crabb, Gbajumo, Mahmood,  
Mitchell and Rajan-Seelan  
  
Councillors  
Hirani and Kansagra

**For further information contact:** James Kinsella, Governance & Scrutiny Manager  
james.kinsella@brent.gov.uk; 020 8937 2063

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**Members' virtual briefing will take place at 12.00 noon.**

## **Notes for Members - Declarations of Interest:**

If a Member is aware they have a Disclosable Pecuniary Interest\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest\*\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

### **\*Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

### **\*\*Personal Interests:**

The business relates to or affects:

(a) Anybody of which you are a member or in a position of general control or management, and:

- To which you are appointed by the council;
- which exercises functions of a public nature;
- which is directed is to charitable purposes;
- whose principal purposes include the influence of public opinion or policy (including a political party or trade union).

(b) The interests a of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.

# Agenda

Introductions, if appropriate.

ITEM	WARD	PAGE
1. Apologies for Absence and Clarification of Alternative Members		
2. Declarations of interests Members are invited to declare at this stage of the meeting, the nature and existence of any relevant disclosable pecuniary or personal interests in the items on this agenda and to specify the item(s) to which they relate.		
<b>APPLICATIONS FOR DECISION</b>		
3. 23/3187- Land at 370 High Road and 54-68 Dudden Hill Lane, London, NW10	Roundwood	5 - 72
4. Deed of Variation - Fairgate House, 390-400 and 402-408, High Road, Wembley and land rear of 390-408 High Road, Wembley, HA9	Wembley Hill	73 - 84
5. 24/077372 - Vivian Avenue, Wembley, HA9 6RU	Tokynghon	85 - 98
6. Any Other Urgent Business Notice of items to be raised under this heading must be given in writing to the Deputy Director Democratic Services or their representative before the meeting in accordance with Standing Order 60.		

**Date of the next meeting: Wednesday 7 August 2024**



- Please remember to **SWITCH OFF** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public. Alternatively, it will be possible to follow proceedings via the live webcast [HERE](#)

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## APPLICATIONS FOR DECISION

### Introduction

1. In this part of the agenda are reports on planning applications for determination by the committee.
2. Although the reports are set out in a particular order on the agenda, the Chair may reorder the agenda on the night. Therefore, if you wish to be present for a particular application, you need to be at the meeting from the beginning.
3. The following information and advice only applies to reports in this part of the agenda.

### Material planning considerations

4. The Committee is required to consider planning applications against the development plan and other material planning considerations. The development plan policies and material planning considerations that are relevant to the application are discussed within the report for the specific application
5. Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken.
6. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.
7. Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
8. Under Section 197 of the Town and Country Planning Act 1990, in considering whether to grant planning permission for any development, the local planning authority must ensure, whenever it is appropriate, that adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.
9. In accordance with Article 35 of the Development Management Procedure Order 2015, Members are invited to agree the recommendations set out in the reports, which have been made on the basis of the analysis of the scheme set out in each report. This analysis has been undertaken on the balance of the policies and any other material considerations set out in the individual reports.

10. Members are reminded that other areas of legislation cover many aspects of the development process and therefore do not need to be considered as part of determining a planning application. The most common examples are:
- **Building Regulations** deal with structural integrity of buildings, the physical performance of buildings in terms of their consumption of energy, means of escape in case of fire, access to buildings by the Fire Brigade to fight fires etc.
  - Works within the highway are controlled by **Highways Legislation**.
  - **Environmental Health** covers a range of issues including public nuisance, food safety, licensing, pollution control etc.
  - Works on or close to the boundary are covered by the **Party Wall Act**.
  - **Covenants and private rights** over land are enforced separately from planning and should not be taken into account.

### Provision of infrastructure

11. The Community Infrastructure Levy (CIL) is a charge levied on floor space arising from development in order to fund infrastructure that is needed to support development in an area. Brent CIL was formally introduced from 1 July 2013.
12. The Council has an ambitious programme of capital expenditure, and CIL will be used to fund, in part or full, some of these items, which are linked to the Infrastructure Delivery Plan (IDP).
13. Currently the types of infrastructure/specific infrastructure projects which CIL funds can be found in the Regulation 123 List.
14. The Regulation 123 list sets out that the London Borough of Brent intends to fund either in whole or in part the provision, improvement, replacement, operation or maintenance of new and existing:
- public realm infrastructure, including town centre improvement projects and street trees;
  - roads and other transport facilities;
  - schools and other educational facilities;
  - parks, open space, and sporting and recreational facilities;
  - community & cultural infrastructure;
  - medical facilities;
  - renewable energy and sustainability infrastructure; and
  - flood defences,
- except unless the need for specific infrastructure contributions is identified in the S106 Planning Obligations Supplementary Planning Document or where section 106 arrangements will continue to apply if the infrastructure is required to make the development acceptable in planning terms.
15. We are also a collecting authority for the Mayor of London's CIL 'Mayoral CIL' which was introduced from 1 April 2012 to help finance Crossrail, the major

new rail link that will connect central London to Reading and Heathrow in the West and Shenfield and Abbey Wood in the East.

16. In February 2019 the Mayor adopted a new charging schedule (MCIL2). MCIL2 came into effect on 1 April 2019 and superseded MCIL1. MCIL2 will be used to fund Crossrail 1 (the Elizabeth Line) and Crossrail 2.
17. For more information:  
Brent CIL: <https://www.brent.gov.uk/services-for-residents/planning-and-building-control/planning-policy/community-infrastructure-levy-cil/>  
Mayoral CIL: <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/mayoral-community-infrastructure-levy>
18. Other forms of necessary infrastructure (as defined in the CIL Regulations) and any mitigation of the development that is necessary will be secured through a section 106 agreement. Where these are necessary, it will be explained and specified in the agenda reports

#### **Further information**

19. Members are informed that any relevant material received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in the Supplementary Report.

#### **Public speaking**

20. The Council's Constitution allows for public speaking on these items in accordance with the Constitution and the Chair's discretion.

#### **Recommendation**

21. The Committee to take any decisions recommended in the attached report(s).

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## COMMITTEE REPORT

Planning Committee on  
Item No  
Case Number

10 July, 2024  
04  
23/3187

## SITE INFORMATION

<b>RECEIVED</b>	<b>2 October, 2023</b>
<b>WARD</b>	<b>Roundwood</b>
<b>PLANNING AREA</b>	<b>Brent Connects Willesden</b>
<b>LOCATION</b>	<b>Land at 370 High Road and 54-68 Dudden Hill Lane, London, NW10</b>
<b>PROPOSAL</b>	Demolition of existing buildings and redevelopment to provide six mixed use blocks, comprising residential dwellings (Class C3); the provision of industrial floorspace, gym floorspace, retail floorspace and flexible commercial floorspace; associated vehicular access; car and cycle parking spaces; refuse storage; amenity space; substation and landscaping.
<b>PLAN NO'S</b>	See condition 2
<b>LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION</b>	<p><b><u><a href="#">When viewing this on an Electronic Device</a></u></b></p> <p><b>Please click on the link below to view <b>ALL</b> document associated to case</b>  <a href="https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=DCAPR_166478">https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=DCAPR_166478</a></p> <p><b><u><a href="#">When viewing this as a Hard Copy</a></u></b></p> <p><b>Please use the following steps</b></p> <ol style="list-style-type: none"> <li>1. Please go to <a href="https://pa.brent.gov.uk">pa.brent.gov.uk</a></li> <li>2. Select Planning and conduct a search tying "23/3187" (i.e. Case Reference) into the search Box</li> <li>3. Click on "View Documents" tab</li> </ol>

## RECOMMENDATIONS

That the Committee resolve to GRANT planning permission subject to the application's referral to the Mayor of London (Stage 2 referral) and the prior completion of a legal agreement to secure the following planning obligations:

Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance

1. Notification of commencement 28 days prior to material start
2. Provision of 48 affordable housing units on a nil grant basis, comprised of:
  - (a) 48 units for affordable rent (at London Affordable Rent levels, in accordance with the Mayor of London's Affordable Housing Programme 2021-2026 Funding Guidance (dated November 2020) and subject to an appropriate Affordable Rent nominations agreement with the Council, securing 100% nomination rights on first lets and 75% nomination rights on subsequent lets for the Council)
  - (b) In the event that the development does not commence within 24 months, an appropriate early stage review mechanism to secure additional on-site affordable housing, or an on-site provision of affordable housing that complies more closely with Brent's policy target affordable housing tenure split, as demonstrated achievable through financial viability assessments.
  - (c) An appropriate late stage review mechanism against the agreed base appraisal, assessing actual residential sales values, and securing any additional deferred affordable housing obligations as per an agreed formula to capture uplift in value (as demonstrated through financial viability assessments) within a commuted sum to be paid to the Council towards the provision and enablement of off-site affordable housing.
4. At least 10% of all employment floorspace to be provided as affordable workspace to be delivered as follows:
  - a) In perpetuity
  - b) At no more than 50% of comparable local market rates
  - c) Floorspace is to be provided as affordable research and development, light industrial, flexible office and studio workspace (Use Class E(g))
  - d) Managed by one of the Councils approved affordable workspace operators
  - e) With a minimum lease term of 15 years or a minimum long-lease of 125 years
  - f) To a minimum fit-out standard as set out in the Affordable Workspace SPD
5. Employment and Training obligations, comprised of:
  - a) to inform Brent Works in writing of the projected number of construction jobs and training opportunities and provide a copy of the Schedule of Works;
  - b) to prepare and submit for the Council's approval an Employment Training Plan for the provision of training, skills and employment initiatives for residents of the Borough relating to the construction phase and operational phase of the Development, in line with Brent's Planning Obligation SPD;
  - c) financial contribution of £192,500 in accordance with Brent's Planning Obligations SPD to Brent Works for job brokerage services
6. S38/S278 highway works under the Highways act 1980 to provide:
  - a) a zebra crossing on a raised speed table on Dudden Hill Lane along the site frontage, including anti-skid surfacing on the approaches;
  - b) widening of the footway along the Dudden Hill Lane frontage to at least 3.75m;
  - c) new vehicular site accesses onto Dudden Hill Lane, Colin Road and High Road with raised entry tables and tactile paving;
  - d) removal of all existing redundant crossovers to the site and associated amendments to adjoining parking bays;
  - e) a raised speed table and kerb build-outs on Colin Road at its junction with High Road and speed cushions close to the mid-point of the street;

- f) improved bicycle routes to and through the site along High Road to link with the London Cycle Network; and
  - g) a bus shelter and real-time information at the eastbound bus stop on Dudden Hill Lane opposite the site.
7. Parking permit restriction to be applied to all new residential units
  8. Enhanced travel plan to be submitted, implemented and monitored including funding of subsidised membership of the Car Club for three years for all new residents.
  9. Financial contribution towards additional local bus capacity (£to be confirmed)
  10. Financial contribution towards a review and potential amendments to the operating hours of the Controlled Parking Zone around the site (£25,000)
  11. Submission and approval of Residential, Workplace and Retail Travel Plans for the development.
  12. Designation of the pedestrian and cyclist route through the site as a permissive right of way
  13. A financial contribution (estimated to be around £50,000) in relation to improvements to nearby open spaces which may include improvements to the open spaces themselves, the play facilities within these open spaces and/or improvements to the routes to these spaces from the application site
  14. Carbon offset contribution to be paid (estimated to be around £456,855) – or an opportunity to resubmit an improved energy statement and reduce the offset payment.
  15. A financial contribution (£7,000) towards the planting and maintenance of two replacement street trees on Dudden Hill Lane
  16. Surveys of television and radio reception in surrounding area, submission of a TV and Radio Reception Impact Assessment, and undertaking to carry out any mitigation works identified within the assessment and agreed
  17. Indexation of contributions in line with inflation from the date of committee resolution

And, to authorise the Head of Area Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the Unitary Development Plan and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

That the Head of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

### **Conditions**

#### *Compliance*

1. Three year rule
2. Approved drawings and documents
3. No industrial units larger than 1,000 sqm
4. Commercial use class restrictions
5. Maximum number of residential dwellings
6. Supermarket car parking restriction
7. Compliance with Flood risk assessment and drainage strategy
8. Compliance with Preliminary Ecological Appraisal and Biodiversity Impact Assessment
9. Compliance with Construction Ecological Management Plan
10. Compliance with Fire Safety Statement
11. Doors of Block F non-opening outwards over Colin Road footway
12. Non Road Mobile Machinery
13. Water efficiency
14. Electric Vehicle Charging Points
15. Access to communal amenity space

### *Pre-commencement*

16. Construction Logistics Plan
17. Construction Method Statement
18. Phasing Plan/CIL chargeable development plan

### *During construction*

19. Soil contamination
20. Piling Method Statement
21. District heating network connection
22. Full fibre broadband connectivity
23. External materials
24. Design details
25. Microclimate mitigation measures
26. Wheelchair accessible homes
27. Hard and soft landscape work
28. Further cycle and refuse details
29. External lighting strategy

### *Pre-occupation*

30. Car Parking Management Plan
31. Whole Life Carbon Assessment
32. Circular Economy
33. Delivery and Servicing Plan
34. Internal Noise levels
35. Sound insulation details
36. Development and Infrastructure Plan - Foul Water
37. Plant noise
38. BREEAM Assessment and Post-construction certificate


Informatives as listed in the Committee Report.

That the Head of Planning is delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

That, if by the "expiry date" of this application (subject to any amendments/extensions to the expiry date agreed by both parties) the legal agreement has not been completed, the Head of Planning is delegated authority to refuse planning permission.

That the Committee confirms that adequate provision has been made, by the imposition of conditions, for the preservation or planting of trees as required by Section 197 of the Town and Country Planning Act 1990.

## **SITE MAP**

	<b>Planning Committee Map</b>
<b>Brent</b>	Site address: Land at 370 High Road and 54-68 Dudden Hill Lane, London, NW10
	© Crown copyright and database rights 2011 Ordnance Survey 100025260

This map is  
indicative only.



## PROPOSAL IN DETAIL

The proposal is for six new blocks varying in height and mass set within a significant amount of new public realm comprising hard and soft landscaping, play equipment and new walking routes. The scheme would deliver a total of 301 residential homes, replacement light industrial floorspace and retail/ commercial floorspace within each of the blocks as summarised below:

**Buildings A and B:** Two 6-storey (plus mezzanine level) primarily residential buildings towards the northern end of the site, closest to Dudden Hill Lane. The buildings would contain a total of 58 homes comprising 14 no. one bedroom homes, 19 no. two bedroom homes and 25 no. three bedroom homes, with 48 of these being affordable (all at a London Affordable Rent) and the remainder (in Block B) being private. A supermarket would be provided at ground floor level, with a GIA of approximately 1,639 sqm, and cycle/ refuse storage and lobby entrances to the residential blocks. A communal podium would be provided between the blocks to provide external amenity space.

**Building C:** This would be a part 9, part 13- storey rectilinear building (with lower shoulder and podium) situated along the same northern edge as Blocks A and B, which has a podium garden situated on top of the shoulder building. The block would contain a total of 92 homes comprising 44 no. one bedroom homes, 44 no. two bedroom homes, and 4 no. three bedroom homes, with all of these being private. The main residential lobby to the block and bin/cycle storage would be contained at ground floor, as well as the blue badge car parking serving the residential homes. A communal podium would be provided between Blocks B and C to provide external amenity space.

**Buildings D and E:** These blocks would again have a primarily residential use, with Building D having a maximum height of 19 storeys, stepping down to a shoulder height of 13 storeys, while Block E would abut this block to the immediate south-west and would be five storeys, stepping down to two storeys on the High Road frontage. The buildings would contain a total of 133 homes, comprising 46 no. one bedroom homes, 74 no. two bedroom homes and 13 no. three bedroom homes, with all of these being private.

The majority of the light industrial floorspace (approximately 1,931 sqm in total) would be contained within the ground floor of Building E and the rear of Building D, looking onto an industrial yard accessed from High Road. The ground floor of Building D fronting the main parade would contain a cafe (Use Class E(b)) of 66.3 sqm GIA and the residential entrances, as well as bin and cycle storage. Finally, a gym (Use Class E(d)) would be provided over ground and mezzanine levels, which has a proposed GIA of approximately 971 sqm.

**Building F:** This would be a part-3, part-5 storey building on the southern and western edges of the site, with a light industrial unit at ground floor level nearest to the High Road/ public courtyard access, and flexible Class E use (approximately 106 sqm) fronting Colin Road. The upper floors would be in residential use, containing 18 homes in total. These would comprise four no. one bedroom homes, 12 no. two bedroom homes, and two no. three bedroom homes. All these units would be private.

Significant landscaping is proposed throughout the site which is publicly accessible and would also contain areas for play. The landscaped areas have also been designed to form a part of the surface water strategy given that the site is in a flood risk area. The proposal would include 24 parking spaces associated with the supermarket use, accessed from Dudden Hill Lane, with a further space linked to the light industrial yard, and 9 spaces for Blue Badge parking associated with the residential homes. Cycle parking has been proposed to meet London Plan standards.

## EXISTING

The site has an area of 0.93 hectares and is bounded by the Sapcote Trading Centre to the north, Colin Road to the south, Dudden Hill Lane to the east and High Road to the west. The site is currently occupied by a number of industrial units including a heavy plant hire business, storage facilities for haulage equipment and scaffolding and a MOT station/Used car sales garage. There are three retail units located on the southern side of the site adjacent to the Colin Road/High Road junction. A tyre garage located on Colin Road that does not form part of the site proposal. The surrounding area contains industrial units to the north, an undesignated shopping parade to the east and south and residential properties to the east, west and south. The site is also located within a Locally Significant Industrial Site (LSIS).

Residential units in the form of two storey terraced properties are located on the southern boundary of the site

on Colin Road. Residential properties are also found along Dudden Hill Lane and High Road. The height of the buildings in the area is generally two/three storeys however there are a number of examples of taller buildings located to the west on the approach to Church End and to the north-east on Dudden Hill Lane. The site is not located within a conservation area and does not contain any listed buildings. The site has a Public Transport Accessibility Level (PTAL) of 5 with Dollis Hill underground station located approximately 160 metres to the north-east and regular bus services to Church End, Neasden and Willesden.

## AMENDMENTS SINCE SUBMISSION

A number of minor amendments were made to the scheme as a result of comments raised by officers and the GLA/ TfL during the course of the consultation exercise. These are summarised as follows:

- The number of car parking spaces linked to the supermarket use reduced by 2, from 26 to 24
- Changes to the ground floor layout, including the re-arrangement of residential entrances and refuse store to Blocks D/E and the gym entrance to improve active frontage in these locations
- An increase in the width of the affordable residential entrance to Building B
- Changes to the mezzanine floor layout to respond to the ground floor changes outlined above
- The material palette to Building B has been amended, with a main buff brick now proposed to match Building A following GLA and Brent urban design officer feedback
- Changes to the detailed design of Buildings C, D and E to respond to GLA concerns regarding the overall massing of these taller elements
- Improvements to the public courtyard and industrial yard layouts, including the re-positioning of the loading/ servicing bay and the planting of additional trees and landscaping within the public realm
- Increased soft planting to the roof terrace of Building F

## SUMMARY OF KEY ISSUES

The key planning issues for Members to consider are set out below. Members will have to balance all of the planning issues and objectives when making a decision on the application.

**Representations received:** 10 letters of objection were received. Further details of the comments received are discussed within the “consultation section” below.

**Principle:** The principle of the residential-led mixed use re-development of the site for residential purposes is acceptable, particularly given the site allocation requirements set out in Policy BSSA4 relating to housing, commercial and replacement light industrial floorspace. The amount of replacement employment workspace within the scheme is considered acceptable and would meet the overarching policy requirements set out in both the Local Plan and the London Plan, including the provision of affordable workspace. The principle of retail use is considered acceptable despite the out-of-town centre location, having been subject to a sequential assessment. The development has also demonstrated through an indicative Masterplan that it would not compromise the development of the rest of the site allocation (Chapman’s and Sapcote Industrial Estate) to the immediate north.

**Design, layout and height:** The development proposes tall buildings outside of a designated zone, and at its highest part (19 storeys), the blocks would be significantly taller than those envisaged by the Church End Growth Area (CEGA) Masterplan SPD. However, officers consider that the applicants have successfully demonstrated a logical and robust approach to the height and massing, with this maximised to the north and west, and steps down nearest to the more suburban, low-rise context. A comprehensive townscape and visual impact assessment has been submitted, which demonstrates that the buildings would meet a number of key criteria covering likely visual, functional and environmental impacts, and therefore meet the requirements of London Plan Policy D9.

**Affordable Housing/unit mix:** The scheme would provide a total of 48 affordable units (15.4% by units and 19.1% by habitable room), which would all be provided at a London Affordable Rent. It has been demonstrated through the submission of a financial viability appraisal that the proposal will deliver the maximum amount of affordable housing that can viably be provided on site. Although the tenure split is not strictly policy compliant due to the lack of any intermediate homes, significant weight is given to the number of low-cost affordable (and in particular family-sized) homes provided, which would not be feasible if a policy compliant split was proposed. The proposal also includes 14.6% three bedroom homes, which is acknowledged to be below the BH6 policy target of 1 in 4 homes. However, the impacts associated with this lower provision of family homes are considered to be outweighed by the benefits from providing a significant proportion of this family accommodation within the affordable tenure.

**Quality of residential accommodation:** The residential accommodation proposed is of sufficiently high quality, meeting the particular needs and requirements of future occupiers. The flats would have good outlook and light and the blocks within the site achieved good levels of separation distances between them. The amount of external private/communal space does not fully meet Brent's requirements as set out within policy BH13 (20sqm per home), however, the provision of amenity on site has been reasonably maximised for a location such as this and is of sufficient quality and provides a variety of external communal spaces (including new publicly accessible open space) and on-site play, for future occupiers.

**Impact on neighbouring properties:** The development would have some impact on the neighbouring properties, largely in terms of loss of daylight and there would be some shortfalls against BRE guidelines, in particular to properties on High Road to the south-west and Colin Road to the immediate south. However, the applicant has demonstrated in their submission that existing building features already restrict access to light. However, the level of impact is not considered to be unduly detrimental given the general high level of compliance given the urban nature of the scheme. The overall impact of the development is considered acceptable, particularly in view of the wider benefits of the scheme in terms of the Council's strategic objectives.

**Transport:** 24 car parking spaces are now proposed in connection with the supermarket use, which does not accord with London Plan policies which seek such schemes (in areas of very good PTAL) to be 'car free', with the exception of blue badge parking. Transport for London (TfL) have raised an objection on these grounds. However, Brent officers consider that the long-term viability of the retail use, and therefore the scheme as a whole, would be compromised without the provision of this car parking and this is supported by London Plan policies. Otherwise, new dwellings would be subject to a 'car free agreement' with the exception of disabled spaces. Cycle parking has been proposed to meet London Plan standards. Contributions are also sought by TfL towards improvements to cycle routes and bus services. The proposal is considered to be acceptable in relation to the potential transportation impacts subject to the conditions and obligations set out within the recommendation section of this report.

**Landscape, ecology, biodiversity and flooding/drainage:** There are no existing trees on site. There would be a net increase of 73 trees on site, with 16 of these planted at ground floor level (mainly within the new public open space). The site is not within any designated ecological assets but there are SNIC sites in proximity to the site. It is not likely to form habitat for any protected species, given its extensive hard-surfacing and limited green components. Net gain in biodiversity is to be achieved as a result of development, as well as a significant improvement to the Urban Greening Factor score. Flood risk has been assessed, and no objections are raised by the Environment Agency on these grounds. A range of SuDS measures are proposed to address surface water management, with further details of the drainage strategy to be secured by condition(s).

**Environmental impact, sustainability and energy:** The measures outlined by the applicant achieve the required improvement on carbon savings within London Plan policy, further clarification of some matters is sought by the GLA ahead of a Stage 2 referral. Subject to appropriate conditions, the scheme would not have any detrimental impacts in terms of air quality, land contamination, noise and dust from construction, and noise disturbance to existing/future residential occupiers.

## RELEVANT SITE HISTORY

A planning application (ref: 18/3498) was **withdrawn** on 20/12/2021 for the demolition of existing buildings and erection of 5 mixed use blocks ranging from 4 to 10 storeys plus basement levels, comprising; 245 residential units at 1st to 9th floors, and light industrial floorspace (Class B1c), food retail floorspace (supermarket) (Class A1), gym (Class D2), resident's lounge, commercial unit (flexible use for Class A1, A2, A3, D1 and/or B1c) and HA office (Class B1a) at basement, ground and part 1st floors, together with associated vehicular access, car and cycle parking spaces, bin stores, plant room, substations, landscaping and amenity space.

## CONSULTATIONS

### Public Consultation

A total of 1897 addresses within Dudden Hill Lane, High Road, Colin Road and immediate surrounding areas were initially notified of the development on 16<sup>th</sup> October 2023.



A Site Notice was displayed on 16/10/2023  
A Press Notice was published 19/10/2023

A total of 10 representations were received with 1 x supporting comment, 8 x written objections and 1 x neutral comment neither objecting nor supporting the proposal were received to the proposals at this stage, from adjoining residents and interested parties.

Submitted comments including the grounds for objection are summarised in the table below:

<b>Representation Comments</b>	<b>Officer Remarks</b>
<b>Principle</b>	
Development resulting in overcrowding and the local amenities surrounding the site are insufficient to support this additional occupancy in the area.	The proposal would help to meet an identified need for homes in the borough and is situated within a site allocated for development, within an identified Growth Area. This ensures that there are sufficient local services and amenities to support additional housing.
No provision of social housing.	Although no social housing is proposed, 100% of the affordable housing provided would be at the lower-cost, London Affordable Rents. See paragraphs 20-30 for detailed assessment.
Should the change of use from industrial to residential be allowed on this site.	See paragraphs 1-13 of main report
The proposals do not include the Universal Tyres Site and do not show how it could be developed which is contrary to the masterplan approach. Concern is raised that Block F would prejudice the development of the Universal Tyres Site as it is shown directly on the boundary, and is so close that the proposed balconies to the apartments facing Colin Road almost touch the site.	The impact of the proposed development on this adjoining site, and its potential for re-development, has been considered within the planning assessment. A distance of at least 9m is maintained between this site and the residential blocks which sit to the immediate north and north-east, complying with SPD1 principles. To the immediate east/ south-east, Block F has been designed to ensure it does not rely on outlook from the adjoining site, with windows looking either north, south or east. Therefore, despite this block abutting the boundary of the garage site, it is not considered to be detrimental to the re-development of the existing site. It should also be noted that no planning application for the re-development of this site has been submitted at the time of writing.
<b>Design</b>	
19 storeys and also the 7 storeys proposed are too high with regards to massing and out of character with the low rise surrounding context	See paragraphs 32-55 of main report
Clarity of building materials and colour palette required	See paragraphs 56-62 of main report. Officers consider that the Design and Access Statement provides sufficient clarity/detail on the proposed materials and colour palette.
<b>Amenities</b>	
The gym is likely to attract people from outside the immediate community	The scheme has been designed to include public spaces and uses that are open to the surrounding community, which includes the proposed gym as well as other commercial uses.

Overbearing impact in terms of outlook and daylight to adjoining properties	See paragraphs 84-159 for detailed assessment of amenity impacts to surrounding residential properties.
Loss of vistas towards the Wembley Arch on neighbouring property at Shortcroft Mead Court	Private views are not protected by planning policy or guidance, but outlook is considered. Protected views of Wembley Arch are considered at paragraph 63 of main report.
The development would contribute further to the existing anti-social behaviour issues surrounding Dollis Hill station	The development has been designed with Secure By Design principles in mind and there are not considered to be any specific concerns in regard to increased anti-social behaviour around the station as a result of this development.
<b>Transport</b>	
Inaccurate information submitted in the transport plan referring to the Piccadilly Line, noting that Dollis Hill is served by the Jubilee Line and experiences overcrowding at peak times	Transport for London have reviewed this proposal and consider it to be acceptable in terms of its impact on tube capacity. Contributions towards local bus capacity and bus stop improvements have been secured.
Transport considerations should be considered in the context of the wider masterplan	The 'highways and transport' section of the report addresses the proposal's impacts on the local area, which includes the context of the wider masterplan.
Cycling infrastructure needs to be increased	See paragraphs 214-217 of main report. Improvements to the local cycle network are secured by condition/ S106.
Parking facilities provided for the supermarket would lead to additional traffic in the area. The scheme should be car free given its excellent access to public transport.	See paragraphs 207-213 of main report.
No parking provisions allocated for residents for short term servicing use, emergency services use and no provisions for car pooling	Access for servicing and emergency service use would be provided. The scheme includes the provision of Car Club membership for future occupiers as part of a detailed Travel Plan to be secured by condition.
<b>Sustainability and Biodiversity</b>	
No mention of biodiversity in the landscaping plans.	The Landscape statement does refer to biodiversity where applicable. See paragraphs 267-274 for full assessment of ecology and biodiversity matters.

One letter of support was received on the grounds that the proposals is considered to be an improvement on a previous scheme.

### **Statutory/ External Consultees**

#### **Greater London Authority (Stage 1 response):**

The GLA has commented on a number of strategic issues raised by the scheme, which are summarised as follows:

**Land Use Principles:**

The principle of redeveloping the site for a co-located industrial and residential-led mixed-use development may be supported on this part of the designated LSIS, subject to further information regarding re-provision of industrial capacity and the masterplan approach to develop the site in connection to the rest of the LSIS cluster. Currently, there is a shortfall in industrial capacity re-provision. Opportunities should be explored for improving on the quantum of industrial floorspace provided.

**Affordable housing:**

The scheme currently includes 19% affordable housing (by habitable room), all of which would be London Affordable Rent units. The financial viability appraisal for the proposal is currently being scrutinised by GLA officers to ensure the scheme is providing the maximum viable level of affordable housing.

**Urban Design:**

The proposed height, massing and density is generally supported from an urban design perspective however further refinement is recommended in townscape terms. Further information is also required on public realm and provision of child playspace.

**Transport:**

The quantum of proposed retail car parking is excessive and should be reduced. Further information is required on the Delivery & Servicing Strategy and Travel Plan. Other necessary financial contributions and conditions should be secured.

Other issues on energy, Circular Economy Whole Life-cycle Carbon, and sustainable drainage also require resolution prior to the Mayor's decision making stage.

Officer comments: These issues are all addressed in more detail within relevant sections of the main report below.

Transport for London (TfL)

TfL have raised the following conclusive comments:

- The quantum of proposed retail car parking at this site is excessive and contrary to London Plan policy and should be reduced.
- A revised Active Travel Zone (ATZ) assessment should be submitted.
- A contribution towards bus service enhancements should be secured.
- Improvements to the design of cycle parking at this site is required.
- Concerns in regards to the delivery and servicing strategy for the site should be addressed prior to the determination of this application;
- A Travel Plan, Delivery and Servicing Plan, Construction Logistics Plan should be secured through this application and/or by condition as appropriate.

Officer comments: These issues are all addressed in more detail within relevant sections of the main report below.

Health and Safety Executive (Fire Safety)

Following a review of the submitted information, HSE is content with the fire safety design, to the extent that it affects land use planning and raise no objection.

Thames Water

A piling method statement condition should be secured from the developer by condition, prior to the undertaking of piling operations. A condition is also recommended in relation to foul water network infrastructure capacity. Otherwise, no objections raised.

Environment Agency

No objections raised.

Internal consultation

## Environmental Health

Environmental health raises no objections to the application subject to a number of conditions relating to internal noise levels, construction noise and dust and air quality impact, and contaminated land. See detailed considerations section of report for further comments on these issues.

Comments have also been raised by the Council's urban design, planning policy, heritage, trees and transportation teams. The comments raised are set out and addressed in detail within the main considerations section of the report.

### **Statement of Community Involvement**

A Statement of Community Involvement (SCI) has been submitted with the application, sets out the public consultation and level of engagement undertaken before submitting the application, as required through the Localism Act (2011).

The SCI details the range of consultation events and communications and activities entered into between June 2022 and June 2023.

The Applicant sought to consult a wide range of local stakeholders, including residents, community groups, and Ward Councillors within the London Borough of Brent, via door-knocking exercises, conference meetings held online and newsletter distribution.

Around 1450 local residents and businesses within a 300m radius received a newsletter on 4<sup>th</sup> January 2023 inviting them to attend the exhibition events, held at Brent MENCAP close to the site, to view the proposals and to have their questions answered by members of the project team.

To ensure all members of the community were able to view the proposals, in addition to the events, a dedicated online Community Hub was launched – [54-68duddenhilllane.co.uk](http://54-68duddenhilllane.co.uk) where the proposed plans are displayed, and visitors can leave feedback. The Hub went live on the afternoon of 19<sup>th</sup> January 2023. The newsletter included the website details.

A 'freepost' and project email address was also promoted to encourage and facilitate feedback and allow access to the team to directly answer any questions from residents, community groups and other interested parties.

To date, the Applicant received twelve written responses from tenants and residents. One was issued through the online feedback form and eleven hard copy forms with feedback were submitted at the in-person consultation events.

In addition, verbal feedback was shared with the development team at the public consultation events and further feedback was issued via email.

Feedback received was generally positive to the principle of the redevelopment of the site. The overarching comments centred around concerns with traffic and parking, security and surveillance of criminal activity and anti-social behaviours, drainage enquiries and waste management was a particular concern owing to a history of fly-tipping in the area. In addition, there were concerns raised by a small percentage of representees with regards to height and massing of the proposed development. The SCI document provides supporting commentary beside each of the points identified. These criteria are assessed later within the relevant sections of this report.

These consultation events are considered appropriate to the scale of the development and reflect the recommended level of pre-application engagement set out in Brent's Statement of Community Involvement.

These consultation events are considered appropriate to the scale of the development and reflect the recommended level of pre-application engagement set out in Brent's SCI, as well as the Mayor's Good Practice Guide.

## **POLICY CONSIDERATIONS**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of this application should be in accordance with the development plan unless material considerations

indicate otherwise.

The development plan is comprised of:

London Plan (2021)

Local Plan (2019 – 2041)

Key policies include:

London Plan (2021)

GG1	Building strong and inclusive communities
GG2	Making the best use of land
GG3	Creating a healthy city
GG4	Delivering the homes Londoners need
GG5	Growing a good economy
SD1	Opportunity Areas
D1	London's form, character and capacity for growth
D3	Optimising site capacity through the design-led approach
D4	Delivering good design
D5	Inclusive design
D6	Housing quality and standards
D7	Accessible housing
D8	Public realm
D9	Tall buildings
D11	Safety, security and resilience to emergency
D12	Fire safety
D13	Agent of Change
D14	Noise
H1	Increasing housing supply
H4	Delivering affordable housing
H5	Threshold approach to applications
H6	Affordable housing tenure
H7	Monitoring of affordable housing
H10	Housing size mix
S4	Play and informal recreation
E4	Land for industry, logistics and services to support London's economic function
E6	Locally Significant Industrial Sites
E7	Industrial intensification, co-location and substitution
G5	Urban greening
SI1	Improving air quality
SI2	Minimising greenhouse gas emissions
SI 3	Energy infrastructure
SI 4	Managing heat risk
SI 5	Water infrastructure
SI 7	Reducing waste and supporting the circular economy
SI 12	Flood risk management
SI13	Sustainable drainage
T1	Strategic approach to transport
T2	Healthy Streets
T4	Assessing and mitigating transport impacts
T5	Cycling
T6	Car parking
T6.1	Residential parking
T6.6	Non-residential disabled persons parking
T7	Deliveries, servicing and construction
T9	Funding transport infrastructure through planning
DF1	Delivery of the Plan and Planning Obligations
M1	Monitoring

Brent Local Plan (2019-41)

DMP1	Development management general policy
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BD1	Leading the way in good urban design
BD2	Tall buildings in Brent
BH1	Increasing housing supply in Brent
BH5	Affordable housing
BH6	Housing size mix
BH13	Residential amenity space
BE1	Economic growth and employment opportunities for all
BE2	Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS)
BHC1	Brent's Heritage Assets
BHC3	Supporting Brent's Culture and Creative Industries
BGI1	Green and blue infrastructure in Brent
BGI2	Trees and woodlands
BSUI1	Creating a resilient and efficient Brent
BSUI2	Air quality
BSUI4	On-site water management and surface water attenuation
BT1	Sustainable travel choice
BT2	Parking and car free development
BT3	Freight and servicing, provision and protection of freight facilities

The following are also relevant material considerations:

The National Planning Policy Framework 2023  
 Planning Practice Guidance  
 SPD1 Brent Design Guide 2018  
 Brent Waste Planning Guide 2013  
 LB Brent Air Quality Action Plan 2017-2022  
 London Cycling Design Standards

## DETAILED CONSIDERATIONS

### Principle of development

#### Chapmans and Sapcote Industrial Estate (BSSA4)

1. The site forms part of the Church End Growth Area, and has been identified as part of a strategic area for regeneration. It also forms part of the Chapmans and Sapcote Industrial Estate Masterplan area, and Local Plan Policy BSSA4 identifies the site as a Local Strategic Industrial Site (LSIS), with the potential for mixed-use re-development incorporating housing, industrial and supporting community uses, with an indicative capacity of 300 housing units over 5-10 years.
2. This site forms roughly the southern half of the overall Masterplan area, with the northern portion remaining in industrial use and unlikely to come forward for re-development in the short to medium term. Nevertheless, Policy BSSA4 states that piecemeal development which would prejudice the delivery of the wider masterplan will be refused, and development proposals will need to demonstrate such delivery would not be jeopardised.
3. In order to meet this part of the policy, the applicant has submitted their own indicative masterplan. This demonstrates that the wider LSIS would retain coherence if this scheme stands alone, but also that the adjacent parts of the LSIS could potentially come forward as future phases of a comprehensive re-development involving residential and industrial co-location.
4. Officers are satisfied that the indicative plans and supporting information in relation to this Masterplan effectively demonstrate that the re-development of this area is unlikely to prejudice the delivery of the wider site allocation, and on this basis is acceptable in principle.

#### Re-provision of industrial floorspace

5. Policies E4, E6, E7 of the London Plan and BE2 of the Local Plan recognise that there may be potential within LSIS for industrial intensification and co-location with residential and other land uses, subject to certain criteria. This includes securing no net loss of industrial capacity (defined as either the existing industrial and warehousing floorspace on site, or the potential floorspace that could be accommodated on site at a 65% plot ratio) and ensuring adjacent industrial activities are not compromised and appropriate design mitigation

measures are secured in line with the Agent of Change Principle.

6. The existing site is predominantly used for open air storage and industrial activities and includes a two-storey warehouse building (1423 sqm) together with a 507sqm MOT garage. As such the total existing industrial floorspace on the site is 1930sqm. Officers note that this is substantially lower than the 65 per cent plot ratio, which would result in a total of 5,845sq.m of industrial floorspace in this instance.

7. The application proposes the re-provision of 1931 sqm of industrial floorspace, which slightly exceeds the existing amount of floorspace but is well below the requirements when applying the 65 per cent plot ratio, as stated in Policy BE2 of the Local Plan.

8. The industrial floorspace is envisaged to provide a mix of creative light industrial “makerspace” studios and workshops suitable for small and micro sized businesses, artists and artisans, while maintaining flexibility to also be used for B2 and B8 purposes. The GLA initially raised concerns about the level of industrial floorspace being provided and queried whether more of the retail/ other commercial floorspace could be converted to Class E(g)(iii) use. However, the applicant has stated that this is not possible due to the fact that the retail floorspace has an important role in assisting the overall viability of the proposed scheme. It is also noted that the floorspace is located in a specific industrial yard closer to the western end of the site, ensuring that industrial-linked impacts including noise generation and highways/ pedestrian impacts from servicing are concentrated in one part of the site.

9. Officers also note that the overall quality and efficiency of the proposed replacement floorspace would be greatly improved, and the layout of the units and yard space has been informed by discussions with industrial agents which has refined the proposed industrial provision, which should encourage better local take-up of the space. Officers also note that 10% of the floorspace would be secured as affordable, i.e. made available to let at 50% of market rent, which is a further benefit, and in accordance with policy BE2. The provision of affordable workspace would also be in line with policy BHC3 which would support the site within the Willesden Green Creative Cluster.

10. Therefore, while the proposal does not strictly accord with London Plan policy in this respect, the benefits of the proposal must be weighed against the harm of not providing policy-compliant levels of replacement floorspace. Officers consider that providing a 65% plot ratio on the site would significantly compromise the ability of the scheme to deliver good levels of affordable housing on-site, and therefore in weighing up the wider planning balance, the level of replacement industrial floorspace proposed is considered acceptable.

11. Agent of Change principles have been incorporated, in terms of sound insulation and mitigation and the orientation of windows. Details of the noise mitigation strategy are to be secured by recommended conditions 32 and 33.

#### Affordable workspace

12. Policy BE2 seeks 10% of employment floorspace to be affordable workspace in redevelopment of LSIS sites. This is reinforced in London Plan Policy E3. The applicant’s planning statement and supporting employment land assessment set out the strong demand in Brent for small and start-up business floorspace within the borough, and the applicant has confirmed their commitment to securing 10% of the proposed employment floorspace as affordable by definition, i.e. to be let at 50% of market rent, via legal agreement.

13. Although discussions took place to secure further workspace as affordable, officers concluded that this would compromise the ability of the scheme to deliver the affordable housing levels being proposed. As such, the scheme meets the requirements of Local Plan Policy BE2, and E3 of the London Plan.

#### Housing

14. London Plan Policy H1 sets out housing targets across London, with the target for Brent being 23,250 new homes over the ten-year plan period. Brent's Local Plan Policy BH1 responds to this by proposing plan-led growth concentrated in Growth Areas and site allocations.

15. With regard to the proposed housing element, the proposed re-development would deliver 301 residential units, which essentially meets the indicative capacity stated in the site allocation. This is acceptable in principle, subject to the scheme being acceptable in all other key respects, including density, layout, scale, massing and impact on neighbouring residential amenity, which the remainder of the report will go on to

assess thoroughly.

### Retail and other commercial uses

16. Local Plan Policy BE4 states proposals involving 500 sqm or above gross retail or leisure floorspace, which are outside town centres and do not accord with the Local Plan, should be accompanied by an Impact Assessment. Also of relevance is London Plan Policy SD7, which states that boroughs apply the sequential test to applications for main town centre uses, requiring them to be located in town centres. If no suitable town centre sites are available or expected to become available within a reasonable period, consideration should be given to sites on the edge-of-centres that are, or can be, well integrated with the existing centre, local walking and cycle networks, and public transport. Out-of-centre sites should only be considered if it is demonstrated that no suitable sites are (or are expected to become) available within town centre or edge of centre locations. Policy SD7 also requires an impact assessment on proposals for new, or extensions to existing, edge or out-of-centre development for retail, leisure and office uses that are not in accordance with the Development Plan.

17. The other uses on site comprise a 1500 sqm food retail floorspace (supermarket) (Class E(a)), a small café (Class E(b)) and a gym (Class D2). In order to justify the retail use outside of a town centre location, the applicant has submitted a sequential test and retail impact assessment which concludes that the proposed supermarket is not likely to have a significant impact on the vitality and viability of nearby town centres, which include the Willesden Green District Centre and the Church End Local Centre. The assessment also concludes that the impact of the other town centre uses would be minimal and would complement rather than negatively impact nearby centres. A sequential test has been undertaken which concludes that there are no sites in the locality that are better placed as alternatives. The provision of retail space in this out of town location can therefore be accepted.

18. In relation to the café use, although this is well below the 500 sqm threshold, the report confirms that there is scope for further small-scale cafes within the local area as identified by the Brent Retail and Leisure Needs Study (2018). The proposed gym is also considered to benefit future occupiers of the development, and is not considered to compromise the viability of other gyms in the local catchment area.

19. It is noted that the site allocation BSSA4 refers to the site being suitable for supporting community uses, in addition to the residential and replacement light industrial uses which are proposed. Officers encouraged the provision of such community uses, and early iterations of the scheme included a nursery which was also proposed as part of the previously withdrawn scheme. However, the need to ensure a good level of replacement industrial floorspace (including affordable workspace) and affordable housing are prioritised within the scheme has meant that a nursery or alternative community use cannot viably be delivered. When considering the wider benefits secured, officers consider this position acceptable, particularly given the scope for such community use to still be delivered within the other parts of the Masterplan.

### **Unit type and tenure**

#### Affordable housing

20. London Plan affordable housing policy (Policies H4, H5 and H6) sets out the Mayor's commitment to delivering 'genuinely affordable' housing and requires the following split of affordable housing provision to be applied to development proposals: a minimum of 30% low cost rented homes, allocated according to need and for Londoners on low incomes (Social Rent or London Affordable Rent); a minimum of 30% intermediate products; 40% to be determined by the borough based on identified need.

21. Brent's Local Plan policy (BH5) echoes this, but sets a strategic target of 50% affordable housing while supporting the Mayor of London's Threshold Approach to applications (Policy H5), with schemes not viability tested at application stage if they deliver at least 35% (or 50% on public sector land / industrial land) and propose a policy-compliant tenure split. This is with the exception of Estate Regeneration schemes which are required to comply with the Mayors Affordable Housing and Viability SPG and Policy H8 of the London Plan which set out that all development proposals that includes the demolition and replacement of affordable housing are required to follow the Viability Tested Route and should seek to provide an uplift in affordable housing in addition to the replacement of affordable housing floorspace.

22. Policy BH5 sets a target of 70% of those affordable homes being for social rent or London Affordable Rent and the remaining 30% being for intermediate products. This split marries up with the London Plan



Policy H6 by design, with Brent having considered that the 40% based on borough need should fall within the low cost rented homes category, bringing Brent's target split across newly adopted policies as 70% for low cost rented homes (social rent or London Affordable Rent) and 30% for intermediate products.

Policy context	Status	% Affordable Housing Required		Tenure Split	
London Plan	Adopted	Maximum reasonable proportion	30% Social / London Affordable Rent	30% Intermediate	40% determined by borough
Brent Local Plan 2019-2041	Adopted	Maximum reasonable proportion	70% Social / London Affordable Rent	30% Intermediate	

23. In terms of affordable housing, the following is proposed (hab room figures in brackets):

	London Affordable Rent	Private Units	% by unit	%by habitable room
Studio	-	1 (1)	0.3	0.1
1 Bed (2p)	10 (20)	97 (194)	35.5	24.4
2 Bed (3p)	-	26 (78)	8.6	9.3
2 Bed (4p)	13 (39)	110 (330)	40.9	44.0
3 Bed (5p)	25 (100)	12 (48)	12.3	17.7
3 Bed (6p)	-	7 (28)	2.3	3.3
Subtotal	48 (159)	253 (679)	100%	100%
Affordable Percentage (by habitable room)	19%	81%		
Affordable Percentage (by unit)	15.9%	85.1%		

24. The proposals would deliver 19% affordable housing (all LAR) on a habitable room basis, with this being 15.9% affordable housing (all LAR) on a unit basis. This falls below the 50% threshold on industrial land which is set out in Policy BH5 relating to the “fast track” approach. The applicant has stated that a number of factors have changed affecting development viability, most notably significant increases in construction costs and finance rates, together with new Building Regulations requirements to incorporate second staircases into all residential cores of 18m (7 storeys) or higher, which have emerged during pre-application discussions. As such, the applicants have reviewed housing layout and mix within the scheme to ensure it would meet fire safety guidelines, while at the same time ensuring it would remain viable (and therefore be deliverable).

25. The applicant has submitted a Financial Viability Appraisal (FVA), as required by policy where there is a shortfall in affordable housing provision, in order to demonstrate the proposal would deliver the maximum reasonable amount of affordable housing. This was reviewed by independent viability consultants, BNP Paribas (BNPP), instructed directly by the Council. The applicant's initial FVA concluded that the scheme would be in a deficit of -£9.2m. BNPP's first review of this FVA disagreed with a number of the parameters, and initially concluded that the proposed scheme instead had a surplus of approximately £2.2m.

26. However, subsequent discussions between the applicants' viability consultants and BNPP have clarified a number of assumptions made, and sensitivity tests have been carried out on a number of key parameters, including residential and commercial rental values, finance rates and construction costs. Following this, BNPP have concluded that the scheme would now experience a deficit of approximately -£1.19m, which

although not as great a deficit as initially calculated by the applicants, is still a deficit and demonstrates that the proposed affordable housing offer is the maximum reasonably viable on the site.

27. The GLA initially raised concerns with the Existing Use Value accorded to the site for industrial purposes, which was initially attributed to be approximately £12.3m by the applicants. While the Council (via BNPP) differed slightly in their calculation, this was a relatively minor difference with a figure of approximately £11.8m being concluded. However the GLA initially concluded that the site would have a EUV of approximately £7.14m, which would have a significant impact on overall calculations and potentially result in a surplus which could provide further affordable housing on the site. Therefore, the Council, GLA and the applicants agreed to a further independent valuation of the existing site, which was prepared by Carter Jonas.

28. This independent valuation commissioned jointly by the Council and the GLA concluded that the EUV of the site would reasonably be expected to be approximately £12.04m, which is more closely in line with the conclusions initially reached by both the applicants and BNPP. There remain slight differences between the Benchmark Land Value (BLV) initially reached by the applicants (approximately £14.145m) and BNPP (approximately £12.989m). However despite this difference in the BLV identified, it has still been suitably demonstrated – particularly as a result of the independent valuation - that there is a deficit and the maximum reasonable amount of affordable housing has been provided. The GLA have confirmed they have no further comments following this additional report.

29. As discussed above, there have been specific constraints on the scheme which officers accept have had an impact on viability, and therefore the overall level of Affordable Housing proposed. In order to maximise the number of low-cost homes on the site, the proposal does not include any intermediate homes, and therefore the proposed Affordable tenure split (i.e. 100% London Affordable Rent) does not strictly meet London Plan policy requirements in terms of providing a 70:30 LAR: intermediate ratio. However, officers support the 100% weighting towards affordable rented homes given the significant need for lower-cost housing within Brent, and particularly with this being skewed towards family sized units. The GLA has also confirmed they are happy with this approach, despite the policy conflict.

30. On this basis, the 48 homes provided are considered to represent the maximum reasonable level of affordable housing on the site at this stage, and therefore accords with Policy BH5 of the Local Plan and Policies H5 and H6 of the London Plan. A section 106 agreement will be entered into to secure this housing in perpetuity, and will also secure early and late stage reviews to ensure further affordable housing can be captured if possible within the development process.

### Mix

31. Policy BH6 of the Local Plan outlines that 1 in 4 new homes within the borough should be family sized (3 bedrooms or more). In terms of family sized dwellings, 14.6% of the proposed units would have 3 bedrooms or more, with these generally weighted towards LAR units (57%) for the reasons set out above. The mix is below Policy BH6 requirements, however the fact these family-sized units are significantly weighted towards affordable homes (where there is acute need within the Borough) in the context of the wider viability arguments set out above, this shortfall in the overall proportion is considered acceptable on balance.

### **Urban design considerations**

#### Policy background

32. London Plan Policy D3 sets out a design-led approach to new development that responds positively to local context and optimises the site's capacity for growth by seeking development of the most appropriate form and land use, while Policy D5 seeks inclusive design without disabling barriers. Policy D9 sets out a framework for assessing proposals involving tall buildings including their visual impact, functional impact and environmental impact. The policy requires proposals to be justified with reference to existing and proposed long range, mid-range and immediate views, to demonstrate the impact of the proposal upon the surrounding streetscape.

33. Brent's Policy BD1 seeks the highest quality of architectural and urban design, whilst Policy BD2 directs tall buildings (defined as those of over 30m in height) towards designated Tall Building Zones and expects these to be of the highest architectural quality.

### Layout and public realm

34. The proposed development is laid out as six individual blocks, with the four main blocks (A, B, C and D) running along the northern boundary of the site with connecting podiums between them, and two lower blocks (E and F) to the western and southern fringes of the site, nearest to High Road and Colin Road respectively. An east-west route is also proposed through the site, connecting Dudden Hill Lane to the east with High Road to the west, and would partly be a shared pedestrian/ vehicular route where access is required for servicing, and car park access linked to the supermarket nearest Dudden Hill Lane.

35. The industrial spaces are situated to the south-west of the site and commercial use spaces to the north-east. The industrial and commercial uses are split up by ancillary spaces and a residents' car park that is accessed via Dudden Hill Lane. The ground floor public realm has been carefully designed to accommodate the intersections of the different uses. Access for servicing for the industrial yard and the loading bay for the food store is contained within the west half of the site. The mezzanine floor comprises the gymnasium, which is accessed from the new street at ground level adjacent to the café entrance, as well as an additional floor for the industrial use and residential ancillary in the form of cycle stores. The proposed industrial units are arranged around an industrial yard that has been deliberately left open on the south-west side, enabling potential connections to future development within the rest of the Masterplan site.

36. The approach to layout is generally supported by officers, with the east-west connection in particular a key factor which would result in improved legibility and accessibility from Dudden Hill Lane to High Road. Importantly, the block layout would also not compromise development to the immediate north, i.e. within the rest of the Masterplan area and therefore would not prejudice re-development of this area in the future.

37. While the predominance of ground floor car parking linked to the supermarket is not ideal, it is recognised that this is driven by viability considerations and the requirements of the intended supermarket operator. However, officers consider that the proposed public square/ courtyard to the western portion of the site would be of a high quality, including key features such as playspace and a sensory wall which add variety and richness to the scheme. The public space would cater for the needs of future occupiers, as well as being attractive for cyclists and pedestrians using this as an access route. Revised plans have improved the amount of active frontage along this part of the site following GLA and Brent officer comments, and there has been some reduction in car parking (replaced by extra landscaping) which has improved the public realm further.

38. Overall it is considered that the approach to layout and interaction between uses has been well-considered, with three gateways into the site (which would be accessed on a 24-hour basis, with the exception of the industrial yard) and a high quality public space which would encourage interaction between different users, and particularly future occupiers of the development.

### Height, scale and massing

39. The Local Plan does not identify the site within a Tall Building Zone, although it is located within the Church End Growth Area (CEGA) which accepts development will be taller than the surrounding context. The CEGA Masterplan SPD outlines an indicative maximum height of 10 storeys on the site, although this is largely based on the layout and massing of the blocks which were proposed under the now withdrawn 2018 scheme. Policy BD2 highlights that in all cases a tall building (one that is more than 30m in height above ground level) s must be shown to be positive additions to the skyline that would enhance the overall character of the area. They should be of exceptional design quality, consistent with London Plan Policy requirements in showing how they positively address their visual, functional, environmental and cumulative impacts. With regards to intensification corridors, policy BD2 notes that developments of a general height of 15m above ground level could be acceptable.

40. The proposal has been accompanied by an assessment of the scheme against the criteria set out within the London Plan Tall Buildings Policy (D9) together with a full Townscape, Heritage and Visual Impact Assessment (THVIA).

41. The policy D9 assessment looks at the range of criteria that are referred to within this policy, including views from different distances, the spatial hierarchy, architectural quality and the potential for visual impact on heritage assets. Functional and environmental factors are also assessed together with potential cumulative impacts. The potential townscape impacts of the scheme (both positive and negative) from a number of viewpoints are assessed and discussed within the submitted THVIA.

42. The planning statement submitted with the application assesses the development against these key criteria set out in both Policy BD2 of the Local Plan and D9 of the Local Plan, which is summarised below:

#### *Visual impacts*

43. This is summarised in more detail below, but the submitted THVIA demonstrates that the proposed development would improve the condition of the existing site and respond appropriately to the local context and status within an intensification area. The proposed development replaces low quality buildings with high quality architecture, and would not have a harmful impact on the wider character or setting of neighbouring heritage assets.

44. As outlined in the other design sections, the focal point for height is towards the south-west on High Road which acts as a marker building. There are clear gateways through the site, in particular the main east-west route which enhances visual permeability, and largely prioritises pedestrian and cyclist access. Furthermore, a high quality palette of materials responds to the local context, with a consistent and coherent architectural language which is considered to positively contribute to the character of the area. Finally, the proposed development is largely constructed in brick and does not incorporate reflective materials which would cause adverse glare.

45. Overall, the visual impacts of the proposed tall buildings are considered acceptable.

#### *Functional impacts*

46. The internal design of the building has been an important reason for the increase in height overall, given updated fire safety requirements meaning a secondary stair core has to be incorporated into all blocks over 18 metres. The applicants have submitted supporting documents which outline that the buildings comply with relevant fire safety regulations, and impacts in terms of flooding and wind/ microclimate conditions would be acceptable (see relevant sections of the report for more detail).

47. In terms of servicing, maintenance and management of the buildings, these have been considered closely during the pre-application design stages and are supported by relevant servicing and management plans, which have been considered acceptable in transport terms (see further details in report sections below). The arrangement of ground floor uses and interaction with wider access points and the public realm has also been carefully considered and would be of a high quality. Furthermore, it has been demonstrated that the scheme would deliver wider public benefits, both on site through affordable housing and workspace provision, and through new jobs created via the industrial workspace and the construction of the development itself.

48. Finally, the proposed development is not considered to have an adverse impact on aviation, navigation, telecommunication or solar energy generation. Overall, the functional impacts of the proposed tall buildings are considered acceptable.

#### *Environmental impacts*

49. As outlined in other sections of the report, the proposed development has been robustly tested with regard to wind microclimate, flooding and daylight, sunlight and overshadowing impacts. In summary, all spaces within the development accord with relevant wind standards, or appropriate mitigation would be provided. The provision of sunlight to amenity spaces has been maximised, and while there is some impact in terms of daylight reduction and increased overshadowing to adjoining buildings, overall these are acceptable in the context of largely suburban buildings in an intensification area.

50. With regard to air quality and movement, the layout of the proposed buildings (especially breaking up the respective blocks with smaller podiums) ensures good levels of air movement. Air quality is an important aspect given the location within/ adjoining an industrial area, however it is considered that this can be adequately mitigated. Similarly with regard to noise, this has been carefully assessed and the approach to design and layout has been informed closely by Agent of Change principles. A noise assessment has been submitted and outlines a number of mitigation measures (including internal noise insulation and soundproofing between competing uses) which ensure noise levels within the development would be acceptable.

51. Overall, the environmental impacts of the proposed tall buildings are considered acceptable.

## *Cumulative impacts*

52. The site's location in a Growth Area and Intensification Corridor along Dudden Hill Lane has to be taken into consideration, and the expectation of greater cumulative impacts as further sites come forward for development has been factored into the overall assessment. However an assessment of consented schemes has been undertaken particularly from a townscape and wind microclimate, and it is considered that there are no additional cumulative effects arising as a result of the proposed development.

### *Summary and overall assessment against tall buildings criteria*

53. Officers acknowledge that the proposed development, and in particular the tallest 19-storey element at Block D, is in conflict with both Policy BD2 of the Local Plan and Policy D4 of the London Plan by proposing tall buildings outside of a designated Tall Building Zone. However, a robust and detailed assessment of the visual, functional, environmental and cumulative impacts of the proposed tall buildings has been undertaken and officers are satisfied that these impacts would be acceptable. As outlined in other sections of the report, the buildings would be of a very high quality architecture, and the approach to the overall bulk and massing ensures that the impacts of this additional height would be further mitigated.

54. The proposed heights are also considered in the context of the wider benefits which would be delivered by the scheme, in particular the proposed affordable housing and workspace provision, which officers consider would be compromised if building heights were reduced. On balance, the proposals therefore accord with Policies BD2 of the Local Plan and D4 of the London Plan.

55. With specific regard to its scale and massing, officers support the broad approach to height and massing which is logical, with the lowest height to the east and south, and an increase towards the southwest of the site where there are less sensitivities to the lower-scale residential buildings on Colin Road and High Road. The main approach to breaking up massing is through the use of podiums, in particularly between Blocks A, B and C, which successfully ensure there would be visual relief from the overall massing, particularly in longer views from Dudden Hill Lane and High Road.

### Architecture and materiality

56. A range of different materials and architectural approaches have been applied for the different buildings in the site to ensure that they read as distinct buildings, rather than one solid expanse of buildings. The overall architectural language and materiality has been influenced by both the local context and the emerging context of co-location schemes in Brent and across London, and the scheme balances the two aspects well.

57. A strong approach to materiality has been set out in the Design and Access Statement, with a mixture of brick types across the blocks, while the use of stone detailing and green metalwork provides a consistency and coherence across the scheme. The two lower-rise blocks, Buildings A and B, have been revised so these would now appear as a pair and constructed in white buff brick. Both these buildings have open corners to break up the overall massing, with set backs to both providing some relief when these are viewed from the main pedestrian route through the site.

58. As the blocks step up to the taller elements of Blocks C, D and E, a more varied palette is introduced, with these blocks predominantly constructed in a red brick but using subtle changes in mortar colour, and different balcony types to bring contrast to the blocks. The tallest 19-storey element, Building D, is constructed in white buff brick with a secondary white brick detailing in order to crown this element. There are also cues to the industrial nature of these blocks, with larger ground floor openings and feature brickwork to Building E to emphasise the industrial character of this part of the site.

59. Building F looks onto Colin Road and its architecture responds to the more residential context, using the lighter white buff and having a more human-scaled approach with a high level of detailing - for example, through the use of recessed soldier course brickwork detailing to the false windows, and vertical fins to the windows and green metal capping to the main parapet. This adds a high degree of visual interest and articulation to the Colin Road façade.

60. The base of the building is expressed through the use of the same architectural language for all three "blocks". The facades are broken up with a structured grid of brickwork, with windows and projecting balconies used to establish verticality and rhythm in the facades. Windows are grouped vertically to provide further articulation and visual interest in the facades. Detailed bay studies are included within the application drawings, and indicative technical sections are provided illustrating how specific elements of the façade may

be constructed, including typical windows, parapets, balconies and soffits; this gives confidence the scheme will deliver high quality and robust buildings.

61. The GLA have confirmed that they support the overall architectural approach. The use of bricks relates positively to the context and seeks to reinforce local distinctiveness. Corrugated metal cladding and large numerical numbers are a playful nod to the industrial character of the area, with slight variation in elevational design to create buildings that have sufficiently individual character whilst remaining a cohesive group is supported. Brick detailing is used to good effect providing interest and texture and helping to support the individual appearance of blocks, while the integration of architectural features to address solar gain such as fins within windows is welcomed.

62. Overall, the proposal is considered to exhibit a high level of architectural quality, supported by a well considered palette of materials and an appropriate level of architectural detailing. To ensure that the quality of the proposal is carried through in the delivery of the scheme, the approval of final materials and key construction details is recommended to be secured through condition.

#### Protected views

63. The proposed development would be close to, but not within the viewing corridor for the protected view of Wembley Stadium from Neasden Station. Therefore, the proposal is not considered to result in harm to any protected views to Wembley Stadium.

#### **Heritage considerations**

##### Policy background

64. Section 72(1) of the Planning (Listed Building and Conservation Area) Act 1990 (as amended) requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. Furthermore, paragraph 189 recognises that heritage assets are an irreplaceable resource and seeks to conserve them in a manner appropriate significance. It is appropriate to consider the desirability of new development making a positive contribution to the local character and distinctiveness. This is reflected in Local Plan Policy BHC1.

65. The first step is for the decision-maker to consider each of the designated heritage assets, which would be affected by the proposed development in turn and assess whether the proposed development would result in any harm to the significance of such an asset.

66. The assessment of the nature and extent of harm to a designated heritage asset is a matter for the planning judgement of the decision-maker, looking at the facts of a particular case and taking into account the importance of the asset in question. Proposals that are in themselves minor could conceivably cause substantial harm, depending on the specific context, or when viewed against the cumulative backdrop of earlier changes affecting the asset or its setting. Even minimal harm to the value of a designated heritage asset should be placed within the category of less than substantial harm.

67. The NPPF (paragraph 200) states that any harm to, or loss of, the significance of a designated heritage asset requires "clear and convincing justification". The NPPF expands on this by providing (paragraph 201) that planning permission should be refused where substantial harm or total loss of a designated heritage asset would occur, unless this is necessary to achieve substantial public benefits that outweigh that harm or loss, or unless all the four tests set out in paragraph 201 are satisfied in a case where the nature of the asset prevents all reasonable uses of the site. Where less than substantial harm arises, paragraph 202 of the NPPF directs the decision-maker to weigh this against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

68. In terms of what constitutes a public benefit, this can be anything that delivers economic, social or environmental objectives, which are the three overarching objectives of the planning system according to the NPPF. The Planning Practice Guidance advises that "public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit". The degree of weight to attach to any particular public benefit is a matter for the decision-maker, having regard to factors such as the nature and extent of the benefit and the likelihood of the benefit being enjoyed. Different benefits may attract different amounts of weight.

69. The decision-maker is directed therefore by the NPPF to balance any harm to the significance of a designated heritage asset against the public benefits that flow from the proposal by considering in the case of less than substantial harm whether this harm is outweighed by the public benefits of the proposal, or in the case of substantial harm whether the tests in paragraph 201 of the NPPF are met. Importantly, these balancing exercises are not simple unweighted exercises in which the decision-maker is free to give the harm whatever degree of weight they wish.

70. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision-maker to have "special regard" to the desirability of preserving a listed building or its setting. In Barnwell Manor the Court of Appeal identified that the decision-maker needed to give "considerable importance and weight" to any finding of likely harm to a listed building or its setting in order properly to perform the section 66 duty. In the case of conservation areas, the parallel duty under section 72 of the same Act is to pay "special attention" to the desirability of preserving or enhancing the character or appearance of the conservation area. The courts have held that 'preserving' in this context means 'doing no harm'.

71. The NPPF at paragraph 199 provides that "great weight" should be given to the "conservation" of a designated heritage asset, and that "the more important the asset, the greater the weight should be".

72. The High Court in Field Forge explained that "it does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering".

73. In Bramshill, the Court of Appeal (endorsing the Court's earlier decision in Palmer) observed that "the imperative of giving "considerable weight" to harm to the setting of a listed building does not mean that the weight to be given to the desirability of preserving it or its setting is "uniform". That would depend on the "extent of the assessed harm and the heritage value of the asset in question". These are questions for the decision-maker, heeding the basic principles in the case law."

74. It is important also to note that as the Court of Appeal stated in Bramshill (which concerned a listed building) "one must not forget that the balancing exercise under the policies in [...] the NPPF is not the whole decision-making process on an application for planning permission, only part of it. The whole process must be carried out within the parameters set by the statutory scheme, including those under section 38(6) of the Planning and Compulsory Purchase Act 2004 [...] and section 70(2) of the 1990 Act, as well as the duty under section 66(1) of the Listed Buildings Act. In that broader balancing exercise, every element of harm and benefit must be given due weight by the decision-maker as material considerations, and the decision made in accordance with the development plan unless material considerations indicate otherwise..."

75. Where the significance of more than one designated heritage asset would be harmed by the proposed development, the decision-maker needs to account for the individual harms and to consider the level of harm arising when the assets are considered cumulatively.

76. As regards non-designated heritage assets, these are buildings, monuments, sites, places, areas, or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets. For the most part, non-designated heritage assets will have been included on the Council's Local List, but it is not necessary for an asset to be included on the Local List in order for it to be treated as a non-designated heritage asset.

77. If there is harm to the significance of a non-designated heritage asset, paragraph 203 of the NPPF requires the decision-maker to arrive at a balanced judgement, having regard to the scale of any harm or loss and the significance of the asset.

78. What follows is an officer assessment of the extent of harm which would result from the proposed development to any designated and non-designated heritage assets that have been identified as potentially affected by the proposed development.

## Assessment

79. The site is not located within a conservation area and does not contain any listed buildings or structures and there are no conservation areas or listed buildings within the immediate vicinity of the site. The site's wider context includes Willesden Jewish Cemetery (Grade II listed) and Willesden Green Conservation Area is located approximately 700m to the south along Dudden Hill Lane.

80. The applicant has undertaken a Townscape, Heritage and Visual Impact Assessment (THVIA) detailing views in which the development would be partially visible or closest view points to illustrate the impact of the building. Heritage assets have been identified within a 500m radius and an assessment of the effects on each is considered in terms of their significance.

81. Officers consider that the site is a considerable distance away from the nearest heritage assets identified above to have an impact on their character or setting. Furthermore, it does not contribute to the setting of the designated and non-designated heritage assets. Further wireline views from the central path and south of the main entrance of the Willesden Jewish Cemetery have been submitted. While the tallest elements of the development would be visible, they would still be a significant distance from the cemetery and it is not considered that the development would impede on the wider appreciation of the cemetery when viewed from these locations. It is considered that the buildings would not harm the character or setting of the Grade II listed cemetery.

82. The site is not in an Archaeological Priority Area (APA). However, a desktop Archaeology Assessment has been undertaken by an archaeological consultancy. It has determined that no further archaeological works are necessary. The evidence gathered suggests that the site has undergone a high degree of past impacts. These are in the form of the construction during the mid-19th century and subsequent demolition and clearing of Mead House at the western end of the site and the buildings associated with Dudden/Dudding Hill Farm during the early 20th century. This was followed by the construction of dairy and other buildings on the site and the subsequent demolition and clearing of several of those both at eastern and western ends of the site.

83. Given the known past impacts within the site boundary, the potential for the survival of significant or complex archaeological deposits from any period is assessed at most to be low, and officers agree with this assessment.

### **Impact on neighbouring properties**

84. SPD1 provides guidance on how new development should be designed in order to minimise the impact on neighbouring properties. The guidance states that the building envelope should be set below a line of 30 degrees from the nearest rear habitable room window of adjoining existing property measured from a height of 2m above floor level. It goes on to state that where proposed development adjoins private amenity/garden areas then the height of the new development should normally be set below a line of 45 degrees at the garden edge measured from a height of 2m above ground level.

### Daylight

85. The applicant has submitted a daylight, sunlight and overshadowing analysis of the impact of the development on surrounding properties, utilising the recommendations set out in the BRE 'Site layout planning for daylight and sunlight - a guide to good practice (2022)' document. Officers are satisfied that the report successfully identifies all neighbouring properties (both within the site and immediately adjoining it) which could be affected by the proposed development, which are summarised as follows:

- Nos. 43-81 (odd) Dudden Hill Lane
- No. 42 Dudden Hill Lane
- Nos. 1-23 (odd) Colin Road
- Nos. 2-20 (even) Colin Road
- Verge Apartments, 2A Colin Road
- Nos. 356-368 (even) High Road
- Nos. 399- 425 (odd) High Road

86. For daylight, an assessment was undertaken using two tests, namely the Vertical Sky Component (VSC) and, where room layouts are known, Daylight Distribution (or No Sky Line) (NSL) in line with BRE guidelines. VSC is the measure of a direct skylight reaching a point from an overcast sky. The BRE guidelines state that if the VSC at the centre of a window is less than 27% or 0.8 times its former value, then



the reduction in skylight will be noticeable and the existing building may be adversely affected.

87. NSL is a measure of daylight distribution with a room, mapping out the region with a room where light can penetrate directly from the sky, and therefore accounts for the size of and number of windows using simple geometry. The BRE guidelines suggest that the area of working plane (set at 850mm above the floor) can receive direct skylight should not be reduced to less than 0.8 times its former value (i.e. the proportional reduction in area should not be greater than 20%).

88. In determining applications, the Mayors Housing SPD (2016) states that BRE guidance should be applied sensitively to higher density development in London, particularly central and urban settings, recognising the London Plan's strategic approach to optimise housing. It goes on to state that the guidance should not be applied rigidly without carefully considering the location and context and standards experienced in broadly comparable housing typologies in London.

89. Overall, the scheme would achieve 61% of windows which pass BRE guidelines in terms of VSC impacts, with a 87% pass rate when assessing the number of rooms under NSL impacts. A more detailed breakdown of the results for the properties identified above is provided below:

#### *43-53 Dudden Hill Lane*

90. Nos. 43-47, 49-51 and 53 Dudden Hill Lane fully adhere to BRE criteria in terms of daylight impacts (both VSC and NSL testing).

#### *55-61 Dudden Hill Lane*

91. These two properties are located to the north east of the Site. 55-59 Dudden Hill Lane is understood to be in use as retail at ground floor with residential accommodation on first floor, with No. 61 entirely residential in use. In relation to these properties, the VSC results show that losses would be below 20% for 9 of the 18 windows tested. The remaining 10 windows would experience relative losses of between 20.6-30.6%, and therefore it is not considered that the impact would be significant. It is worth noting that two windows which have lower retained levels of VSC (14-16%) are secondary panes within bay windows. Again, paragraph 2.2.6 of the BRE guidance states that "*for a bay window, the centre window facing directly outwards can be taken as the main window*" which retain 23.7-26.4% VSC so are only marginally short of the BRE recommendations.

92. Furthermore, in terms of NSL, all 8 of the habitable rooms assessed would meet the BRE criteria so the daylight distribution effects would not be noticeable to occupiers of these properties. Therefore the level of impact from the proposed development to these properties is considered acceptable.

#### *65-73 (odds.) Dudden Hill Lane*

93. These properties are two storey terraced buildings with commercial units at ground floor and residential use above. The submitted report identifies that 6 of the 16 windows assessed would meet BRE targets. The remaining 10 windows are to the front of the building (i.e. looking onto Dudden Hill Lane) and would experience losses of between 34.4 and 49.7%. Despite these significant losses, they would all retain a VSC of between 19-24%, which on balance is considered acceptable given the proximity of these properties to the site, and the context of this urban location within a Growth Area. This has been achieved by limiting Block A to 6 storeys, which is in line with the expected heights for this area of intensification.

94. With regard to NSL values, 7 of the 9 habitable rooms assessed would meet the BRE criteria and the remaining two rooms would experience relative losses of between 27.2-32.1%, which is not an unexpected level of change given the scale of development in close proximity. One of these rooms (R1/121) is located within 69 Dudden Hill Lane and the floor plans obtained suggest this in use as a bedroom. The remaining room (R1/111) is located within 71 Dudden Hill Lane and the levels of loss would only be slightly in excess of BRE guidance.

95. Given the above, the level of daylight loss to these properties is not considered unacceptable to a degree it would warrant refusal.

#### *75-81 Dudden Hill Lane (odds)*

96. Nos. 75-81 Dudden Hill Lane comprise first floor units above ground floor commercial units. All of

these properties fully adhered to BRE criteria for both VSC and NSL.

#### *42 Dudden Hill Lane*

97. No. 42 Dudden Hill Lane is part of a four-storey building (Nos. 38-42) which is in commercial use at ground floor, with four flats above. The property fully adheres to BRE criteria in terms of daylight impacts (both VSC and NSL testing).

#### *1-9 Colin Road (odds)*

98. These four residential properties are located to the south east of the site on the opposite side of Colin Road. Each property is served by a ground floor and first floor bay window. Paragraph 2.2.6 of the BRE guidance states “*for a bay window, the centre window facing directly outwards can be taken as the main window.*” Each of the 15 main outward facing windows would meet the BRE criteria so the effects to the windows would not be noticeable. With regard to NSL, all 11 of the habitable rooms assessed would meet the BRE criteria and therefore the daylight distribution effects would not be noticeable to occupiers of these properties.

#### *13-23 Colin Road (odds)*

99. These six residential properties are also located to the south of the site on the opposite side of Colin Road. Again, these properties are each served by bay windows on the ground and first floors, and it is the effects to the main outward facing windows which have been assessed, as advised by the BRE guidelines. For VSC, 4 of the 18 main windows would meet the BRE recommendations. The remaining 14 experience relative changes that range from 21.3-29.6% and would retain between 23.5-26.7% VSC so would only be slightly below the BRE recommendations. This level of reduction is common when developing low rise sites in growth areas and the retained levels far exceed those typically seen within urban growth areas. For NSL, all 12 of the habitable rooms assessed would meet the BRE criteria, and therefore the effects on the daylight distribution within the rooms is not considered to be noticeable to the occupiers of these properties.

#### *2 Colin Road*

100. In relation to 2 Colin Road to the immediate south of the site (a single dwelling), 3 of the 7 windows assessed would meet the BRE criteria. The remaining windows would experience relative losses of between 20.1-36.8%, however they would all retain a VSC of at least 19% which on balance is considered acceptable given the urban context and expectation of this scale of development within a Growth Area. For NSL, all four of the rooms assessed would meet BRE criteria, with the bedroom experiencing the biggest loss at 11.3%, and therefore the effects on daylight distribution within the rooms would not be noticeable to occupiers of these properties.

#### *4 Colin Road*

101. 4 Colin Road is a two-storey residential dwelling located directly to the south of the application site. In terms of VSC calculations, 4 of the 6 windows assessed would meet BRE guidance. The remaining two windows experience losses of 32.2% and 36.3% respectively, which is considered to be minor adverse when considering the urban context and high levels of VSC currently experienced due to the low-rise nature of the site. Despite this, the windows affected would retain 20.6 and 23.6% VSC which is considered a good level of VSC in an urban growth area. For NSL, 3 of the 4 rooms assessed would meet BRE criteria, with the remaining room experiencing a relative change of 23% which would only marginally exceed guidance. Therefore on balance, the effects on daylight distribution within the rooms would not be unduly noticeable to occupiers of these properties.

#### *6 Colin Road*

102. 6 Colin Road is also a two-storey residential dwelling to the south of the site. In terms of VSC, 3 of the 7 pass the BRE criteria, with the remaining 4 tested windows experiencing relative losses of between 25.1 – 36.4%. However these windows more adversely affected would retain between 18-24% VSC which is considered acceptable in an urban location within a growth area. It is also noted that all 5 of the rooms assessed would meet NSL criteria and therefore changes in daylight distribution would not be noticeable to occupiers of this property.

#### *8 Colin Road*

103. This property forms part of the same two-storey residential terrace to the south of the site. As with No. 6, 3 of the 7 tested windows would pass the BRE guidance in terms of VSC levels, while a further three would experience reductions in VSC of between 21.7 – 38.1%. All three of these adversely affected windows would retain VSC levels of between 18.2 – 24.3%, which is considered acceptable in an urban location within a growth area. The remaining window, which serves a bedroom, retains a lower level of VSC at 15.9%. However it is noted that this window is partially flanked on one side by a rear extension, which means the window already receives a limited amount of daylight. In terms of NSL, 3 of the 5 habitable rooms tested would meet BRE criteria, with one of the remaining rooms experiencing a relatively limited change of 23.1% which is considered a minor shortfall. The remaining room experiences a more noticeable change at just over 40%, however the depth of this room at more than 5m deep is considered likely to have a more discernible impact on NSL levels. As para. 2.2.12 of the BRE guidelines states that *“if an existing building contains rooms lit from one side only and greater than 5m deep, then a greater movement of the no sky line may be unavoidable”*. On balance, the loss of daylight proposed is therefore acceptable to this property.

#### *10 Colin Road*

104. As above, this is a single dwelling forming part of the same two-storey residential terrace to the south of the site. 3 of the 5 tested windows would pass the BRE guidance in terms of VSC levels, while the remaining two windows would experience reductions in VSC of 35.4% and 38.9%. One of these windows, which serves a kitchen, retains a VSC of 22.6% which is considered to be reasonable given the urban context. The other rear ground floor window is mostly recessed and is flanked by rear projections, which already restricts the level of daylight to this window, demonstrated in the low existing VSC value (7.4%). The proposal would cause a relatively small change in absolute VSC (2.6%), but this causes a greater percentage change given the low existing value. Given this context, the daylight impacts to this property are considered acceptable on balance.

105. All three of these adversely affected windows would retain VSC levels of between 18.2 – 24.3%, which is considered acceptable in an urban location within a growth area. The remaining window, which serves a bedroom, retains a lower level of VSC at 15.9%. However it is noted that this window is partially flanked on one side by a rear extension, which means the window already receives a limited amount of daylight. Furthermore, 4 of the 5 rooms tested would meet NSL criteria, with the remaining room experiencing a relative reduction in daylight distribution of 37.1%, which is partly explained by the depth of the room which means it is more susceptible to such changes. On balance, the loss of daylight proposed is therefore acceptable to this property.

#### *12 Colin Road*

106. This single dwelling is also located directly to the south of the site. In terms of VSC impact, 5 of the 9 windows assessed would meet BRE recommendations. Two of the remaining windows experience a relative reduction of 22.5% and 29.8% respectively, meaning the perceived loss of daylight would be marginal. The remaining two windows would experience more significantly adverse impacts, at 40.8% and 42.4% respectively, however they would retain overall VSC levels of 21% and 22.4%, which are considered to be reasonable given the urban context. Furthermore, all 7 of the habitable rooms tested would meet NSL criteria, which indicates that changes in daylight distribution would not be noticeable to occupiers of the property. On this basis, the proposed daylight impacts to No. 12 are considered acceptable.

#### *14 Colin Road*

107. This single dwelling is also located directly to the south of the site. In terms of VSC impact, 1 of the 5 windows assessed would meet BRE recommendations. Three of the remaining windows experience a relative reduction of between 26% and 35.6%, which is not considered to be unreasonable given the scale of development and the low-rise nature of these dwellings. The remaining window would experience a more significantly adverse impact, at 42.9%, however they would retain an overall VSC level of 20.4%, which is considered to be reasonable given the urban context.

108. In terms of NSL, 2 of the 4 habitable rooms tested would meet BRE criteria. The remaining two rooms would experience relative changes of 23.6% and 26.9%, which is only slightly below BRE criteria and therefore perceptible impacts are likely to be marginal. On this basis, the proposed daylight impacts to No. 14 are considered acceptable.

#### *16 Colin Road*

109. This single dwelling is also located directly to the south of the site. In terms of VSC impact, 2 of the 7

windows assessed would meet BRE recommendations. Four of the remaining windows experience a relative reduction of between 20.6 – 36.9%, which is not considered to be unreasonable given the scale of development proposed and the urban context. Furthermore, 3 of these 4 windows would retain a VSC of between 15.8-24%. The remaining window would experience a more significantly adverse impact, at 40.9%, however it retains an overall VSC level of 20%, which is considered to be reasonable given the urban context.

110. In terms of NSL, 4 of the 6 habitable rooms tested would meet BRE criteria. One of the remaining rooms, serving a kitchen/dining room, would experience a relative reduction of 40.6%, which is partly explained by the depth of the room (over 5m deep) which means it is more susceptible to such changes. The other affected room is a bathroom which is considered to be less significant. On this basis, the proposed daylight impacts to No. 16 are considered acceptable.

#### *18 Colin Road*

111. This single dwelling is also located directly to the south of the site. In terms of VSC, 2 of the 7 windows assessed would meet BRE recommendations. The remaining windows experience a relative reduction of between 29.1 – 39.2%, which is not considered to be unreasonable given the scale of development proposed and the urban context. Furthermore, four of these windows would retain a VSC of between 15.5-21.5%, which is considered reasonable in this urban context.

112. In terms of NSL, 2 of the 5 habitable rooms tested would meet BRE criteria. The remaining rooms would experience a relative reduction of between 21.7-34.7%, which is considered relatively marginal and acceptable given the scale of development in this Growth Area. On this basis, the proposed daylight impacts to No. 18 are considered acceptable.

#### *20 Colin Road*

113. This single dwelling is also located directly to the south of the site. In terms of VSC, 3 of the 5 windows assessed would meet BRE recommendations. The remaining windows experience a relative reduction of between 26.2 - 33.1%, which is not considered to be unreasonable given the scale of development proposed and the urban context. Each of these windows would retain a VSC of between 19.3-21%, which is considered reasonable in this urban context.

114. In terms of NSL, 3 of the 4 habitable rooms tested would meet BRE criteria. The remaining room would experience a relative reduction of between 21.5%, which is considered to be a marginal shortfall below the BRE guidance. On this basis, the proposed daylight impacts to No. 18 are considered acceptable.

#### *Verge Apartments, 2A Colin Road*

115. This property is located directly to the south/ south-east of the site, on the corner of Colin Road and Dudden Hill Lane, and is in use as nine flats. Both of the windows/rooms assessed are located at ground floor and are understood to be in use as bedrooms, with daylight levels heavily impacted already by the form and arrangement of the block. The BRE recognises that in these situations larger relative changes are more likely to occur.

116. For VSC, both of the windows assessed would fall below guidance and would experience relative changes of 30.7-34.8%, which may appear noticeable but is relatively marginal when seen in this urban context and given the scale of development proposed. For NSL, both rooms would fall short of the BRE recommendations and would experience relative changes of 23.2-40.3%. Given the majority of the block would be unaffected by the proposed development, this level of impact overall is considered to be acceptable.

#### *356-360 High Road*

117. Four windows have been tested at 356-360 High Road, and none of these would suffer VSC of NSL losses in excess of 20% (the maximum reduction is approx. 17%). Daylight losses would therefore likely be unnoticeable to the occupiers of these properties.

#### *362 High Road*

118. This property contains five one-bedroom units. Two of the units within this building, have all their habitable rooms facing Colin Road and therefore the subject site. The results demonstrate that 10 of the 15

windows would meet minimum BRE guidelines, and these are to the properties with habitable rooms fronting High Road (i.e. looking away from the proposed development). Of the remaining 5 windows, these would experience losses of between 20.1-29.1%, which is only slightly beyond the guidance and is therefore considered to represent a minor adverse effect. Furthermore, every window would retain a VSC of at least 22.9%, which given the urban context is considered acceptable.

119. It is also important to note that there would be an improved relationship to these properties when compared to the previously withdrawn scheme, where losses to the ground floor of 45.32% (living room) and 37.74% (bedroom), and first floor units at 43.49% (living room) and 38.3% (bedroom) were recorded, and deemed unacceptable. Furthermore, NSL to all 15 rooms assessed would meet BRE guidance. On this basis, the daylight impacts are considered acceptable.

#### *364 and 366 High Road*

120. These two properties are located to the south west of the site, with residential units on first floor level. Six windows have been assessed, serving habitable rooms. 3 of the 6 windows meet minimum VSC levels, whereas the remaining 3 windows would experience losses of between 51.2-63.1%, which would be significant. However officers place weight on the very high levels of VSC (more than 35 in the case of three of six of the windows tested, including both of the habitable windows at 364 High Road) which the windows benefit from as a result of the existing situation, with a lack of obstruction and low-rise buildings surrounding it.

121. In terms of NSL, the results demonstrate that 2 of the 6 rooms tested would meet the BRE criteria, with the remaining 4 rooms experiencing changes of between 41.2 – 55.1% which would be significant. However it should be noted that in the case of No. 364 High Road, the property is dual aspect and maintains good levels of daylight to front facing rooms, while No. 366 also has rooms unaffected and therefore impacts are limited to certain rooms of these flats, rather than the entire property. On balance, when considering the wider benefits of the scheme, the impact on daylight levels are justified.

#### *368 High Road*

122. This property is located to the south west of the site, in commercial use at ground floor with residential accommodation at first floor level. It immediately overlooks the site in close proximity to the development. Five windows have been assessed, serving habitable rooms. All 5 windows fall short of recommended minimum VSC levels, and all would experience significantly adverse reductions up to 68.3%. However, the scale of reduction in daylight is reduced when considering retained NSL levels. The three rooms tested would fall short of BRE recommendations, but the level of reduction ranges from 27.3 – 33.9%, which is relatively marginal particularly when considering the scale of development and the Growth Area context. Officers also place weight on the very high levels of VSC which the windows benefit from as a result of the existing situation, with a lack of obstruction and low-rise buildings surrounding it. On balance, when considering the wider benefits of the scheme, the impact on daylight levels are justified.

#### *399- 425 High Road (odds.)*

123. In relation to the properties on High Road, 399-403, 407 and 423 High Road would fully adhere to the BRE standards in relation to VSC and NSL, and therefore no further assessment has been reported. Of the 51 windows tested to the remaining properties, 26 of these would meet BRE guidelines in terms of VSC. 24 of the remaining 25 adversely affected windows would very marginally exceed the 20% loss which is considered acceptable, with relative losses of between 21.2 – 31.8%. The BRE guidelines make reference to losses of around 30% (i.e. 0.7 of the former value) are generally not noticeable. Furthermore, each of the main windows would retain a VSC of between 24.0 – 26.9% VSC which is generally considered to ensure a good level of daylight is retained in this changing urban context.

124. The remaining window which is more significantly affected window is a secondary opening at ground floor front to No. 425 High Road, and appears to serve a living room. Despite the 44% loss recorded to this window, the primary window would be BRE compliant in terms of VSC retained and therefore it is not considered there would be any material loss of daylight to this room or property. Furthermore, in terms of NSL, all 22 of the habitable rooms assessed would meet the BRE criteria, and therefore it is considered that the daylight distribution impacts of the proposed development would not be noticeable to occupiers of these properties.

#### *Summary of daylight results*

125. Overall, officers consider that there would be a good level of compliance with BRE guidance in terms of daylight levels overall given the scale of development proposed and proximity to neighbouring residential properties. As outlined at the start of this section, 61% of all windows would pass VSC assessment, and this increases significantly to 87% when considering the NSL assessment. BRE guidance acknowledges that there is a need to interpret compliance with the guidance more flexibly in denser urban locations such as this.

126. However, as set out above the results show that there will be some unavoidable impacts as a result of development, particularly to upper floor flats on High Road and the rear of properties on Colin Road, which in some cases will be significant. These impacts generally as a result of development must be weighed against the regeneration benefits of the scheme, which includes provision of additional housing generally, much needed affordable housing and family homes, replacement industrial floorspace (including affordable workspace) as well as an improved public realm, economic benefits and new commercial units including a new low-cost supermarket.

127. National planning policy supports making efficient use of land when proposing development. Paragraph 129 (c) of the National Planning Policy Framework (NPPF), states that that "when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)", applications which fail to make efficient use of the land it says, should be refused.

128. The site allocation designation which applies to this location, which expects significant housing growth within the locality of the site, is given significant weight. The expectation for significant development within this site allocation and within a Growth Area, as well as the expected high-density nature of development, would naturally reduce the expectations for full compliance with the daylight and sunlight guidance for new development in this location.

129. As noted above, the undeveloped nature of a large proportion of the site affords some surrounding buildings access to a higher level of existing daylight and a generous baseline scenario, however this is a location where change is expected to occur and the existing baseline conditions cannot realistically be maintained. Given the scale of the proposed development and the number of windows impacted (in the context of the number assessed), officers consider that the daylight impacts to neighbouring properties are acceptable when seen in the context of the scheme's wider benefits. It is considered that the impacts on existing windows are commensurate with the high density urban context set out within the site allocation.

130. Officers would note that the BRE guidelines on which the daylight analysis is based are designed to identify good levels of daylight in low density locations and that the guidelines acknowledge a need to interpret compliance flexibly in denser town centre locations, such as this. On balance, and taking into consideration the benefits of the proposals, the identified daylight impacts are considered acceptable.

### Sunlight

131. With regard to sunlight, the assessment sets out how relevant neighbouring properties would be affected, using likely changes to the number of Annual Probable Sunlight Hours (APSH), which is in line with BRE guidance. An assessment of the baseline figures has been provided (i.e. without any development in place). A total of 133 windows serving 59 residential rooms within relevant adjoining residential properties have been assessed for impact on sunlight amenity.

132. The assessment demonstrates that 63% of rooms (37 out of 59) tested would meet the recommended levels of the BRE Guidelines, which is considered to be a good level of compliance overall. The report goes on to outline that there are a number of adjoining residential properties which would retain fully BRE compliant alterations to respective windows and rooms, and therefore the report concludes that there would be negligible permanent impacts to these properties in terms of sunlight. These properties include:

- 75, 77-79 and 81 Dudden Hill Lane
- 43-47, 49-51, 53, 55-59 and 61 Dudden Hill Lane
- 42 Dudden Hill Lane
- 2A, 4, 8, 12, 16 and 20 Colin Road
- 11 Colin Road
- 356-360, 362 and 368 High Road

- 399, 401, 403, 405, 407, 409-421, 423 and 425 High Road

133. However the assessment outlines that that there would be several properties which experience sunlight impacts which fall short of BRE recommendations as a result of the proposed development. These results to particular properties are set out in more detail below:

#### *1-9 Colin Road*

134. These four residential properties are to the south-east of the site. The rooms that have been assessed are predominantly north facing but paragraph 3.2.3 of the BRE guidance states *“that all main living rooms of dwelling and conservatories, should be checked if they have a window facing within 90 degrees of due south.”* Each of the properties has a bay window where two panes are north facing but one pane is just within 90 degrees of due south. Therefore, the effects to these properties has been considered, despite the rooms themselves being northerly orientated.

135. Officers acknowledge that each of the rooms assessed within these properties would experience changes that go beyond the BRE recommendations for winter and total APSH, with a minimum 33% loss on an annual basis to all 8 rooms tested. However, the rooms would all retain 12% and 20% total APSH, which given the urban context within a Growth Area is considered a reasonable level of sunlight retained. For winter sun, the existing self-obstructions mean all rooms are either below guidance in the existing conditions or only just meet guidance despite having otherwise largely unfettered access to sunlight over the Site (receiving 2-5% APSH). These windows would experience small reductions in winter sun of between 1-2% APSH which causes large relative changes due to the low existing levels. Therefore it is acknowledged that any scheme of some scale and density here would result in some noticeable impact to these properties.

#### *13-23 Colin Road*

136. As with Nos. 1-9, these properties have rooms which are predominantly north facing with only a single pane within the bay windows orientated slightly within 90 degrees of due south. This means that the rooms are currently primarily reliant on afternoon sun from across the application site. Each of the rooms assessed within these properties would experience changes that go beyond the BRE recommendations for winter and total APSH. However, the rooms would retain 13% and 19% total APSH which given the urban context and particular sensitivities of the site next to a Growth Area, is considered a reasonable level of sunlight to retain.

137. For winter sun, the existing self-obstructions mean all rooms are either below guidance in the existing conditions or only just meet guidance despite having otherwise largely unfettered access to sunlight over the Site (receiving 3-5% APSH). These windows would experience small reductions in winter sun of between 1-2% APSH which causes large relative changes due to the low existing levels. Given this context, the level of sunlight impact to these properties is considered acceptable on balance.

#### *2 Colin Road*

138. This two-storey terraced property is to the immediate south of the site, with rear, north facing rooms looking directly onto the site. Some of the rooms are understood to be served by secondary windows that are southerly orientated, however the rooms themselves are predominantly north facing. The south facing windows themselves would either meet the guidelines or only experience an absolute change of 5% APSH, which represents a minor shortfall from the BRE recommended levels.

139. However, when considering the rooms as a whole (also the north facing windows) the rooms would fall short of guidance, with an average loss of over 50% to both kitchen and bedroom. This represents a more adverse impact, but is not to be considered unreasonable given the property's proximity to the site and scale of development. It is important to note that the scale of development has been reduced closest to this property, with Blocks A and B being six storeys which is line with the expectation in this intensification corridor, and the blocks have been set away from the rear boundary to reduce impacts as much as possible.

#### *6 Colin Road*

140. This property is also directly to the south of the site, and one of the habitable rooms assessed is southerly orientated. However, this room receives no APSH in the existing condition so does not experience any change between existing and proposed conditions.

### *10 Colin Road*

141. This property is also directly to the south of the site, and two of the habitable rooms assessed are southerly orientated (a kitchen). This would be adversely impacted, with an annual APSH loss of more than 60%. However, as with No. 2, the proximity of this property to the site and scale of development means that, given there is a good level of compliance overall, this isolated loss of sunlight to one rooms is considered acceptable. As with No. 2, Blocks A and B have been designed to be lower, and the blocks have been set away from the rear boundary to reduce impacts to these properties as much as possible.

### *14 Colin Road*

142. As above, this residential dwelling is located to the south of the site, and has south facing lounge windows affected by the development. However an annual APSH loss of approximately 23% (and no WPSH loss) means that this room would only experience marginal reductions in sunlight as a result of the proposed development.

### *18 Colin Road*

143. This property also has southern orientated windows serving bedrooms which would be affected by the proposal. Although no WPSH impacts would prevail, there would be an adverse impact on an annual basis (47.8% reduction in APSH levels) to one of the bedrooms. However, given the relatively isolated reduction in sunlight levels overall - and relatively marginal daylight impacts also recorded – the level of impact to this property is considered acceptable on balance.

### *366 High Road*

144. 366 High Road has just one room which is served by a southerly orientated window. This would not experience any change in the sunlight levels received in the existing condition, and therefore APSH levels exceed the BRE recommendations.

### *Summary of sunlight results*

145. Overall, officers consider that there would be a good level of compliance with BRE guidance in terms of sunlight levels overall given the scale of development proposed and proximity to neighbouring residential properties, with 63% of relevant surrounding properties in full compliance. Properties most affected are generally to the immediate south - on the southern side of Colin Road - which rely heavily on sunlight from across the site, given their proximity and orientation. Nevertheless, officers consider the most significant sunlight impacts are isolated to individual rooms and properties and, as with daylight impacts, must be expected in this dense urban location and given the objectives of the site allocation. On balance, the proposed sunlight impacts to adjoining properties are considered acceptable.

### Overshadowing to adjoining amenity spaces

146. With regard to potential overshadowing impacts, the assessment has identified all private gardens and amenity spaces which are sensitive to overshadowing impacts using the sun on ground hours assessment (SHoG). The BRE overshadowing assessment is passed where at least 50% of the garden area/ amenity space would retain exposure to at least 2 hours of direct sunlight on 21st March.

147. The assessment demonstrates that 10 of the 11 gardens assessed (91%) would be fully compliant with the BRE criteria. It is noted that the rear gardens of Nos. 16, 18 and 20 Colin Road would experience improved sunlight levels due to the demolition of the existing building on the southern boundary. The most significantly impacted amenity space would be the rear garden of No. 10 Colin Road. However, officers note that this garden is located to the north of 12 Colin Road which has a second floor extension which already obstructs more sunlight when compared to other properties along the terrace. The rear garden of No. 10 would experience a 37% reduction in SHoG, however the actual area which would suffer this loss would be approximately 3 sqm, which is extremely limited. The rear garden would meet the BRE recommendations by 4th April, which is just 2 weeks later than the BRE guidelines recommend.

148. To explore the reduction further, a Time in Sun (TiS) analysis of these gardens on March 21st has been undertaken for existing and proposed conditions. This demonstrates that there is very little change between



the existing and proposed areas receiving sun, on March 21st and June 21<sup>st</sup>. Given this context, on balance this limited loss to the rear garden of No. 10 is considered acceptable.

149. A review of the surrounding context confirms there are no PV panels present to surrounding sites which would be impacted in terms of overshadowing. There are PV panels to the block of flats on the south side of Colin Road, however the panels face south and therefore would not be impacted by the proposed development.

150. Overall given the high density, urban context, the development is considered to achieve a reasonable degree of compliance with regard to overshadowing when assessed against BRE guidance.

#### Sense of enclosure

151. In the interests of ensuring that the development does not appear unduly overbearing to surrounding properties, SPD1 establishes a standard for new development to sit underneath a 45-degree line drawn from a 2 m height at the nearest edge of an affected property private amenity space. The proposed buildings should also sit underneath a 30-degree line drawn from a 2 m height at the nearest rear habitable room windows within neighbouring properties that face towards the proposed buildings.

152. The residential buildings that share a common boundary with the site include 2a to 20 Colin Road. The rear gardens of these properties are modest and have a particularly high boundary treatment to the rear (approx. 3.8m). These properties sit directly opposite proposed Blocks A and B. There is a distance of approximately 14.2m maintained between the rear boundary of Nos. 2a to 20 Colin Road and the building line of Blocks A and B.

153. When taken at the height of the existing boundary treatment, there would be a very marginal breach of the 45 degree rule, with only the roof/ parapet level of Blocks A and B causing a breach of this rule when the 45-degree line is drawn. The impact of these blocks is further reduced by the set back of approximately 3.8m to the top storey of Block A, and the fifth floor of Block B being set back by approximately 8.9m, which particularly mitigates the height and bulk of these blocks to Nos. 10-20 Colin Road. Furthermore, the blocks have been designed with a central podium which significantly reduces the amount of bulk and massing seen from the rear of these Colin Road properties. Officers therefore consider the blocks would not be significantly overbearing to these properties, despite the breach to the 45-degree rule.

154. Similarly, there is a distance of approximately 21.6m – 25.6m maintained between the building line of Block A and the rear elevation of Nos. 2 and 2a Colin Road, and between 18m and 30m from the building lines of Block B to the rear elevations of 8-16 Colin Road. In relation to the 30 degree rule, the development would marginally breach this in relation to Nos. 2-2a Colin Road, but the position of the blocks and the step down to five storeys nearest to the boundary with these properties ensures any overbearing impact would be negligible. The step down to four storeys to Block B nearest to the boundary with 8-16 Colin Road ensures that the 30-degree rule would be complied with when considered in relation to the rear windows of these properties.

155. When considering the 30-degree rule in relation to impact to Nos. 364 and 366 High Road this breach would be significant, however, the distance between the rear windows of this property and the site is minimal and therefore any additional massing is very likely to breach this guidance.

#### Privacy

156. SPD1 states that development should ensure a good level of privacy inside buildings and within private outdoor space. Directly facing habitable room windows will normally require a minimum separation distance of 18m, except where the existing character of the area varies from this. A distance of 9m should be kept between gardens and habitable rooms or balconies. Reduced distances between new frontages may be acceptable subject to consideration of overlooking and privacy as well as high quality design and solutions which can sometimes mitigate impacts and allow for efficient use of land.

#### *Colin Road*

157. As outlined above, a minimum distance of approximately 14.8m would be maintained between the rear boundary of Nos. 2 and 2A Colin Road and Block A at first floor level, thereby complying with SPD1 guidance. The majority of south-east facing windows and balconies to Block A only have views to the rear gardens at an oblique view. The overlooking impact is also mitigated by the fact that rear facing windows to

habitable rooms of these properties would be a minimum of 21.5m away, while the communal podium/terrace is at least 21.9m away from the rear garden boundaries of Colin Road. Therefore officers consider the relationship from Block A is acceptable.

158. Block B (including the communal podium terrace to the immediate west) sits directly opposite the rear gardens and rear facing windows of Nos. 10-20 Colin Road. Similarly to Block A, a minimum distance of 14.8m would be maintained between the rear boundary of Nos. 10-20 and directly facing windows and balconies to Block B at first floor level. The rear facing windows of habitable rooms of Nos. 10-18 are a minimum of 18.6m away from Block B, and therefore comply with SPD1 in this regard. Overall, officers consider the relationship from Block B to be acceptable.

#### *High Road*

159. Block F lies to the immediate north-east of Nos. 364-368 High Road, which have rear windows looking directly onto this proposed building. However Block F has been designed so that the majority of its windows and balconies look north onto the application site itself or south onto Colin Road. There would be some potential overlooking at fourth floor level, with south-west facing windows to Block F approximately 13.7m and 15.9m away from the rear building line of Nos. 364 and 368 respectively; however the windows to these High Road properties are at first floor only and therefore this limits the potential for direct views between these properties. There would also be a reduced separation distance between these windows and the communal terrace to Block F at third floor level (approximately 9m), however given the limited number of openings affected and that these are at a lower level than the terrace, officers consider the level of harm to occupiers of these flats at 364-368 High Road would be limited.

160. Block E would also sit to the north/ north-west of these High Road properties, however there would be no direct views from openings to the south-east elevation of Block E to these properties and therefore any overlooking impact is negligible.

#### **Quality of accommodation**

To improve the quality of new housing, new development must meet with or exceed the minimum internal space standards contained within the London Plan policy D6 and the Mayor's Housing LPG. It goes onto say that all new homes should be provided with adequate levels of outlook, daylight and natural ventilation, which is supported by Council's Design guide SPD 1 (2018).

#### Internal layout

##### *Blocks A and B*

161. Block A would contain 30 residential homes, all of which would be London Affordable Rent. The mix of units comprise 7 x 1-bed homes, 10 x 2-bed homes and 13 x 3-bed homes. B would contain 28 homes, 18 of which would be London Affordable Rent (on floors 1-3), and the remaining 10 would be private sale (floors 4-5). The mix of units comprise 7 x 1-bed homes, 9 x 2-bed homes and 12 x 3-bed homes. The dwellings are arranged around a central access and service core. There would be six homes per floor on all levels, with the exception of Block B having five homes at fourth and fifth floors respectively. The blocks therefore comply with the recommended 8 homes per core as set out within the Housing Standards LPG. Each of the homes would exceed the minimum space standards set in policy D6, with bedroom sizes meeting or exceeding the minimum 7.5 sqm for a single bedroom and 11.5 sqm for a double bedroom. The homes would all achieve a minimum ceiling height of 2.5 m for at least 75% of the gross internal area of each dwelling.

162. 66% of all units within Blocks A and B would be dual aspect, with all 25 of the 3-bedroom homes being dual aspect. The London Plan highlights that where single aspect dwellings are proposed, they should be restricted to homes with one or two bedspaces; should not face north; and must demonstrate that the units will: have adequate passive ventilation, daylight and privacy; and not overheat (particularly relevant for south or west-facing single aspect units). Five of the single aspect homes in Block A would be 2-bedroom units, with the other five being 1-bed units. However, given the 2-bedroom units would provide approximately 10sqm above the minimum requirement of internal floorspace (each being 79.7 sqm) and the overall quality of space provided, this is considered acceptable on balance. The single aspect homes to both blocks would face in a south-westerly and north-easterly direction. The layout of the single aspect homes in relation to noise and air quality together with overheating has been made and discussed within the relevant parts of this report.

163. The GLA raised concerns with a perceived contrast in the quality and size of the affordable and private

residential lobbies. The affordable residential entrance to Block B has been revised so that it would have a wider ground floor entrance, thereby having a greater presence and more proportionate to the entrances to the private lobby to Block B, as well as the other private blocks within the development.

### *Block C*

164. Block C would contain 92 homes, all of which would be private. The mix of units comprise 44 x 1-bed homes, 44 x 2-bed homes and 4 x 3-bed homes. The dwellings are arranged around two central access and service cores, with four homes per core on each floor. Each of the rooms would exceed the minimum space standards set out in policy D6.

165. 50% of the units within Block C would be dual aspect from floors 1-9, with this increasing to 66% for floors 10-11, and then 100% for floors 12-13. All 3-bedroom homes are dual aspect, and none of the single aspect units would be north facing. The residential entrance is well sited close to the central courtyard, with a secondary core entrance to meet fire safety regulations.

### *Blocks D and E*

166. Block D would contain 117 homes, while Block E would contain 16 homes, and all of these would be private. The mix of units across two blocks comprise 46 x 1-bed homes, 74 x 2-bed homes and 13 x 3-bed homes. The units are arranged around separate access and service cores, although there would be a link between the two blocks which it is understood to be for emergency purposes only.

167. The blocks would have a combined total of 55% dual aspect at floors 1-4, which falls to 50% at floors 5-14, but then increases to 100% on floors 15-18. It is also noted that while the number of homes at mid-level does fall to 50%, some of the units at this level are 3-bedroom homes which benefit from a triple aspect. Again, none of the single aspect homes would be north-facing, with these generally having an north-easterly and south-westerly outlook.

### *Block F*

168. Block F would contain 18 homes, all of which would be for private sale. The mix of units comprise 4 x 1-bed homes, 12 x 2-bed homes and 2 x 3-bed homes. The dwellings are arranged around a central entrance and service core with separate accesses from the central courtyard and Colin Road respectively, with a total of five homes per floors 1-3, and four homes on floors 4-5. All homes comply with minimum space standards and floor-to-ceiling heights.

169. The blocks would achieve 40% dual aspect units at floors 1-3, increasing to 50% on the top fourth floor. While there would be some homes which have a solely north-westerly aspect, these dwellings are relatively generous in terms of their overall size and they are not wholly north-facing. Officers therefore consider the quality of internal space to be acceptable within this block.

### Accessible homes

170. Policy D7 of the London Plan requires that at least 10% of dwellings meet Building Regulation requirement M4(3) 'wheelchair user dwellings' and all other dwellings meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings.' Although precise details of which homes would be designated as wheelchair user dwellings, the applicant's design and access statement confirms that a total of 31 homes would be designated as M4(3) compliant and typical detailed layouts for these homes have been provided.

171. Officers consider that a condition requiring precise details of accessible homes within the site to provide a minimum of 31 M4(3) homes are provided before first occupation of any of the residential elements of the development, with the remainder shown as M4(2) homes.

### Privacy between new homes within the development

172. Separation distances between the buildings within the development are typically 18 m between Blocks A and B, B and C, and C and D. There are shorter separation distances between Blocks D/E and F, with 15.9m between directly facing windows across the central courtyard, and a pitch point of 7.5m where south facing windows of Block F look onto the communal terrace/ podium of Block F.

173. However, this is not considered to be significantly harmful to the privacy of residents of the

associated flats within these blocks, and helps to provide good natural surveillance of the adjoining publicly accessible spaces.

174. A number of the homes face into the communal podiums between Blocks A/B, B/C and C/D. The habitable room windows within these homes and balconies have been designed to not directly overlook one another due to the angles between the courtyard facing facades. There will be some overlooking between balconies when looking to either side. However, this is not unusual in a high density scheme and is not considered to be harmful. In some instances (particularly near to the internal edges of the building), the views from some balconies are towards windows which are less than 18 m away, such as the western part of Blocks E and F. However, the angles to those windows are such that views into any flats are limited and again, this is not considered to be significantly harmful.

175. Overall, officers consider the blocks have been well-designed with privacy in mind, and the proposals comply with SPD1 in this regard.

#### Internal daylight and sunlight

176. The application has been accompanied by an internal daylight analysis as part of the daylight, sunlight and overshadowing report. This has been correctly undertaken in line with the updated BRE guidance (2022), which uses Climate Based Daylight Modelling (CBDM). In terms of internal daylight, the annual daylight method is now used, and this involves using climatic data for the location of the site (via the use of an appropriate, typical or average year, weather file) to calculate the illuminance from daylight at each point on an assessment grid on the reference plane at an at least hourly interval for a typical year.

177. A target illuminance (ET) is the illuminance from daylight that should be achieved for at least half of annual daylight hours across a specified fraction of the reference plane in a daylit space. Daylight Autonomy (DA) is the percentage of occupied hours that each sensor receives more than the illuminance threshold, and Spatial Daylight Autonomy (sDA) is an annual daylighting metric that quantifies the fraction of the area within a space for which the daylight autonomy exceeds a specified value.

178. The UK National Annex gives specific minimum recommendations for habitable rooms in dwellings in the United Kingdom. These are intended for 'hard to light' dwellings, for example in basements or with significant external obstructions or with tall trees outside, or for existing buildings being refurbished or converted into dwellings. The National Annex, therefore, provides the UK guidance on minimum daylight provision in all UK dwellings.

179. The UK National Annex gives illuminance recommendations of 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens. These are the median illuminances, to be exceeded over at least 50% of the assessment points in the room for at least half of the daylight hours. A median illuminance target of 150 Lux has been applied for living, kitchen and dining spaces as the BRE Guidelines state that the target for a living room could be used for a combined LKD if the kitchens are not treated as habitable spaces, as it may avoid small separate kitchens in a design which have been avoided across the scheme.

180. When applying this revised target, the results demonstrate that 589 of the 838 rooms assessed (70%) would achieve recommended CBDM values for their relevant room uses as advised in the BRE Guidance. In terms of the LKDs, 224 of the 300 rooms tested (75%) would meet guidelines, which is considered to be a good level of overall compliance given the high density nature of the scheme. There is a lower rate of compliance (68%) for bedrooms within the development, which is considered to be acceptable given layouts have been designed to prioritise daylight to main living/ dining spaces. A more detailed block-by-block breakdown of results is provided below:

Block A (LAR block) – 21 out of 30 LKD rooms meet recommendations (70%). The remaining LKDs are single aspect and either 1-2 bedroom units, a number of which overlook Block B which are overhung by balconies, therefore limiting daylight availability

Block B (mix of private and LAR units) – 22 out of 30 LKD rooms meet recommendations (73%). The remaining LKDs are single aspect and either 1-2 bedroom units, and are all overhung by balconies which overlook Block A or Block C, thereby limiting daylight potential.

Block C (private block) – 69 out of 91 LKD spaces meet recommendations (76%). The remaining LKDs rooms are single aspect and either 1-2 bedroom units and overhung by balconies which overlook Blocks B and D/E so daylight is again limited. The remaining rooms which fall short of guidance are primarily used as bedrooms (with one studio apartment), and again are located in areas overlooking Blocks B and D/E to

prioritise daylight for main living spaces.

181. With regard to sunlight, para. 3.1.10 of the BRE guidelines states that “*at least one habitable room, preferably a main living room, should meet at least the minimum criterion*”. Generally, a very high proportion of homes meet this criteria to all blocks, although there are some constraints including a number of north facing units to all blocks, particularly to Blocks A, B and C. At least 65% of rooms to each block would meet this sunlight exposure criteria, which is considered a good level of compliance.

182. The assessment also considers the levels of sunlight received by the proposed communal podiums/ terraces and external balconies, through the Sun Hours on Ground (SHoG) assessment on March 21st. This demonstrates that 7 of 8 spaces assessed would comfortably meet the BRE criteria, with 84-99% of the podium/ roof terrace areas receiving at least 2 hours of direct sun, which is considered to be an excellent level of compliance in this high density, urban context.

183. The ground floor public courtyard/ amenity space would receive 2 hours of sun to 43% of its area and so is only very just short of guidance, which is reasonable given the height and scale of buildings surrounding it. It should be noted that Block F has been deliberately designed to be chamfered to ensure as much sunlight as possible reaches this space. Whilst certain parts of this space do not receive 2 hours of sun, the time in sun results demonstrate large portions will receive at least 105 mins of sun on March 21st so would only be slightly short of BRE guidance, including the main seating/play space.

### *Summary*

184. The levels of daylight and sunlight received by the new homes and amenity spaces within the development are considered to be appropriate for a scheme of this density, with the provision of private external amenity space (in the form of balconies and winter gardens, where appropriate) considered to adequately compensate for the associated reduction in daylight received by rooms.

185. A very high degree of compliance with minimum sunlight levels to amenity spaces is achieved, with the exception being the ground floor communal courtyard/ amenity space. However, this results from a specific design approach to the site overall, and the quality of the spaces is still considered to be good despite the lower levels of sunlight. It is also noted that residents will be able to access a variety of amenity spaces throughout the site, with the majority of these meeting BRE guidance levels for sunlight. The proposal is considered to be acceptable in relation to the levels of internal daylight and sunlight.

### External

186. Policy BH13 of the Brent Local Plan states that all new dwellings will be required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. This is normally expected to be 50sqm per home for family housing (3 bedrooms or more) situated at ground floor level and 20 sqm for all other housing.

187. The BH13 requirement for external private amenity space is for it to be of a "sufficient size and type". This may be achieved even when the "normal expectation" of 20 or 50 sqm of private space is not achieved. The supporting text to the policy clarifies that where "sufficient private amenity space cannot be achieved to meet the full requirement of the policy, the remainder should be applied in the form of communal amenity space". It goes on to state that where there is not strict compliance with these requirements, factors such as accessibility of dwellings to their own amenity space and its quality, the amount and quality of communal space, proximity to other areas of open space nearby and internal amenity spaces. With regard to quality of the space, Brent SPD1 specifies that the minimum depth and width of the space should be 1.5 m.

188. Furthermore, more recently the Council adopted its Residential Amenity Space and Place Quality (RASPQ) SPD in June 2023. For major developments, the SPD sets out a qualitative framework and toolkit, to assess the quality of communal amenity spaces, where a scheme is showing a shortfall in provision on site against policy BH13.

189. In meeting the above requirements, it is expected that at least a part of each flat's required amenity space will be private space and as such, all units should be provided with a London Plan compliant balcony/terrace. Within dense residential developments in a town centre setting there is an expectation that a shortfall in private amenity space provision can acceptably be made up through communal garden space as much as is reasonably possible, which would be a secondary form of amenity space beyond the flats' private balconies/terrace.

190. The table below summarises the private and communal amenity provision within the development on a block-by-block basis:

<b>Private space</b>	BH13 requirement	External amenity space provision	Internal provision (winter gardens)	Shortfall
Block A	600	113	145.7	341.3
Block B	560	147.5	84	328.5
Block C	1840	456.6	154	1229.4
Block D/E	2760	603.4	480.5	1676.1
Block F	360	129.2		230.8
<b>Total private space</b>	6020	1449.7	864.2	3706.1
<b>Communal space</b>		2223		
<b>Public open space</b>		949		
<b>Cumulative shortfall</b>		<b>534.1 sqm</b>		

191. The calculations above include provision of winter gardens which serve a number of homes to the northern and eastern edges of the site, which have been deemed necessary (particularly on lower floors) to ensure impacts of noise and poorer air quality from the adjoining industrial site/ proposed industrial yard are mitigated. Communal external amenity is provided to all blocks in the form of podium courtyards and roof terraces. Given the quality of communal external amenity provision, as well as the other benefits from additional internal amenity to the affected homes, officers consider the shortfall of approximately 534sqm (around 11%) below BH13 requirements to be acceptable. However some mitigation is also provided in the form of a financial contribution towards open space improvements in the local area, as outlined in para. 199 below.

192. The applicants have submitted an Amenity Space Quality Statement which, along with the design and access and landscape statements, sets out how the development has been shaped by the key principles of the RASPQ SPD in terms of ensuring space which is vibrant and inclusive, promote health and wellbeing, and how it will enhance a strong sense of community and belonging to future residents. This statement also sets out a breakdown of the key communal terraces/ podiums, and demonstrates there would be no difference in the quality of communal spaces to the affordable and private blocks.

193. Overall, the proposed external amenity space would be generous in terms of quantity and would also be of a very good quality which would be to the benefit of future residents, therefore meeting the requirements of BH13 of the Local Plan and the RASPQ SPD.

### Playspace

194. Policy S4 of the London Plan states that development proposals for schemes that are likely to be used by children and young people should increase opportunities for play and informal recreation and incorporate good quality play space. Further detail is provided in the Mayor's 'Shaping Neighbourhoods: Play and Information Recreation' Supplementary Planning Guidance (SPG), which sets a benchmark of 10sqm of usable child place space to be provided per child and makes clear that playspace must not be segregated by tenure.

195. The child yield for the development is summarised in the table below on a block-by-block basis:

<b>Block</b>	0-4	5-11	12+	Total	Total no. children
Block A&B (affordable)	203	169	145	517	51.7
Block B	10	6	2	18	1.7
Block C	84	54	15	152	15.2
Block D	121	79	27	228	22.7
Block E	14	9	2	25	2.5
Block F	20	13	5	39	3.9
<b>Total</b>				976	<b>97.6</b>

196. Officers note that the playspace requirement has been calculated in accordance with a 'policy-compliant' tenure split in relation to the affordable units provided in Blocks A and B of the scheme, i.e. a 70:30 LAR: intermediate split, despite the scheme providing 100% LAR units in terms of its affordable element, and this is accepted.

197. Overall, the proposals would provide a total of 1046sqm of playspace, meaning an excess of 70sqm above the required playspace overall. There are some shortfalls in requirements per block, mainly to Blocks A/B (i.e. where the affordable rented units are located), where there would be a shortfall of 201sqm floorspace on the communal podium. However all of the 0-5 play is provided within this space, and this is the largest and most useable of all the podiums across the development. There is also opportunity to make this up for within the 5-11 play at ground floor level, and good quality and useable spaces within the public courtyard nearest to Blocks D/E would be provided. Given the other private blocks would have access to their own 5-11 play areas, this is considered acceptable.

198. The other shortfall is within the 12+ age group, with 51 sqm less provided on site for older children, although there is some space provided within the development in the form of yoga decks, raised decks and game tables. However, the applicant's landscape statement outlines that there are number of open spaces within 800m of the site which include Learie Constantine Open Space, which is within 2 mins walk, and Willesden Community Garden which is approximately 5 mins walk. There are other larger open spaces such as Roundwood Park and Gladstone Park, which although slightly further away, are still within a 11-17 minute walk of the site but include sports pitches and larger recreational areas.

199. To offset the shortfall in both external amenity space within the development and child playspace, a contribution of approximately £50,000 is to be secured (exact figure to be agreed) within the section 106 agreement in relation to improvements to nearby open spaces which may include improvements to the open spaces themselves, the play facilities within these open spaces and/or improvements to the routes to these spaces from the application site. On the above basis, it is considered that the play space provision of the scheme is acceptable, despite not fully providing all play space on site in line with policy S4.

## **Transport and highways**

### Policy background

200. London Plan Policy T6 seeks to restrict car parking in line with existing and future public transport accessibility and connectivity, and maximum parking allowances for residential development are set out in Policy T6.1. Brent's Policy BT2 sets out parking allowances to align with those of the London Plan.

201. Cycle parking spaces must be provided in compliance with London Plan Policy T5 in a secure weatherproof location and in accordance with design guidance set out in the London Cycling Design Standards. Bin storage should allow for collection within a 20 m carrying distance (or 10 m for larger Eurobins), and more detailed guidance on bin storage requirements is given in the Waste Planning Guide.

202. London Plan Policy T2 expects new development proposals to follow a Healthy Streets Approach and include an Active Travel Zone (ATZ) assessment, and Policy T4 requires Transport Assessments to be submitted.

### Existing provision

203. Both Dudden Hill Lane and High Road are London distributor roads and bus routes, with parking prohibited completely along Dudden Hill Lane and restrictions in place between 8am-6.30pm Monday to Saturday, and loading prohibited 8-9.30am and 4.30-6.30pm on Weekdays. Colin Road is a local access road in CPZ "GD" which is active 8.30am-6.30pm weekdays. The site has a Public Transport Accessibility Level (PTAL) of 5, which is classified as 'very good'.

### Car parking

204. As the site has very good access to public transport services, there is an expectation under Local Plan Policies BT2 that proposed residential development are car free, side from disabled and operational parking, with standards following the table in Policy T6.1 of the London Plan. The proposed provision of only disabled parking (nine spaces) for the 301 flats is therefore acceptable and meets the London Plan requirement of providing a disabled parking space for 3% of flats. Please note that all of these spaces should be provided with electric vehicle charging points.

205. The absence of spare on-street parking capacity in the area means that a 'car-free' agreement is required for the flats to ensure that overspill parking does not lead to parking problems in the wider area. However, should further residents with Blue Badges require parking, they would be exempt from the car-free agreement, so they could park on surrounding streets. No parking is shown on the plans for the industrial floorspace, gym or café, although the Car Park Management Plan does show a disabled parking space within the industrial units' service yard.

206. With regard to the supermarket, a revised total of 24 customer spaces (incl. 3 disabled) are proposed. This does not comply with general London Plan standard set out in Table 10.5, which states that the retail store should be 'car-free', and Transport for London (TfL) and the GLA have raised objections in this regard.

207. However, the London Plan does also allow amended standards for retail parking where there is clear evidence that the usual standards in Table 10.5 would result in a significant reduction in the viability of mixed-use redevelopment proposals in a town centre area. Paragraphs 4.6.12-4.6.15 of the Transport Assessment make it clear that the supermarket is a key element of the proposal that supports the viability of the rest of the development. It also states that the proposed supermarket operator has struggled to operate stores elsewhere in London without parking, having recently closed a 'car-free' store in Camden. Brent highways officers therefore accept that an element of car parking is vital to the viability of the supermarket in order to assist with the transport of large, bulky shopping and by extension, is necessary to support the viability of the development as a whole.

208. It is also recognised that it is beneficial to locate supermarkets in town centre areas such as this rather than in out-of-town locations, so if a small element of car parking is required to make this viable, wider benefits would arise through the reduction in car trips to shopping destinations further afield. In terms of the volume of car parking proposed, the number of standard width spaces equates to one space per 70m<sup>2</sup> retail floor area, which is below the maximum amount of parking that would be permitted if the site had a slightly lower PTAL rating of 4. Therefore, while TfL's concerns are noted, at a local level Brent officers consider the number of proposed spaces to be reasonable and justified in supporting the viability of the overall scheme.

209. Of the spaces to be provided, two will have electric vehicle charging points, which is welcomed. These need to include a rapid charger of at least 50kW/hr (allowing a full charge within the maximum stay for the car park) to be suitable for use by visitors to the store. Officers have recommended a condition which ensures this is installed before the supermarket begins to operate.

210. A Car Park Management Plan has been submitted for the development. This confirms that supermarket parking will be limited to a maximum stay of 90 minutes, with enforcement through ANPR cameras. Penalty charge notices will also be issued to any unauthorised vehicles using residential, industrial or supermarket parking spaces. It is not explicit about enforcing against casual parking along access roads and within the industrial service yard though and this also needs to be rigorously enforced.

#### Cycle parking

211. London Plan standards require 548 long-stay residential spaces and eight short-stay spaces. For the various commercial uses, at least 20 long-stay and 37 short-stay spaces are required.

212. Long-stay bicycle parking for 548 bikes is proposed within five storerooms at ground and mezzanine floor levels serving the various residential blocks, with suitably sized lifts to the mezzanine level stores. The provision includes 32 spaces for non-standard bikes on widely spaced 'Sheffield' stands, in line with standards. Suitable power sockets should be provided for electric bike charging.

213. No details of long-stay bicycle parking have been shown for the commercial units, and it should be noted that shower/locker/changing facilities should also be provided for employees. For short-term bicycle parking, a total of 44 'Sheffield' stands are proposed around the site, which is considered acceptable and provides a small surplus for employees, which is also welcomed.

#### Servicing and deliveries

214. Servicing arrangements for the retail and residential parts of the development include a 20m x 6.5m dedicated loading bay at the rear of the supermarket accessed through its car park. Vehicles will reverse into the bay with the aid of banksmen and it is anticipated that one large articulated lorry will visit the site in the early morning (before 8am) each day when the supermarket is quiet.



215. A secondary loading bay (9.6m x 2.4m) for the residential units and gym/café is also proposed alongside the supermarket car park. The location of this has been revised so that it would now be sited parallel to the bin store for Block B, thereby ensuring it would not obstruct vehicle and pedestrian movements through the site, and this is welcomed.

216. Each of the residential blocks will have its own refuse store, with easy access within 10m of accessible locations for refuse vehicles (within the supermarket car park, industrial service yard or Colin Road). The overall capacity of the stores meets Brent's Waste Storage guidelines and includes space for bulky waste storage.

217. The industrial units will be provided off-street servicing for the industrial floorspace via their own shared service yard, accessed from High Road. Tracking diagrams have been submitted for all loading areas to demonstrate that goods vehicles can enter, turn and leave in a forward gear. However, the service yard for the industrial units is only shown to be able to accommodate rigid lorries of up to 10m in length. Under the standards set out in Appendix 5 of the Local Plan, floorspace of over 1,000m<sup>2</sup> should be serviced by full-size articulated lorries, but this is not realistic in this case. As such, to minimise concerns over the safety implications of servicing, no individual units (notably Unit 01) should exceed 1000sqm, and this is recommended as a condition.

218. A Delivery & Servicing Plan (DSP) has been submitted to show how the anticipated 56 delivery vehicles visiting the site each day (up to seven in the peak hour) will be managed, in order to ensure deliveries do not result in a negative impact on the public highway. This includes the employment of a concierge to help manage deliveries to the residential units and encouragement to use greener modes of transport.

219. While the DSP submitted is acceptable in principle, Brent's highways team has requested a condition which provides a more detailed DSP including robust measures for the shared industrial service yard to ensure that it can always satisfy servicing demands, without resulting in vehicles blocking the shared surface pedestrian route through the site in a co-ordinated manner. This should include a central booking system being implemented in order to spread delivery movements out over the day for the four units, whilst measures to maximise the consolidation of loads and to use smaller vehicles are also required. Strict enforcement against parking in the service yard is also required.

220. Additionally, the revised DSP needs to provide details on how it would be monitored over time to allow for adjustments to be made (i.e. what information would be collected), how often and for how long the surveys would be undertaken and how the success of the DSP would be judged. Officers agree these proposed changes are required by condition and must be approved before the site is occupied.

221. Access arrangements for vehicles will require three junctions, from Dudden Hill Lane (in only), High Road and Colin Road (out only), with each to be laid out with new radius kerbs and tactile paving. Of the three entrances, only that to Dudden Hill Lane has been shown with a raised entry treatment though and this treatment should be repeated for the other two junctions too. This will be required as part of the S106/S278 highways works.

222. Similarly, entrance arches are also shown at the Dudden Hill Lane and High Road entrances and the 6m+ height provides sufficient headroom for delivery lorries. However, protective kerbing or bollards to the arch structure needs to be provided to reduce the risk of being struck and damaged by vehicles. Again, officers have recommended this forms part of the agreed S278 highways works, included within the legal agreement.

223. The crossover arrangements to the site will leave a number of lengths of redundant crossover and these stretches will need to be returned to footway with full height kerbs at the developer's expense, as part of the resurfacing of all footway frontages to the site. The applicants have confirmed they are agreeable to this, and this again is to be included within the agreed S278 highways works.

224. Finally, the doors to the substation fronting Colin Road adjoining Block F must not open outwards over the footway as shown. Officers have attached this as a condition.

#### Pedestrian and cycle access

225. A new zebra crossing is proposed on Dudden Hill Lane between this site entrance and Colin Road, to replace an existing pedestrian refuge. This is welcomed and will serve the desire line between the site and

Dollis Hill Underground station. However, it should be placed on a raised table to further enhance pedestrian safety, and this again is agreed as part of the S278 highways works secured within the legal agreement.

226. The footway along the Dudden Hill Lane frontage of the site is proposed to be widened to between 3.75m-4.32m and this is welcomed. The footway width is to be offered for adoption under a S38 Agreement. Further traffic-calming works are proposed on Colin Road and traffic is proposed to exit onto this street from the supermarket and residential flats. The Transport Assessment therefore proposes a speed table and junction narrowing at its junction with High Road, which is welcomed. This should be supplemented by speed cushions along length of the street. The access arrangements will also entail the repositioning and provision of additional on-street parking bays, which includes the provision of an accessible Car Club bay.

227. Otherwise, the proposed highway layout has been subject to a Stage 1 Road Safety Audit and all matters arising have been addressed, including the inclusion of anti-skid surfacing on the approaches to the proposed zebra crossing. The highway works will all need to be undertaken through a S38/ S278 Agreement, and again this is to be secured as part of the legal agreement.

228. The access arrangements will provide a new route for pedestrians through the site from High Road to Dudden Hill Lane (plus a 2m wide footway to Colin Road), using a mixture of segregated and shared surface lengths with modular paving and a covered 3.5m wide colonnade alongside the supermarket. The central section will comprise a 'pedestrian-only' square, with tree planting, seating (including tables for the café) and playspace, in line with Healthy Streets principles. Brent's highways officers have requested a condition ensuring further details are submitted relating to through movement for cyclists through this area, including a wayfinding signage strategy for both pedestrians and cyclists. Subject to this being secured by condition, the pedestrian and cyclist routes through the site are welcomed in terms of improving permeability and are to be secured for public use as a permissive right of way.

#### Lighting

229. In terms of lighting, a lighting strategy has been submitted. This proposes lighting class P1 (average 15 lux) for the central pedestrian square and the shared industrial units' service yard, with lighting class P2 (average 10 lux) for the pedestrian routes and supermarket car park, using a variety of lighting columns, illuminated bollards and wall, ceiling and floor mounted lights. A uniformity ratio of 0.4 will be provided throughout.

230. For the supermarket car park and pedestrian access routes, these lighting levels are considered appropriate, but a higher illuminance level should be considered for the shared service yard for the industrial units, particularly as goods vehicles and pedestrians will mix. Precise details are recommended to be secured by condition.

#### Transport Impact

231. The applicants' submitted Transport Assessment has used surveys of similar residential and discount foodstores across London held on the TRICS database to derive the likely number of trips made to and from those elements of the development. For the industrial units, gym and café, a first-principles approach has been used, whereby the likely number of staff has been calculated and assumptions made about their travel patterns based upon Census data. Visitor trips to the café and gym are expected to be predominantly by local residents on foot.

232. The resultant trip generation estimates predict that the development as a whole will generate 372 person trips in the morning peak hour (8-9am), 517 trips in the evening peak hour (5-6pm) and 847 trips in the Saturday afternoon peak hour (12-1pm). These have then been broken down by mode. As the residential, employment, gym and café uses are to be largely car-free, minimal vehicular traffic is expected to be generated by those uses and the modal share estimates have been adjusted away from car trips accordingly.

233. Only the supermarket is therefore considered to be likely to generate significant numbers of vehicle trips. Estimates for the number of vehicular trips for the supermarket have been based on surveys at seven other discount food stores in London. All but one of those stores has a higher level of parking than is proposed in this case, which means that car trips are not restrained in most of those cases.

234. It is noted that there are two further south London discount foodstore sites with weekday data on the TRICS database that have not been included in the assessment though (one due to the survey being for vehicles only and the other due to the survey being undertaken more recently during a period of Covid

restrictions). Both of these show much higher levels of car traffic and whilst some caution needs to be taken before placing too much emphasis on the results of surveys undertaken during the Covid period, it does need to be borne in mind that there has been a noticeable recent rise in the use of discount foodstores, particularly during the current cost-of-living crisis.

235. It is therefore essential that, if any increases in the popularity of discount foodstores are not to result in greater number of car trips to the site, the restraint on car parking needs to be fully effective.

236. The Transport Assessment assumed that this will be the case and has adjusted the modal share of trips for Saturdays to show higher use of public transport instead. However, the local Controlled Parking Zone does not operate on Saturdays, so customers can potentially park on-street in the area instead, including in residents' parking permit bays. To address this concern, a financial contribution of £25,000 is sought towards reviewing and potentially altering the operating hours and days of the local CPZ if this proves necessary. Officers recommend that this is secured via the section 106 agreement.

237. Otherwise, the assessment also draws attention to the fact that not all trips to the proposed supermarket would be new to the network, with an estimated 50-60% being diverted away from other stores further afield and about 30-40% of trips stopping at the store on their way elsewhere (typically between work and home).

238. Nevertheless, the overall number of vehicles entering and leaving the site (including service vehicles) is estimated at 29 arrivals/20 departures in the weekday am peak (8-9am), 36 arrivals/30 departures in the weekday pm peak (5-6pm) and 44 arrivals/40 departures in the Saturday peak (12-1pm) and as long as the parking restrictions are well enforced, these estimates are considered to be realistic.

239. Traffic survey information has also been provided for the existing use of the site, but whilst this generates over 200 vehicle movements per day (including many HGV movements), they do not tend to coincide with the weekday peak hours of 8-9am and 5-6pm, as vehicles tend to leave the site before 8am and return before 5pm. As such, the supermarket will generally have an increased impact on the highway network at peak times compared with the existing use. The predicted traffic flow figures above have therefore been added directly to the road network, with distribution to the east and west based upon assessments of the local catchment area.

240. As the vast majority of traffic leaving the site will depart via Colin Road, the operation of its junctions with Dudden Hill Lane and High Road was then tested using industry standard software for the weekday evening and weekend peak periods. The maximum resultant ratio of flow to capacity (rfc) was calculated at 0.78 for traffic turning out of Colin Road onto Dudden Hill Lane on a Saturday afternoon. This figure is within the maximum recommended value of 0.85 for a priority junction. On this basis, Colin Road is considered capable of handling the additional traffic departing the supermarket without creating any undue delay.

241. With regard to the wider network, the volumes of predicted traffic would add only about 2% to the existing traffic flows on High Road and Dudden Hill Lane, which is not considered significant enough to warrant assessment of junction capacity further from the site.

242. For other modes, the development is predicted to generate 80 bus journeys in the am peak hour (8-9am), 126 in the evening peak hour (5-6pm) and 111 in the Saturday afternoon peak hour (12-1pm).

243. The Transport Assessment has distributed these trips onto each bus route based upon likely journey destinations obtained from Census journey-to-work data and analysis of other supermarket locations. With over 100 bus services per hour passing close to the site, this generally equates to an average of about one passenger per bus, with the largest impact being on route 260 to the southwest towards Harlesden, which would see demand increase by 2.1 passengers per bus.

244. The average additional loadings are therefore relatively low due to the large number of bus services in the area. However, in order to deliver improvements to the bus network to alleviate capacity issues, TfL have requested a contribution of £819,000 is payable. Discussions are ongoing about the total amount which would be secured via section 106 agreement, but these would be agreed before being referred back to the GLA for Stage 2 resolution.

245. For rail and Underground services, the development is predicted to generate 93 journeys in the am peak hour (8-9am), 80 in the evening peak hour (5-6pm) and 47 in the Saturday afternoon peak hour (1-2pm). For robustness, these are all assumed to use Dollis Hill station due to its proximity to the site, although any West London Orbital station at Neasden that might open in the future would also be likely to be

well used by residents and visitors to this development. With about 42 tube services per hour passing through Dollis Hill station, this equates to an average of about two passengers per train during the week and one passenger per train on a Saturday, which is not considered to be significant.

246. The additional flows have also been added to existing flows through Dollis Hill Underground station to ensure there are sufficient ticket barriers. The assessment suggests that three ticket barriers are required to handle the uplift in passengers arising from this development and other developments in the Church End Masterplan area. With four barriers already available at the station, there is not considered to be any requirement for an extension to the gateline capacity. TfL have confirmed that they consider the assessments to be adequate and do not raise any concerns here.

247. For more sustainable modes, the development is predicted to generate up to 224 purely pedestrian trips and 21 cyclist trips during the Saturday afternoon peak hour. To help assess the quality of the surrounding pedestrian and cyclist networks, Healthy Streets Audits have been undertaken for ten routes to key destinations in the area, with recommended improvements along each route. These have helped to guide the recommendations for the widened footway along the Dudden Hill Lane frontage, the zebra crossing on Dudden Hill Lane and the junction improvements at Colin Road/High Road mentioned above.

248. Other issues identified in the wider area included obstructive street trees (although these would be highly controversial to remove), poorly maintained stretches of footway and a narrow footway on Ellis Close. Several of these issues also related to nearby Denzil Road, but it is expected that future redevelopment proposals in the area can deliver improvements to that street.

249. Two issues that were not identified though were the lack of cycling routes to the site, which would help to link to any route through the site. Whilst Dudden Hill Lane is very congested, there is surplus carriageway space along High Road that could be reallocated to cyclists to create a cycle route westwards towards Church Lane and Neasden Lane. An extension of the proposed S278 works to include improved cycle routes to the site is therefore also sought.

250. Another key shortcoming that was not mentioned is the poor quality of some of the bus infrastructure in the area and in particular, the lack of a bus shelter or real-time information at the eastbound bus stop on Dudden Hill Lane opposite the site. This should also be included in the highway works.

251. The Healthy Streets Audit also considered the accident history along the assessed routes for the 3-year period 2018-2020. This identified a total of 12 serious injury accidents along these routes, some of which occurred some distance from the site. Of particular note though are three accidents involving pedestrians on Dudden Hill Lane, so the proposed provision of a zebra crossing would help to address this.

### Travel Plan

252. To help to support the low level of parking proposed on site and promote alternative travel options, an overarching Travel Plan has been submitted for the residential, workspace and supermarket units. Oversight of the site-wide travel planning activity would sit with a Sustainable Travel Manager, with each of the three individual Travel Plans being managed by their own Travel Plan Co-ordinator over a five year period.

253. Potential measures are to include the provision of travel information across noticeboards, travel packs etc., participation in sustainable travel promotional events and promotion of Car Clubs with the offer of three years membership of the site's Car Club for new residents. However, as a Framework document, a much more comprehensive set of potential measures should be identified at this stage, such as interest-free season ticket loans for staff, participation in the Bike2Work scheme, guaranteed ride home etc.

254. The aim for the three Travel Plans will be to keep car journeys for the residential element below 10% of total journeys and car use by staff to zero. This should be easily achieved due to the 'car-free' nature of the development and the presence of a CPZ in the area and indeed, the Transport Assessment forecasts 1% of residential trips as being made by car drivers anyway. The target at paragraph 6.2.5 therefore needs to be amended to 99% of trips by foot, cycle and public transport.

255. Progress towards the targets will be monitored biennially for the first five years of occupation of the site through counts of car and cycle parking occupancy. While the principles of the Travel Plan are therefore considered acceptable, highways officers have requested the submission of separate Travel Plans for each element of the development, which will need to be approved before first occupation of the development. Officers have recommended this is secured as part of the section 106 agreement.

## Construction Logistics

256. An outline Construction Logistics Plan has been submitted with the application. This assumes that the works period will extend from September 2024 until November 2027, with working hours confined to 8am-6pm on weekdays and 8am-1pm on Saturdays in line with standard practice.

257. Deliveries will be pre-booked for 30-minute time slots 48 hours in advance to even out deliveries, with bookings taken between 8am and 6pm. Mention is made of minimising peak hour deliveries, which is welcomed, but it is accepted that certain construction activities may require deliveries throughout the working day.

258. Up to 14 daily deliveries are expected at the peak of the works. These will all be routed to and from the site via North Circular Road and Dudden Hill Lane and unloaded within the site, which is welcomed. However, highways officers have requested the submission of a full CLP via condition of any future approval, which should include revision to the exit point for construction vehicles away from Colin Road, and instead these should be turned on site or alternatively routed in a one-way direction through the site from High Road to Dudden Hill Lane (or vice versa).

## **Trees and Landscaping**

259. Policy BGI2 (Trees and Woodlands) of the Local Plan 2019-2041 stipulates that development with either existing trees on site or adjoining that could affect trees will require the submission of a BS5837 or equivalent tree survey detailing all tree(s) that are on, or adjoining the development site.

260. The need to meet the Brent Local Plan Policy BGI1 Green and Blue Infrastructure in Brent and the London Plan's Policy G5 Urban Greening Factor of 0.4 must also be considered. Policy BH4 requires all minor development proposals to achieve an UGF score of 0.4 on site. This score needs to be demonstrated through a landscape masterplan that incorporates green cover into the design proposal. It should be accompanied by a score table measuring the UGF leading to better quality green cover on site.

261. An arboricultural method statement has been submitted with the application. An assessment of all existing trees on site has been undertaken to assess the extent of tree loss as a result of the proposals. There do not currently appear to be any trees growing on the site, and there are two small street trees growing on Dudden Hill Lane adjacent to the site. These trees are proposed to be removed and replaced by *Pyrus calleryana* 'Chanticleer' at size 12-14 girth in locations surrounding the bus stop as previously agreed. Following requests from the Council's arboricultural officer, the size of these trees has been increased to a 14-16cm girth (at the time of planting), due to the fact that they are replacing trees that are currently size 20-25cm girth, and these are now acceptable. A financial contribution would be secured via section 106 agreement to ensure these replacement street trees are planted.

262. In terms of the landscaping strategy, this has also been reviewed. This shows the planting of 73 new trees in total. There are 16 trees proposed at ground level, so these are likely to be those which are allowed to fully mature to reach their full potential. The planting at podium level and as part of the roof gardens are more likely to be private access and so the public benefit of these will be less; they will however provide amenity space for residents.

263. The indicative location of the proposed trees is considered to add value both in terms of biodiversity and visual amenity for occupiers within the site as well as the sites overall appearance. A condition is recommended in final detailed landscaping drawings to be submitted and approved by the LPA, which will include full details of type and species of tree planting throughout the site.

## **Ecology and biodiversity**

264. The application site does not lie within a Site of Importance for Nature Conservation (SINC), and does not form part of any designations of national or international importance, including any Sites of Special Scientific Interest (SSSI). However, the Brent Reservoir Local Nature Reserve (LNR) is located approximately 1.9m to the north of the site, and there are numerous SINC's within 2km of the site boundary which are set out in the Preliminary Ecological Appraisal (PEA) submitted with the application.

265. London Plan Policy G6 sets out that SINC's should be protected, and development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. This policy position is also reinforced

in the Local Plan with policy BGI1 setting out that all development should achieve a net gain in biodiversity and avoid any detrimental impact on the geodiversity of an area.

266. The PEA comprises a desk study, Phase 1 Habitat Survey and an ecological scoping survey. The purpose of the report was to assess the potential of the site to support species of conservation concern or other species which could present a constraint to the site's development.

267. The report identifies that the site is approximately 0.9ha in size and contains a heavy plant hire business, storage facilities for haulage equipment and scaffolding and a MOT station/ used car sales garage. The report concludes that the site is of negligible value for a number of species, including foraging and roosting bats, badgers, otters, water voles, reptiles, invertebrates and plants. However, the presence of bramble on site does offer a small amount of potential nesting habitats for birds, and therefore is considered to be of low value. Additionally, Buddleia (an invasive species of concern) was confirmed to be present on site, although no other invasive or non-native species have been recorded.

268. In response to these findings, the report makes a number of recommendations to mitigate harm from demolition of buildings, including replacement tree and shrub planting, the provision of artificial bird nesting boxes, and the avoidance of building clearance during bird nesting season (i.e. March to August inclusive). It also recommends the careful removal and destruction of Buddleia to ensure any spread is prevented. These measures, in addition to the creation of green walls and the tree and shrub planting which is shown within the landscaping scheme for the development, are considered to adequately mitigate any harm to identified species and habitats.

269. A Preliminary Bat Roost Assessment (BRA) has also been submitted despite the negligible value of the site for foraging and roosting bats identified in the main PEA. The BRA recommends several measures to enhance the site for bats including the provision of biodiverse roofs, the installation of bat-sensitive lighting, and the provision of at least three integrated bat boxes into the new development, suitable for summer roosting. A condition is attached ensuring the recommendations contained in both the PEA and BRA are implemented in full.

270. A net gain in biodiversity should be delivered across the site in line with policy requirements. The applicant has provided information setting out that the existing biodiversity value of the site is 0.02 biodiversity units, and that the scheme would be increasing this to 1.84 biodiversity units post development, representing an increase of approximately 7065%.

271. As well as the recommendations of the report, a Construction Environmental Management Plan (CEMP) has been submitted which details all of the environmental and biodiversity protection measures to be implemented during construction. A condition is attached to ensure the measures set out are implemented throughout the demolition and construction process.

## **Environmental health considerations**

### Air quality

272. The site is located within an Air Quality Management Area (AQMA). In accordance with London Plan Policy SI1 and Local Plan Policy BSUI2, an Air Quality Assessment and Air Quality Positive Assessment has been submitted with the application, as the site is located within a Growth Area. The assessment should consider the potential emissions to the area associated with the development as well as the potential impact on receptors to the development.

273. The report considers the suitability of the site for introducing new residential occupants. It concludes that pollutant concentrations at the façades of proposed residential receptors are predicted to be within the relevant health-based air quality objectives, subject to the introduction of winter gardens to the homes to the north of the site. On that basis, future occupants of the proposed development are unlikely to be exposed to unacceptable air quality and the site is deemed suitable for its proposed future use in this respect, without the need for mitigation measures.

274. The report has also considered the impacts during construction including dust generation and plant vehicle emission. It is recommended that conditions are secured within a Construction Management Plan (CMS) to include an Air Quality and Dust Management Plan (AQDMP) and compliance with the London Non-Road Mobile Machinery (NRMM) Low Emission Zone standards. In relation to the operational impact of the proposed development on the surrounding area, detailed atmospheric dispersion modelling has been

undertaken particularly given the proximity of the development to road traffic. However, the report concludes that this impact is predicted to be 'not significant' taking into account the changes in pollutant concentrations and absolute levels.

275. In addition, the application has been accompanied by an Air Quality Positive Assessment, as required by Local Plan policies given this is a Growth Area location. This highlights that in relation to building emissions, as the heat and power demand would be met by electrically powered air source heat pumps and there will be no centralised combustion source, building emissions has been scoped out. In relation to Transport Emissions, for NO<sub>x</sub>, the Total Development Transport Emissions are below the Total Benchmarked Transport Emissions by 166 kgNO<sub>x</sub> /annum. For PM<sub>10</sub>, the Total Development Transport Emissions are below the Total Benchmarked Transport by 29 kgPM<sub>10</sub> /annum. Therefore no mitigation measures are required.

276. Officers in the Council's Environmental Health team have reviewed the air quality information and raised no objections subject to conditions relating to a CMS and NRMM. The GLA have also confirmed, subject to conditions, that the scheme would be acceptable and would meet air quality positive requirements subject to appropriate conditions.

#### Construction noise and nuisance

277. The development is within an Air Quality Management Area and located very close to other residential and commercial premises. Demolition and construction therefore has the potential to contribute to background air pollution levels and cause nuisance to neighbours.

278. It should be noted that in relation to these matters, there is also control through Environmental Health Legislation and a planning cannot duplicate any controls that are available under other legislation. However, the council's regulatory services team have recommended a condition requiring a Construction Method Statement to be submitted for approval before works start. This would need to include management of dust through wheel washing and other mitigation measures, such as noise restrictions.

279. A further standard condition is also attached requiring all non-road mobile machinery to meet low emission standards, as set out within the London Plan.

#### Contaminated Land

280. A Phase 1 Ground Condition Assessment (prepared by Stantec) has been submitted with the application. The assessment concludes that the overall contamination risk is considered to be moderate for both end-users (without any specific mitigation), and for construction workers who may come into direct contact with potentially contaminated soils during any groundworks associated with the development.

281. The Council's environmental health team has therefore recommended conditions requiring a further site investigation and verification reports to be submitted for approval, with remediation and mitigation measures required being fully implemented before the relevant part of the works is carried out. These have been attached to the draft decision notice.

#### Noise

282. The application has been accompanied by a Noise & Vibration Impact Assessment (prepared by Hoare Lea Acoustics). This includes details of the assessment methodology; the baseline conditions at the site and surroundings; the likely environmental noise and vibration effects; and the mitigation measures required to reduce and minimise any adverse effects.

283. The report has identified that the proposed development site is in an urban location with the principal noise sources being road traffic from both Dudden Hill Lane and High Road, as well as existing industrial and commercial units in the area, particularly the remaining part of the Sapcote Industrial Estate to the immediate north. The assessment also scrutinises potential levels of noise generated by the proposed supermarket and other commercial and industrial uses, in accordance with Agent of Change principles set out in policy D13 of the London Plan.

284. In response to these noise sources, high specification acoustic glazing and acoustic ventilation opening solutions are likely to be required to achieve the required internal noise levels. The scheme is proposing to use Mechanical Ventilation Heat Recovery (MVHR) throughout the development for the whole dwelling ventilation, so ventilation openings in the facade (i.e. trickle vents) would not be required.

285. In relation to external amenity spaces, the scheme would be exposed to noise levels that exceed guidance in some areas, in particular to the north facing units which look directly onto the Industrial Estate. The scheme has been designed to mitigate this to some extent by proposing winter gardens to homes with this aspect. The proposals also include enhanced sound insulation for façades overlooking the industrial estate and the entrances to industrial units, which is welcomed. Furthermore, it is noted that the site is within walking distance of nearby open spaces that are likely to have some quieter areas within them.

286. In relation to mitigation measures for the construction phase of the development, the report sets out that demolition and construction works would follow Best Practicable Means (BPM) outlined in Section 72 of the Control of Pollution Act 1974 (as amended) to minimise noise and vibration effects. This would be secured within the CMS and CEMP via planning conditions.

287. The information has been reviewed by Environmental Health who have advised that the report provides details of the noise mitigation measures by way of glazing, ventilation and building construction/sound insulation between floors specification to ensure that the recommended internal rooms noise levels can be achieved. Provided these mitigation measures are installed then no further conditions are recommended in terms of design of the buildings.

### Lighting

288. A Lighting Assessment has been submitted with the application. The proposed lighting strategy has been designed strictly in accordance with ecological, secure by design and highways/ pedestrian safety requirements in terms of layout, position and luminance levels.

289. The Council's highways team has requested a higher illuminance for the proposed shared service yard, and this is required by condition. However, luminance levels for the supermarket car park and pedestrian access routes are considered appropriate.

## **Energy and sustainability**

### Policy background

290. Planning applications for major development are required to be supported by proposals for sustainable design that accord with various policies in the Brent Local Plan and the London Plan. This is designed to demonstrate, at the design stage, how sustainable design and construction measures would mitigate and adapt to climate change over the lifetime of the development, including limiting water use to 105 litres per day (SI 5) and the use of sustainable drainage (BSUI4).

291. Major residential and non-residential developments are expected to achieve zero carbon standards, including a 35% reduction on Building Regulations 2021 Target Emission Rates (TER) achieved on site, in accordance with London Plan Policy SI2. Policy SI2 also sets out more detailed requirements, including the 'Be Seen' requirement for energy monitoring and reporting and (for proposals referable to the Mayor) a Whole Life Cycle Carbon Assessment). Policy SI4 requires the energy strategy to include measures to reduce the potential for internal overheating and reliance on air conditioning systems.

292. Any shortfall in achieving the target emissions standards is to be compensated for by a financial contribution to the Council's Carbon Offsetting Fund, based on the notional price per tonne of carbon of £95, or through off-site measures to be agreed with the Council. Policy BSUI1 also requires any proposal for commercial floorspace of over 1,000 sqm to demonstrate that it achieves BREEAM Excellent standards.

293. For the residential parts of the development, the policy also requires at least 10 percentage points of the minimum 35 percentage point reduction to be attributable to energy efficiency measures (known as 'be lean' measures) and for the commercial parts of the development, the policy requires at least 15 percentage points of the reduction to be attributable to 'be lean' measures. An Energy Assessment is required, clearly outlining how these standards would be achieved and identifying, where necessary, an appropriate financial contribution to Brent's carbon-offsetting fund to compensate for residual carbon emissions.

294. The Council also adopted the Sustainable Environment and Development Supplementary Planning Document on 12 of June 2023 which provides guidance on range of sustainable development issues.

### Carbon emissions



295. The energy assessment submitted sets how the London Plan energy hierarchy has been applied. At the 'be lean' stage of the hierarchy, applicants must achieve carbon emissions savings through passive energy saving measures. For this proposal, the applicants have used high specification fabric (including U-values that meet or exceed Building Regulations, high performance glazing with solar control and to limit solar gain), energy efficient light fittings to minimise energy demand, the use of mechanical ventilation with heat recovery (MVHR) and the use of Low Temperature Hot Water generated by the heat pumps.

296. For the 'be clean' stage, the applicants explored the potential to connect to a district heat network (DHN). There are no nearby communal DHNs. The development should ensure that it is designed to allow future connection to a heat network and the details of a connection point to be incorporated into the development as a futureproofing measure will be secured by condition. Nonetheless, in the absence of a connection to a DHN, the development will not achieve any carbon savings through the 'be clean' stage of the hierarchy.

297. For the 'be green' stage, applicants are required to maximise the use of onsite renewable technologies in further reducing carbon emissions. The applicants propose to incorporate air source heat pumps (ASHP's) to provide space heating, cooling and a proportion of domestic hot water requirements (with the remainder topped up using direct electricity) together with Photovoltaic Panels (PVs).

298. The assessment demonstrates that the scheme would deliver a weighted 65.4% reduction in carbon emissions across the development (69.3% reduction for the residential element and 19% reduction for the non-residential element) below the 2021 Building Regulations baseline, which is broken down into the following elements below:

*Residential element*

	Regulated emissions CO2 p.a	Saving in regulated emissions CO2 p.a	% reduction
Baseline Building Emissions based on Part L 2021	428	n/a	n/a
Building Emissions following 'Be Lean' measures	362	66	15.4%
Building Emissions following 'Be Clean' measures	362	0	0%
Building Emissions following 'Be Green' measures	131	231	53.9%
Cumulative on-site savings		292	69.3%
Total target savings		428	100%
<b>Shortfall</b>		<b>131</b>	<b>30.7%</b>
<b>Total offset payment (£95 per tonne over 30 years)</b>		<b>£374,490</b>	

*Non-residential element*

	Regulated emissions CO2 p.a	Saving in regulated emissions CO2 p.a	% reduction
Baseline Building Emissions based on Part L 2021	36	n/a	n/a
Building Emissions following 'Be Lean' measures	31	5	14.6%
Building Emissions following 'Be Clean' measures	31	0	0%
Building Emissions following 'Be Green' measures	29	2	4.2%

Cumulative on-site savings		7	18.8%
Total target savings		35.7	100%
<b>Shortfall</b>		<b>29</b>	<b>81%</b>
<b>Total offset payment (£95 per tonne over 30-year period)</b>		<b>£82,365</b>	

299. As the tables above demonstrate, the 65% reduction in carbon emissions delivered by the proposed development significantly exceeds the overall energy performance targets in policy SI2 for both residential and non-residential carbon savings. In respect of the 'Be Lean' savings, the non-residential component of the scheme falls marginally short of the 15% minimum savings sought for this element. However given the overall savings significantly exceed the 35% target, officers consider this limited conflict with policy SI2 to be acceptable on balance.

300. A carbon offsetting payment of £95 per year for 30 years for each tonne of emitted regulated carbon is to be secured from the developer in line with London Plan policy. A detailed energy strategy would be secured within the s106 agreement with the need to pay any contribution should the scheme not achieve zero carbon, which at this stage is anticipated to be £456,855.

301. A commitment has been provided that the development will be designed to enable post construction monitoring and that the information set out in the 'be seen' guidance is submitted to the GLA's portal at the appropriate reporting stages. This will be secured through the s106 Agreement.

302. The GLA have confirmed that the development's energy strategy is in general compliance with the London Plan policies, although to ensure that the projected and (where possible) additional savings are achieved, further information or clarifications relating to the Be Lean target for the non-residential element, overheating, photovoltaics (demonstrate that delivery is being maximised), futureproofing, air source heat pumps and on-site heat network are required. This would be provided ahead of the stage 2 referral.

303. The GLA have also requested a commitment that the development will be designed to enable post construction monitoring and that the information set out in the 'Be Seen' guidance is submitted to the GLA's portal at the appropriate reporting stages is to be secured via the Section 106 agreement, as well as the carbon offset contribution.

#### Sustainable design and construction

304. With regard to sustainable design and construction, the applicant's supporting documents (mainly within the Energy Strategy) outline the key sustainability benefits which would be incorporated into both the residential and non-residential components of the scheme.

305. The application is accompanied by a BREEAM pre-assessment, contained within the Sustainability Statement, which sets out that the applicant is provisionally targeting the achievement of an 'Excellent' rating for both the supermarket (76.2%) and light industrial (74.8%) uses within the development. The pre-assessment sets out that there is also the potential for this to be improved to above 80% on both elements, subject to further consideration during the construction process.

306. With regard to overheating, London Plan Policy SI 4 states that major development proposals should demonstrate through an energy strategy how they will reduce the potential for overheating and reliance on air conditioning systems in accordance with a cooling hierarchy.

307. The applicants have submitted an overheating report setting out a number of measures being used to help eliminate or reduce overheating risk. This sets out that the following passive design measures have been included:

- Percentage of glazing for apartments is circa <25% floor area
- Triple Glazing with g-Value 0.4
- Extruded reveals
- Fins also include on certain façades/elevations where required

308. In order to reduce further the overheating risk additional measures, the following additional measures have been considered to meet the TM59 requirements:

- Buildings will have the capability to have internal blinds installed to improve occupant comfort

313. An additional option has been assessed which includes MVHR with tempered air. This option may be required for the dwellings with limitations to natural ventilation provision due to acoustic constraints. In order to limit the cooling loads this option will require the inclusion in the design of high-performance internal blinds or external blinds. As a summary, the overheating calculations listed in the appended overheating report are showing that:

- 100% of assessed bedrooms are meeting the TM59 requirements when fitted with an MVHR with tempered air and closed windows and internal or external blinds
- 100% of assessed living areas are meeting the TM59 requirements when fitted with an MVHR with tempered air, closed windows and internal or external blinds

#### Whole Life Carbon and Circular Economy

314. A Whole Life Cycle (WLC) Carbon Assessment has been provided, as required by London Plan policy SI2, demonstrating whole life-cycle carbon emissions through a nationally recognised Whole Life-Cycle Carbon Assessment and demonstrating actions taken to reduce life-cycle carbon emissions. By undertaking a WLC, the development has demonstrated (subject to further Stage 2 consideration by the GLA) that options for reducing carbon emissions have been considered and implemented where feasible. A Circular Economy (CE) statement has been submitted, as required by London Plan policy SI7. While the principles of this are generally supported, there are some minor details which require review by the GLA as part of the stage 2 referral.

315. Suitable planning conditions (where relevant) relating to the WLC and CE Statement will be incorporated following consideration of GLA feedback at the Stage 2 referral stage.

#### Water consumption

316. London Plan Policy SI 5 Water infrastructure and Policy BSUI4 (On Site Water Management and Surface Water Attenuation) requires proposals to minimise the use of mains water achieving water consumption of 105 litres or less per head per day. A condition is attached to this application to ensure the water consumption is within the limits, in line with this policy requirement, and in response to the GLA Stage 1 comments.

### **Flood Risk and Drainage**

#### Policy background

317. Paragraph 167 of the NPPF sets out that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

318. The above position is reinforced within policy BSUI3 of Brent's Local Plan which highlights that proposals that require a Flood Risk Assessment must demonstrate that the development will be resistant and resilient to all relevant sources of flooding including surface water. Proposed development must pass the sequential and exceptions test as required by national policy. The design and layout of proposals requiring a Flood Risk Assessment must contribute to flood risk management and reduction and:

- a) minimise the risk of flooding on site and not increase the risk of flooding elsewhere;
- b) wherever possible, reduce flood risk overall;
- c) ensure a dry means of escape;
- d) achieve appropriate finished floor levels which should be at least 300 mm above the modelled 1 in 100

year plus climate change flood level; and  
e) not create new basement dwellings in areas of high flood risk.

319. The policy goes on to say that proposals that would fail to make appropriate provision for flood risk mitigation, or which would increase the risk or consequences of flooding, will be refused.

#### Assessment of sequential and exception tests

320. A Flood Risk Assessment (FRA) has been submitted in support of the application. This report confirms that the site lies within Flood Zone 1 in terms of fluvial or tidal flooding. However, the report concludes there is a low to medium potential for surface water flooding, and the West London Strategic Flood Risk Assessment confirms that large parts of the site are within Flood Zone 3a for surface water flooding.

321. On this basis, only certain types of development are acceptable, as set out within the Flood Risk Vulnerability Classification table set out within the NPPF. Residential uses are classed as 'More Vulnerable' whereby such uses would not be supported in Flood Zone 3a where the sequential and exception test has not been met. The commercial uses are classed as 'Less Vulnerable' and are considered acceptable subject to appropriate mitigation measures, set out in the Environment Agency's standing advice.

322. In this case, as noted above the site does form part of a site allocation within the Local Plan. As part of the evidence base to support the Local Plan, the site was included as part of the Brent Flood Risk Sequential and Exception Test documentation. The document sets out that the Sequential Test had been passed as "It is necessary to identify the site to address longer term housing needs as there are insufficient alternative sites in fluvial zones 1 or 2".

323. The document also set out that it was 'probable' that the exception test could be passed on this site, but states that "*demonstration that development will be safe for its lifetime would need to be confirmed by a site-specific flood risk assessment.*"

324. The FRA demonstrates that the site has a low to medium risk of surface water flooding. The applicant has stated that as there are no flow paths that bring surface water onto the site, this demonstrates the flood risk comes from water that falls directly onto the site and pools in areas of low topography on site. As such, the drainage system, which is not taken into account in the EA flood mapping, will mitigate this risk. The GLA have asked for further work regarding ground levels shown on the submitted topographic survey to demonstrate the drainage system would be satisfactory, and that there would be no path for surface water to flow off site towards the A4088. This additional work has been undertaken and would be addressed ahead of the Stage 2 referral.

325. The FRA adequately assesses the risk of flooding from fluvial/tidal, groundwater, and reservoir flooding, which is considered to be low. On this basis, officers consider that the exception test has been adequately passed and the proposed development meets the requirements of paragraph 167 of the NPPF outlined above.

#### Sustainable drainage

326. Policy SI13 of London Plan sets out that development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. There should also be a preference for green over grey features, in line with the drainage hierarchy.

327. Policy BSUI4 relates to on site water management and surface water attenuation. It requires major developments to:

- a) use appropriate sustainable drainage measures to control the rate and volume of surface water run-off;
- b) ensure where feasible separation of surface and foul water systems;
- c) make reasonable provision for the safe storage and passage of flood water in excessive events; and
- d) demonstrate adequate arrangements for the management and maintenance of the measures used.

328. The application has been accompanied by a drainage strategy. It notes that achieving Greenfield runoff rates for the development could not be achieved due to insufficient space on site to install attenuation systems to the required volume. It has however been agreed with the LLFA to restrict run off rates from the site to 4 l/s. A vortex flow control will be installed to restrict flows to the maximum discharge rate set for the 1 in 100-year storm, plus an allowance of 40% for climate change. This proposal will ensure that the development does not lead to an increase of flood risk elsewhere through a significant reduction in discharge

rates compared to the existing scenario, which is approximately 347 l/s over a 1 in 100-year period. Therefore despite not meeting Greenfield runoff rates, this betterment is a vast improvement.

329. Attenuation is provided via a minimum depth of permeable paving system of 600mm depth, which is sufficient to contain rainfall events up to 1 in 100-year return period (including a climate change allowance of 40%). This permeable paving system would work together with more superficial measures including intensive and extensive green roofs and soft landscaped areas, with this all connecting to the public sewer with a controlled discharge.

330. Confirmation has been provided the surface and foul water would be separated, and that the sustainable drainage measures would be managed and maintained for the lifetime of the development by an appropriate managing body. It is considered that the sustainable drainage measures are acceptable and in accordance with policy BSUI4. Such details are recommended to be conditioned to any forthcoming consent.

331. The LLFA is satisfied with the findings of the drainage report. While the GLA are disappointed that rainwater harvesting has not been included within the scheme, the reuse of water within the site for the irrigation of green roofs is welcomed. The GLA have requested further information on the drainage strategy to ensure that it achieves run off rates as close to greenfield rates as possible. This would be addressed ahead of stage 2 referral.

332. Thames Water were consulted during the course of the application and confirmed that they would have no objections in relation to surface water drainage based on the information provided. They have however identified an inability of the existing foul water network infrastructure to accommodate the needs of this development and recommend that further information is conditioned. They also recommended a condition in relation to piling as the development is located within 15 m of a strategic sewer.

### **Wind microclimate**

333. A wind microclimate assessment (prepared by WSP) has been submitted with the application, using the Lawson criteria as the main basis for assessment, which is recognised as best practice for this type of benchmarking. Initial wind tunnel testing was undertaken based on existing conditions. A second wind tunnel testing was undertaken with the consented schemes and proposed development in place. Places tested included all pedestrian thoroughfares and walkways, building entrances, bus stops and outdoor amenity areas, with results for both typical summer and winter conditions.

334. The wind tunnel testing shows that the safety criteria is met in all parts of the study area and the comfort criteria is largely met too. However, the results showed potential windy conditions in excess of safety limits at some of the upper-level balconies in Blocks D and E located towards the prevailing S-W wind direction. Additionally, the balconies on the west side of Block B and Block C showed similar conditions exceeding the safety criteria and therefore require mitigation. To improve the wind environment of these balconies' mitigation measures include the introduction of 1.5m high solid balustrades, screening, planters and/or other wind-obstructing features that can be effective to improve the local wind climate within the affected balconies.

335. Similarly in regard to pedestrian comfort, the lower roof terrace in the northern section of Block D and the roof terrace of Block E are considered unsafe for pedestrian use, and therefore require mitigation measures. To mitigate this, a solid parapet of 1.5m is recommended to be introduced.

336. The proposed 1.5m high balustrades and parapet to Blocks D/E are incorporated into the scheme's design for the relevant balconies/ roof terraces, while the condition requiring the submission of a landscaping plan will include a requirement for these screening and planters to be provided where necessary, in order to ensure the mitigation measures set out in the submitted report are met. On this basis, the scheme is considered to be acceptable with regard to wind microclimate impacts.

### **Fire Safety**

337. Policy D12 of the London Plan states that all major development proposals should be submitted with a Fire Statement, which is an independent fire strategy, produced by a third party, suitably qualified assessor and requires the statement to demonstrate how consideration has been given to such matters as fire appliance access and features which reduce the risk to life.

338. Further to the above, Policy D5 (B5) of the London Plan seeks to ensure that developments incorporate safe and dignified emergency evacuation for all building users, with fire evacuation lifts suitable to be used to evacuate people who require level access from the buildings.

339. A Fire Statement prepared by FDS Consult UK. Key measures which are to be implemented in the proposed blocks include the following:

340. All of the residential blocks will include the provision of at least a single firefighting shaft, featuring a firefighting stair, firefighting lift and dry rising fire main. Block D will feature a wet rising fire main as it serves a floor more than 50m above the fire service entry level. Buildings serving a floor more than 18m above the fire service vehicle parking location will be provided with a second stair for access / egress. The second stair will feature an associated evacuation lift.

- Fire resistant materials to all external balconies/ terraces and external walls
- Unless advised by the Fire and Rescue Service, a stay-put evacuation strategy to be put in place for each residential block, as these floors will be protected by fire resisting construction
- Commercial and ancillary areas to be simultaneously evacuated on activation of the relevant alarm system
- A sprinkler system will be provided throughout the development and within habitable rooms of all apartments, as well as to ancillary accommodation and plant

341. The Health and Safety Executive (HSE) has been consulted on the scheme. Following a review of the information provided with this consultation, HSE is 'content' with the fire safety design, to the extent that it affects land use planning. On the basis of the above, the submitted Fire Statement and fire safety design are suitable to meet the requirements of D12.

342. The report concludes that once the design is finalised, a detailed fire safety strategy report will be developed for the buildings which will be submitted for Building Control approval as part of the future design process. An informative is attached to the permission advising that this is undertaken.

### **Utilities**

343. The applicants have submitted a report setting out the existing and required utilities / statutory services for the scheme, including clean water supply, sewer connection, gas, electricity and internet connection. The details of the report are not considered to contravene any relevant planning policies.

344. The statutory services report indicates that fibre internet is proposed to be made available to all apartments, which would accord with the aims of London Plan policy SI6. A condition is attached ensuring that high-speed broadband is secured for all future dwellings, in line with this policy.

### **Equalities**

345. In line with the Public Sector Equality Duty, the Council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has also been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

### **Conclusion**

346. The proposals would result in a mixed-use re-development of an existing industrial site which is allocated within the Local Plan, and would accord with the key policy objectives of the site allocation including replacement industrial floorspace provision (including affordable workspace), new commercial uses and the provision of 301 new homes. The scheme has successfully demonstrated that it would not compromise the re-development of the other parts of the Masterplan site.

347. The new homes would include 48 affordable homes, all provided at a London Affordable Rent, with approximately 45% of these being 3-bed units. A financial viability assessment has been submitted to support the application which found that the scheme is deficit. This was evaluated by consultants commissioned by the Council who concluded that the level of deficit is lower than that set out by the applicant, but nevertheless, it is significantly in deficit. Officers consider that the amount of Affordable Housing proposed is the maximum amount that the scheme could viably deliver. Early and late stage review mechanisms are recommended to ensure that any uplift in viability is captured.

348. In terms of housing size mix, the overall proportion of family sized homes is below council policy targets, with the applicant citing the impact of the delivery of more family sized private homes on development viability and therefore Affordable Housing. The proportion of family sized affordable homes is above targets. In this

instance, officers weigh the benefits of providing more Affordable homes above the deficit of private family sized homes in the scheme.

349. The proposal will result in the provision of a high quality public realm, with routes and spaces proposed at ground level which are publicly accessible. These include routes through the site together with a "square" and play spaces, and are considered to represent a significant benefit of the scheme. The architectural quality of the buildings is considered to be high, and the approach to building height, massing and composition is well considered. Although heights and massing are in conflict with the Church End Growth Area Masterplan and outside the tall building zone, it has been successfully demonstrated that the design approach is suitable and meets the key criteria of London Plan policy D9.

350. The quality of the homes is considered to be good, with homes meeting internal space standards and other quality factors considered and discussed in this report. Officers acknowledge that the proposal will result in some daylight and sunlight impacts, some of which will go beyond targets within BRE guidance. However, the level of impact is not considered to be excessive given the policy allocations and designations, and the benefits of the scheme are considered to outweigh the harm.

351. Following the above discussion, officers consider that taking the development plan as a whole, the proposal is considered to accord with the development plan, and having regard to all material planning considerations, should be approved subject to conditions and completion of a Section 106 Agreement.



Application No: 23/3187

To: Mr McDonnell  
Avison Young  
65 Gresham Street  
London  
EC2V 7NQ

I refer to your application dated **22/09/2023** proposing the following:

Demolition of existing buildings and redevelopment to provide six mixed use blocks, comprising residential dwellings (Class C3); the provision of industrial floorspace, gym floorspace, retail floorspace and flexible commercial floorspace; associated vehicular access; car and cycle parking spaces; refuse storage; amenity space; substation and landscaping.

and accompanied by plans or documents listed here:  
See condition 2

at **Land at 370 High Road and 54-68 Dudden Hill Lane, London, NW10**

The Council of the London Borough of Brent, the Local Planning Authority, hereby **GRANT** permission for the reasons and subject to the conditions set out on the attached Schedule B.

Date: 02/07/2024

Signature:

**David Glover**  
Head of Planning and Development Services

**Notes**

1. Your attention is drawn to Schedule A of this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
2. This decision does not purport to convey any approval or consent which may be required under the Building Regulations or under any enactment other than the Town and Country Planning Act 1990.

DnStdG



SUMMARY OF REASONS FOR APPROVAL

1 The proposed development is in general accordance with policies contained in the:-

National Planning Policy Framework 2023  
The London Plan 2021  
Brent's Local Plan 2019 – 2041

1 The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

2 The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

A3834-AA-ALL-XX-DR-A-100 Rev P5	Site Location Plan
A3834-AA-ALL-XX-DR-A-102 Rev P2	Block Plan

**Demolition Plans**

A3834-AA-ALL-00-DR-A-150 Rev P2	Existing Plan Demolition
A3834-AA-ALL-XX-DR-A-151 Rev P2	Existing Sitewide Elevation
A3834-AA-ALL-XX-DR-A-152 Rev P2	Existing Sitewide Section 1
A3834-AA-ALL-XX-DR-A-153 Rev P2	Existing Sitewide Section 2

**Proposed Drawings**

A3834-ASA-ZZ-00-DR-A-200 Rev P27	Proposed Ground Floor Plan
A3834-ASA-ZZ-0M-DR-A-201 Rev P25	Proposed Mezanine Floor Plan
A3834-ASA-ZZ-01-DR-A-202 Rev P26	Proposed First Floor Plan
A3834-ASA-ZZ-02-DR-A-203 Rev P25	Proposed Second Floor Plan
A3834-ASA-ZZ-03-DR-A-204 Rev P25	Proposed Third Floor Plan
A3834-ASA-ZZ-04-DR-A-205 Rev P25	Proposed Fourth Floor Plan
A3834-ASA-ZZ-05-DR-A-206 Rev P23	Proposed Fifth Floor Plan
A3834-ASA-ZZ-06-DR-A-207 Rev P23	Proposed Sixth Floor Plan
A3834-ASA-ZZ-07-DR-A-208 Rev P23	Proposed Seventh Floor Plan
A3834-ASA-ZZ-08-DR-A-209 Rev P23	Proposed Eighth Floor Plan
A3834-ASA-ZZ-09-DR-A-210 Rev P23	Proposed Ninth Floor Plan
A3834-ASA-ZZ-10-DR-A-211 Rev P24	Proposed Tenth Floor Plan
A3834-ASA-ZZ-11-DR-A-212 Rev P23	Proposed Eleventh Floor Plan
A3834-ASA-ZZ-12-DR-A-213 Rev P24	Proposed Twelfth Floor Plan
A3834-ASA-ZZ-13-DR-A-214 Rev P24	Proposed Thirteenth Floor Plan
A3834-ASA-ZZ-14-DR-A-215 Rev P21	Proposed Fourteenth Floor Plan
A3834-ASA-ZZ-15-DR-A-216 Rev P11	Proposed Fifteenth Floor Plan
A3834-ASA-ZZ-16-DR-A-217 Rev P11	Proposed Sixteenth Floor Plan
A3834-ASA-ZZ-17-DR-A-218 Rev P11	Proposed Seventeenth Floor Plan
A3834-ASA-ZZ-RF-DR-A-219 Rev P10	Proposed Roof Plan

A3834-ASA-ZZ-ZZ-DR-A-0301 Rev P7	Section AA Blocks A,B.C.D & E
A3834-ASA-ZZ-ZZ-DR-A-0302 Rev P3	Section BB Block E
A3834-ASA-ZZ-ZZ-DR-A-0303 Rev P6	Section CC Block A
A3834-ASA-ZZ-ZZ-DR-A-0304 Rev P3	Section DD Block F
A3834-ASA-ZZ-ZZ-DR-A-0305 Rev P2	Section EE Block D

A3834-ASA-BA-ZZ-DR-A-401 Rev P8	Block A Elevations
A3834-ASA-BA-ZZ-DR-A-402 Rev P8	Block A Elevations
A3834-ASA-BB-ZZ-DR-A-403 Rev P8	Block B Elevations
A3834-ASA-BB-ZZ-DR-A-404 Rev P8	Block B Elevations
A3834-ASA-BC-ZZ-DR-A-405 Rev P9	Block C Elevations
A3834-ASA-BC-ZZ-DR-A-406 Rev P9	Block C Elevations
A3834-ASA-BDE-ZZ-DR-A-407 Rev P8	Block DE Elevations
A3834-ASA-BDE-ZZ-DR-A-408 Rev P8	Block DE Elevations
A3834-ASA-BF-ZZ-DR-A-409 Rev P7	Block F Elevations
A3834-ASA-BF-ZZ-DR-A-410 Rev P7	Block F Elevations
A3834-ASA-ZZ-ZZ-DR-A-411 Rev P6	Blocks A, B, C, D, E & F Elevations North
A3834-ASA-ZZ-ZZ-DR-A-412 Rev P4	Block A & F Elevations East
A3834-ASA-ZZ-ZZ-DR-A-413 Rev P4	Block A, B, C, D, E & F Elevations South
A3834-ASA-ZZ-ZZ-DR-A-414 Rev P3	Blocks D, E & F Elevations West
A3834-ASA-ZZ-ZZ-DR-A-415 Rev P9	Buildings A,B,C,D & E Elevations South

### Supporting documents:

- Planning Statement – Avison Young
- Design and Access Statement – Assael Architecture
- Residential Amenity Space & Place Quality Statement - Assael
- Landscaping Statement – Assael
- Affordable Housing Statement – DS2
- Financial Viability Appraisal - DS2
- Employment Land Assessment – Lichfields
- Retail Assessment – Walsingham Planning
- Archaeological Desk Based Assessment - AB Heritage
- Energy Strategy (including Overheating Assessment) – Hoare Lea
- Sustainability Statement (including BREEAM Pre-Assessment) – Hoare Lea
- Ventilation Statement - Hoare Lea
- Air Quality Assessment, Air Quality Positive Statement and Indoor Air Quality Plan - Syntegra
- Wind Microclimate Report - WSP
- Phase 1 Ground Conditions Assessment – Stantec
- Flood Risk Assessment & Drainage Strategy (including foul / surface water drainage connections assessment) – Syntegra
- Lighting Assessment - Hoare Lea
- Noise and Impact Assessment - Hoare Lea
- Circular Economy Statement – Hoare Lea
- Whole Life Carbon Assessment – Hoare Lea
- Townscape, Heritage & Visual Impact Assessment – The Townscape Consultancy
- Daylight, Sunlight & Overshadowing Report – Point 2 Surveyors
- Preliminary Ecological Appraisal – Greengage
- Bat Survey Report – Greengage
- Biodiversity Impact Assessment – Greengage
- Transport Assessment - Velocity
- Draft Travel Plan – Velocity
- Draft Delivery and Servicing Plan - Velocity
- Draft Car Park Management Plan - Velocity
- Operational Waste Management Strategy – Velocity
- Construction Logistics Plan – London Square
- Construction Site Waste Management Plan - London Square
- Construction Environmental Management Plan – London Square
- London Plan Fire Statement and Gateway 1 Form - FDS

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

- 3 The replacement industrial floorspace approved within Buildings D, E and F shall be subdivided into individual units of no more than 1,000 sqm (GIA) of Class E(g)(iii), B2 or B8 floorspace unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to provide for a range of unit sizes to offer flexibility to a range of different future occupiers, and to ensure servicing arrangements for any individual unit are acceptable in highways terms.

- 4 The development hereby approved shall contain 1503 sqm of commercial floorspace which shall not be used other than for purposes within Use Class E(a), 1935 sqm of commercial floorspace within Use Class E(g)(iii), 990 sqm of commercial floor space within Use Class E(d), and 105 sqm of flexible Class E floorspace, as detailed in the drawings hereby approved, unless otherwise agreed in writing by the Local Planning Authority, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification).

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting the order with or without modification) no internal alterations shall be carried out which would result the subdivision of the supermarket unit.

Reason: In the interests of proper planning and to ensure the adequate provision of retail floorspace, employment floorspace and industrial capacity within the borough, and to ensure that the retail impact and parking provision is at a level that is considered to be acceptable for the site and its locality. In accordance with policies DMP1, BE5 and T6 of the Local Plan.

- 5 The scheme hereby approved shall contain 301 residential units as detailed in the drawings hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of proper planning.

- 6 The 24 car parking spaces shown on the approved drawings shall be used only in connection with the supermarket use and for no other purpose, unless otherwise approved in writing by the Local Planning Authority.

Reason: To meet the parking requirements of Policy T6 of the Local Plan.

- 7 The development shall be carried out in full accordance with the submitted flood risk assessment and drainage strategy (ref: 22-9040, Revision B, dated 12/02/2024, compiled by Syntegra Consulting) and the mitigation measures outlined in this document.

The mitigation measures set out shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons: To reduce the risk of surface and water flooding to the proposed development and future occupants and to prevent flooding elsewhere.

- 8 The development hereby approved shall be carried out fully in accordance with the recommendations in the Preliminary Ecological Appraisal (dated September 2023) prepared by Greengage and the Biodiversity Impact Assessment (dated June 2023) prepared by Greengage unless otherwise agreed in writing by the local planning authority.

Reason: To prevent any harm to protected species and habitats.

- 9 The development shall be carried out in full accordance with the recommendations set out in the Construction Ecological Management Plan (Rev 3) prepared by London Square Developments Ltd dated September 2023 and these shall be implemented in full throughout the construction of the development.

Reason: In order to ensure that the development results in no net loss to biodiversity and impact upon the nearby sites of Borough Grade I sites of importance for nature conservation.

- 10 The development shall be carried out in full accordance with the Fire Safety Statement (ref. 8186 Issue 01) prepared by FDS Consult UK dated September 2023 and the mitigation measures outlined in this document.

Reasons: To ensure the scheme complies with the fire safety requirements set out in Policy D12 of the London Plan.

- 11 The doors of Block F at ground floor level shall be designed so that they do not open outwards over the footway to Colin Road.

Reason: In the interest of the free and safe flow of pedestrians.

- 12 All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/> "

Reason: To protect local amenity and air quality in accordance with Brent Policies BSUI1, BSUI2 and London Plan Policy SI1.

- 13 The residential development hereby approved shall be designed so that mains water consumption does not exceed a target of 105 litres or less per person per day, using a fittings-based approach to determine the water consumption of the development in accordance with requirement G2 of Schedule 1 to the Building Regulations 2010.

Reason: In order to ensure a sustainable development by minimising water consumption in compliance with policy SI5 of London Plan 2021 and Brent Policy BSUI4.

- 14 Prior to first occupation of the development hereby approved, electric vehicle charging points shall be provided to at least 20% of the Blue Badge parking spaces provided and shall be maintained for the lifetime of the development, whilst the remaining spaces hereby approved shall be provided with passive electric vehicle charging facilities.

Reason: To encourage the uptake of electric vehicles as part of the aims of London Plan policy T6.1

- 15 The external communal amenity space located at first floor podium level of Block A and B shall be made available and accessible to all residents within that building, regardless of the type and affordability of their accommodation, for the lifetime of the development.

Reason: In the interests of proper planning and to ensure an equitable distribution of amenity space, in accordance with Brent Policy BH13.

- 16 Prior to commencement of the development hereby approved (including site clearance and demolition works), a final Construction Logistics Plan (CLP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed fully in accordance with the approved Construction Logistics Plan, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the development is constructed in an acceptable manner and in the interests of pedestrian and highway safety.

Reason for pre-commencement condition: The condition relates to details of construction, which need to be known before commencement of that construction.

- 17 Prior to the commencement of the development a Construction Method Statement shall be submitted to and agreed by the Local Planning Authority outlining measures that will be taken to control dust, noise and other environmental impacts of the development. In addition, measures to control emissions during the construction phase relevant to a medium risk site should be written into an Air Quality and Dust Management Plan (AQDMP), or form part of a Construction Environmental Management Plan, in line with the requirements of the Control of Dust and Emissions during Construction and Demolition SPG. The AQDMP should also be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be constructed in accordance with the approved Construction Method Statement, together with the measures and monitoring protocols implemented throughout the construction phase.

The development shall thereafter be constructed in accordance with the approved Construction Method Statement, together with the measures and monitoring protocols implemented throughout the construction phase.

Reason: To safeguard the amenity of the neighbours by minimising impacts of the development that would otherwise give rise to nuisance.

Reason for pre-commencement condition: Nuisance from demolition and construction activities can occur at any time, and adequate controls need to be in place before any work starts on site.

- 18 The development hereby approved shall not be commenced until:

a) A phasing plan showing the location of all phases, the sequencing for those phases, and indicative timescales for their delivery has been submitted to and approved in writing by the Local Planning Authority through the submission of an application for approval of details reserved by condition. The development shall be carried out in accordance with the plan thereby approved.

The phasing plan may be updated from time to time subject to the written approval of the Local Planning Authority.

b) A CIL chargeable developments plan has been submitted to and approved in writing by the Local Planning Authority through the submission of an application for approval of details reserved by condition.

Reason: To allow the Local Planning Authority to understand the relevant phase of development that is subject to condition discharge and to ensure coordination between the phasing plan as approved and the triggers in any relevant agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended) and to define the extent of a CIL phase for the purposes of the CIL Regulations 2010 as amended.

Pre-commencement Reason: The precise phasing must be known prior to the commencement of works on those relevant phases for clarity of the submission of details in relation to each of those phases. In addition, CIL payments must be made prior to commencement of development and the chargeable development and associated charge must therefore be known prior to the commencement of works on those relevant phases.

- 19 (a) Prior to the commencement of development (excluding site clearance and demolition), a site investigation shall be carried out by competent persons to determine the nature and extent of any soil contamination present within that Phase. The investigation shall be carried out in accordance with the principles of BS 10175:2011. A report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works that includes the results of any research and analysis undertaken as well as an assessment of the

risks posed by any identified contamination. It shall include an appraisal of remediation options should any contamination be found that presents an unacceptable risk to any identified receptors.

(b) Any soil remediation required by the Local Planning Authority shall be carried out in full in accordance with the approved remediation works. Prior to the occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority stating that remediation has been carried out in accordance with the approved remediation scheme and the land is suitable for end use (unless the Planning Authority has previously confirmed that no remediation measures are required).

Reason: To ensure the safe development and secure occupancy of the site.

- 20 No piling shall take place until a Piling Method Statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to significantly impact / cause failure of local underground sewerage utility infrastructure.

- 21 Prior to commencement of development (excluding site clearance and demolition works), details of how the development is designed to allow future connection to a district heating network should one become available, shall be submitted to and approved in writing by the local planning authority.

The development shall be completed in accordance with the approved details thereafter unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the development is in accordance with the principles of London Plan Policy SI3 and Brent's Local Plan Policy BSUI1.

- 22 Prior to commencement of development (excluding site clearance and demolition works), detailed plans shall be submitted to and approved in writing by the local planning authority demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure within the development. The development shall be carried out in accordance with these plans thereafter and maintained as such in perpetuity.

Reason: To provide high quality digital connectivity infrastructure to contribute to London's global competitiveness.

- 23 Prior to the commencement of the relevant building, further details of all exterior materials (including samples of key materials which shall be provided on site for inspection or in another location as agree, and/or manufacturer's literature) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: To ensure a high quality development which makes a positive contribution to the character and appearance of the local area.

- 24 Prior to the commencement of works (excluding demolition, site clearance, foundations and any below ground works), detailed drawings of the key construction detailing shall be submitted to and approved in writing by the local planning authority. Such details may include (but not be limited to) the junctions between different materials, fixing and application of cladding, detailing of reveals, soffits, parapets, balustrading, fins, brise soleil and other architectural features of the

buildings. The development shall be constructed in accordance with the approved details.

Reason: To ensure a high quality development which makes a positive contribution to the character and appearance of the local area.

- 25 Prior to commencement (excluding demolition, site clearance and the laying of foundation) a plan indicating all of the microclimate mitigation measures together with detailed drawings of railing/screens and other design measures as per the recommendations of Wind Microclimate Report prepared by WSP (ref. 70096956 No. 001) dated September 2023 shall be submitted to and approved in writing by the Local Planning Authority.

The approved microclimate mitigation infrastructure shall be implemented prior to the first occupation of the development hereby approved.

Reason: To ensure that the development would establish a suitable level of comfort, in respect of wind conditions, for building users and pedestrians in the vicinity of the building, as well as to ensure that railings and screens would have a suitable visual amenity impact.

- 26 The development hereby approved shall be built so that no fewer than 10% of the 301 residential homes achieve Building Regulations requirement M4(3) - 'wheelchair user dwellings', and the remaining homes shall be built to achieve Building Regulations requirement M4(2) - 'accessible and adaptable dwellings'.

Detailed layout plans, showing which residential units within the development would be 'wheelchair user dwellings' (i.e. meeting Building Regulations requirement M4(3)) shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing, excluding demolition, site clearance and laying of foundations, and thereafter development shall be implemented in accordance with the approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development achieves an inclusive design in accordance with London Plan Policy D7.

- 27 Prior to works commencing above ground on the development, a detailed landscaping scheme and implementation programme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall incorporate the hard and soft landscaping details proposed on the approved plans, as well as further details of, but not limited to the following:

- Proposed materials for all hard surfaces and the permeable qualities
- Precise locations of all Sheffield cycle stands to be provided within the public realm
- Details and sizes of all raised planters, including any trellises
- Details of all external furniture (including refuse or other storage units) and informal seating/benches
- Species, locations and densities for all trees, grass and shrubs, which shall include a minimum of x 73 new trees
- Play spaces including proposed equipment and surfacing
- Proposed walls, fencing, screening treatment (including to all roof terraces) and gates and any other permanent means of boundary treatment/enclosure, indicating materials, position and heights
- Details of any signs and signboards within the site
- Tree pits for all new tree planting
- Soil depth and composition on roof terraces, and details of plants and shrubs for these areas;
- Details of biodiversity enhancement measures based on measures as set out in the submitted Biodiversity Net Gain Assessment (dated June 2023) prepared by Greengage
- Details of the landscaping measures as required for microclimate mitigation as per the recommendations of the Wind Microclimate Report prepared by WSP (ref. 70096956 No. 001) dated September 2023
- Details of any external CCTV installations
- A landscape management plan including long term design objectives, management

responsibilities and five year maintenance programme and schedules for all landscaped areas,

The approved landscaping scheme and implementation programme shall be completed in full;  
(a) prior to first occupation or use of the building(s), in respect of hard landscaping components and boundary treatments;  
(b) during the first available planting season following completion of the development hereby approved, in respect of all other soft landscaping components.

It shall thereafter be mainlined fully in accordance with the approved Landscape Management and Maintenance Plan, unless otherwise agreed in writing by the Local Planning Authority.

Any trees and shrubs planted in accordance with the landscaping scheme which, within 5 years of planting are removed, dying, seriously damaged or become diseased shall be replaced in similar positions by trees and shrubs of similar species and size to those originally planted, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory standard of appearance and setting for the development and to ensure that the proposed development enhances the visual amenity of the locality in the interests of the amenities of the occupants of the development and to provide tree planting in pursuance of section 197 of the Town and Country Planning Act 1990.

28 Prior to commencement of works above ground level, the following details shall be submitted to and approved in writing by the Local Authority Planning:

- (i) Opportunities to make provision for the use of E-bike charging points where feasible
- (ii) Details of long-stay bicycle parking for staff -
- (iii) Details of refuse collection arrangements for Blocks D and E to allow all collection from the industrial service yard
- (iv) Details of protective kerbing or bollards to the entrance archways
- (v) Details of cyclist routeing through the site between High Road and Dudden Hill Lane
- (vi) Details of pedestrian and cyclist wayfinding signage for the site

All of the cycle parking within the development shall be made available for use prior to the first occupation of the development hereby approved and thereafter retained and maintained for the life of the development and not used other than for purposes ancillary to the occupation of the building hereby approved, unless alternative details are agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is fit for purpose and adequately provides for and encourages uptake of cycling among building users, and to ensure refuse arrangements for the development are acceptable.

29 Prior to the installation of any external lighting, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include, but is not limited to, details of the lighting fixtures, luminance levels within and adjoining the site, as well as ecological sensitivity measures that form a part of the lighting strategy. The lighting shall not be installed other than in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of safety and the amenities of the area.

30 Prior to first occupation of any part of the development, a revised Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority which includes:

- further details of arrangements for the allocation of on-site parking spaces for Blue Badge holders
- details of parking enforcement along access roads the site.
- management of the 24 supermarket car parking spaces, with a maximum stay of 90 minutes.



The proposed development shall be occupied in full accordance with the final approved Car Parking Management Plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that sufficient levels of parking are provided for existing residents of the development and those who hold blue badges.

- 31 Prior to the occupation of each building the post-construction tab of the GLA's whole life carbon assessment template should be completed accurately and in its entirety in line with the GLA's Whole Life Carbon Assessment Guidance. The post-construction assessment should provide an update of the information submitted at planning submission stage, including the whole life carbon emission figures for all life-cycle modules based on the actual materials, products and systems used. This should be submitted to the GLA at: [ZeroCarbonPlanning@london.gov.uk](mailto:ZeroCarbonPlanning@london.gov.uk), along with any supporting evidence as per the published guidance.

Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation of the relevant building.

Reason: In the interests of sustainable development and to maximise on-site carbon dioxide savings.

- 32 Prior to the occupation of any phase of development, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement shall be submitted to the GLA at: [CircularEconomyLPG@london.gov.uk](mailto:CircularEconomyLPG@london.gov.uk), along with any supporting evidence as per the GLA's Circular Economy Statement Guidance 2022. The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of submission to the GLA shall be submitted to, and approved in writing by the Local Planning Authority, prior to occupation.

Reason: In the interests of sustainable waste management and in order to maximise the re-use of materials.

- 33 Prior to first occupation or use of the development hereby approved, a revised Delivery and Servicing Plan (DSP) shall be submitted to and approved in writing by the local planning authority, which details delivery booking procedures, enforcement measures and revised monitoring and review arrangements. All delivery and servicing activity shall thereafter be carried out fully in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that all delivery and servicing activities can be safely accommodated on site without adversely affecting the safety and amenity of residents or other users of the development or conditions on the highway network.

- 34 All residential homes shall be designed in accordance with BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' to attain the following internal noise levels:

- Daytime Noise (07:00-23:00) in relation to living rooms and bedrooms to have a maximum noise level at no more than 35dB LAeq(16hr)
- Night time Noise (23:00-07:00) in relation to bedrooms to have a maximum noise level at no more than 30dB LAeq(8hr)

Prior to first occupation of any of residential homes hereby approved, a test shall be carried out with the results submitted to and approved in writing by the Local Planning Authority to show that the required internal noise levels have been met.

Reason: To obtain required sound insulation and prevent noise nuisance.

- 35 A scheme of sound insulation measures shall be submitted to the Local Planning Authority for

approval. The insulation shall be designed so that noise from the gym does not result in an exceedance of the indoor ambient noise levels specified within BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' in the flats above the gym. Impact noise should also be considered in line with Approved Document E standards. The approved insulation measures shall thereafter be implemented in full.

Reason: To protect acceptable local noise levels.

- 36 The development shall not be occupied until confirmation has been provided that either:
- a) All foul water network upgrades required to accommodate the additional flows from the development have been completed; or
  - b) A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow development to be occupied.

Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: Network reinforcement works are likely to be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

- 37 Any plant shall be installed, together with any associated ancillary equipment, so as to prevent the transmission of noise and vibration into neighbouring premises. The rated noise level from all plant and ancillary equipment shall be 10dB(A) below the measured background noise level when measured at the nearest noise sensitive premises. An assessment of the expected noise levels shall be carried out in accordance with BS4142:2014 'Methods for rating and assessing industrial and commercial sound.' and any mitigation measures necessary to achieve the above required noise levels shall be submitted to and approved in writing by the Local Planning Authority. The plant shall thereafter be installed together with any necessary mitigation measures and maintained in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To protect acceptable local noise levels.

- 38 Within six months from practical completion of the non-domestic floorspace hereby approved, a revised BREEAM Assessment and Post Construction Certificate, demonstrating compliance with the BREEAM Certification Process for non-domestic buildings and the achievement of a BREEAM Excellent rating, shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the non-domestic floorspace is constructed in accordance with sustainable design and construction principles, in accordance with Brent Local Plan Policy BSUI1.

## INFORMATIVES

- 1 The applicant is advised that this development is liable to pay the Community Infrastructure Levy; a Liability Notice will be sent to all known contacts including the applicant and the agent. Before you commence any works please read the Liability Notice and comply with its contents as otherwise you may be subjected to penalty charges. Further information including eligibility for relief and links to the relevant forms and to the Government's CIL guidance, can be found on the Brent website at [www.brent.gov.uk/CIL](http://www.brent.gov.uk/CIL).
- 2 The provisions of The Party Wall etc. Act 1996 may be applicable and relates to work on an existing wall shared with another property; building on the boundary with a neighbouring property; or excavating near a neighbouring building. An explanatory booklet setting out your obligations can be obtained from the government website: <https://www.gov.uk/government/publications/preventing-and-resolving-disputes-in-rel>

- 3 (F16) The applicant must ensure, before work commences, that the treatment/finishing of flank walls can be implemented as this may involve the use of adjoining land and should also ensure that all development, including foundations and roof/guttering treatment is carried out entirely within the application property.
- 4 The following highways licences may be required: crane licence, hoarding licence, on-street parking suspensions. The applicant must check and follow the processes and apply to the HA.
- 5 Brent Council supports the payment of the London Living Wage to all employees within the Borough. The developer, constructor and end occupiers of the building are strongly encouraged to pay the London Living Wage to all employees associated with the construction and end use of development.
- 6 A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing [trade.effluent@thameswater.co.uk](mailto:trade.effluent@thameswater.co.uk) .  
  
Application forms should be completed on line via [https://urldefense.proofpoint.com/v2/url?u=http-3A\\_www.thameswater.co.uk&d=DwIFaQ&c=OMjwGp47Ad5otWI0\\_lpOg&r=G\\_hzVySAkixNxE\\_J\\_EjNJR\\_FDWFjexJLES8DRQ06gKk&m=-u-R\\_Q15lz4qif8awGaV1BUWN40lineKyqKZROLnXaA&s=NJ1M7LtxulFk4\\_2FpfFRZ9jppAbc0KqM1IRBH6yHdbE&e=](https://urldefense.proofpoint.com/v2/url?u=http-3A_www.thameswater.co.uk&d=DwIFaQ&c=OMjwGp47Ad5otWI0_lpOg&r=G_hzVySAkixNxE_J_EjNJR_FDWFjexJLES8DRQ06gKk&m=-u-R_Q15lz4qif8awGaV1BUWN40lineKyqKZROLnXaA&s=NJ1M7LtxulFk4_2FpfFRZ9jppAbc0KqM1IRBH6yHdbE&e=) . Please refer to the Wholesale; Business customers; Groundwater discharges section.
- 7 The Council recommends that the maximum standards for fire safety are achieved within the development.

Any person wishing to inspect the above papers should contact Neil Quinn, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5349

## COMMITTEE REPORT

Planning Committee on  
Item No  
Case Number

10 July 2024  
02  
N/A

## SITE INFORMATION

RECEIVED	N/A
WARD	Wembley Hill
PLANNING AREA	Brent Connects Wembley
LOCATION	Fairgate House, 390-400 and 402-408, High Road, Wembley and land rear of 390-408 High Road, Wembley, HA9
PROPOSAL	<p>Deed of Variation to the Second Deed of Variation dated 25<sup>th</sup> April 2024 to the Deed of Agreement dated 3rd May 2023 under Section 106 under the Town and Country Planning Act 1990, as amended in relation to planning application reference: 22/2225 for the following development:</p> <p><i>Demolition of existing buildings and construction of an up to part 13 and part 17 storeys (including ground level) building comprising purpose built student bed spaces (Use Class Sui Generis) together with ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works</i></p> <p><i>As subsequently varied through s73 application, granted under planning application reference 23/3188</i></p> <p>(‘Phase 1’)</p> <p><i>And</i></p> <p>Deed of Variation to the Deed of Agreement dated 16<sup>th</sup> April 2024 under Section 106 under the Town and Country Planning Act 1990, as amended in relation to planning application reference: 23/2811 for the following development:</p> <p><i>Erection of 2 purpose-built student accommodation buildings with basement level (Sui Generis) connected at ground floor level by a podium together with ancillary communal facilities, internal and external communal amenity space, cycle parking, mechanical plant, hard and soft landscaping, new public realm, play space and other associated works. This application is accompanied by an Environmental Statement.</i></p> <p>(‘Phase 2’)</p> <p>The Deeds of Variation sought to both Phase 1 and Phase 2 development would secure the following changes:</p> <ul style="list-style-type: none"> <li>• Alteration of the Late Stage Review mechanisms to require the provision of additional payments in lieu (PiL) upfront towards affordable housing in the local area (instead of a late stage review) within 12 months of material start;</li> <li>• The additional PiL proposed overall is £6m; which will equate to an additional £2.106m for Phase 1, and £3.911m for Phase 2</li> </ul>

	<p><i>(n.b. This is in addition to the PiL already secured for the relevant Phase 1 (£2.224m) and Phase 2 (£5.34m) developments)</i></p> <ul style="list-style-type: none"> <li>• As per the previous Deed(s) of Agreement, the additional PiL proposed to be utilised to fund the provision of additional low-cost rent affordable housing, being affordable housing that is provided that goes beyond the minimum secured through the relevant planning consents for the site(s).</li> <li>• If at any time between a Material Start and Practical Completion of the Development works cease and subsequently no works of construction are carried out on the Land in respect of the Development for a continuous period of at least two (2) years, the agreed Late Stage Review mechanisms are retriggered</li> </ul>
<b>PLAN NO'S</b>	N/A
<b>LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION</b>	N/A

## RECOMMENDATIONS


That the Planning Committee resolves to enter into separate Deed(s) of Variation under Section 106A of the Planning Act to vary;

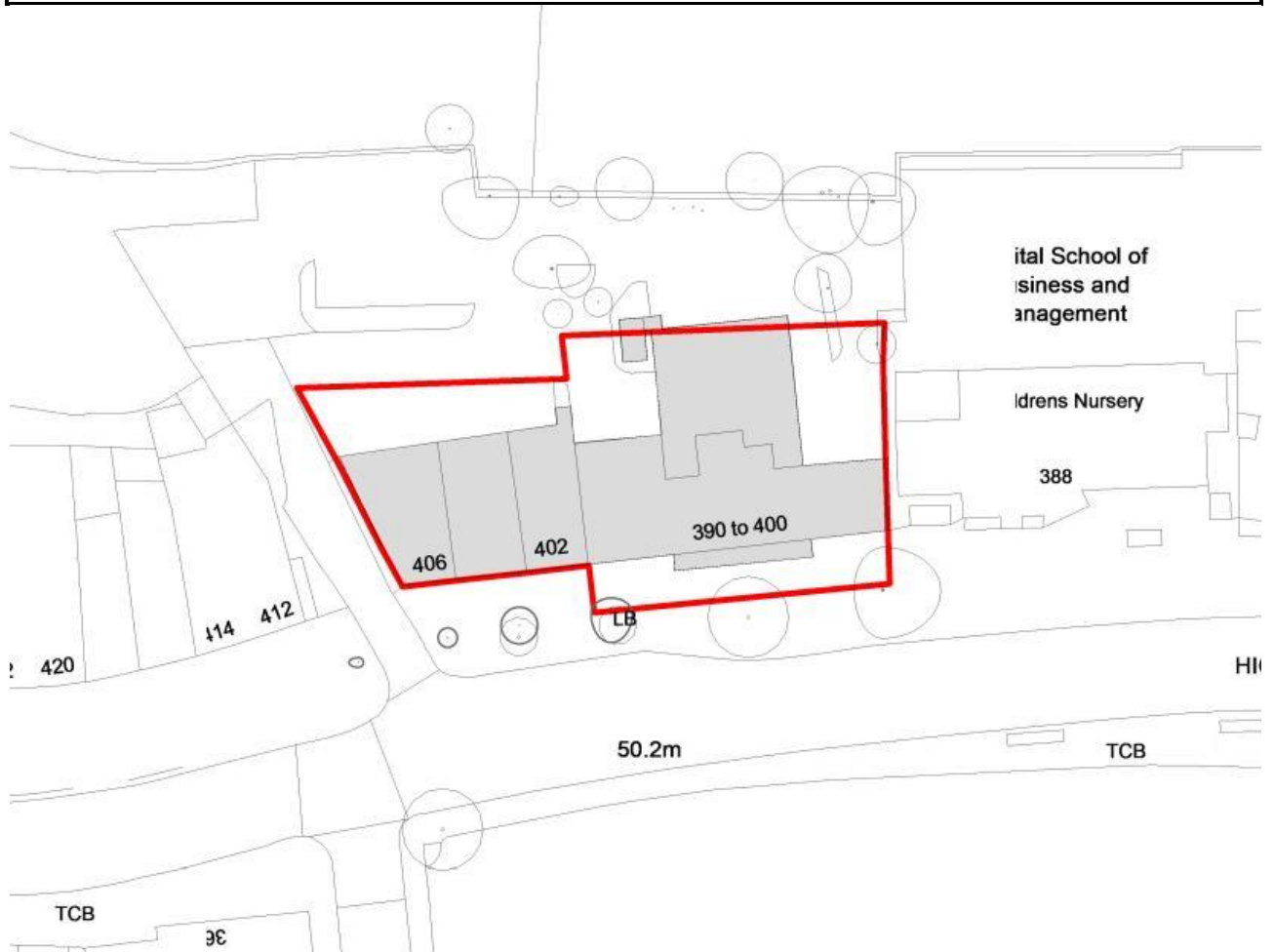
-the Principal Section 106 agreement associated with planning application reference 22/2225 ('Phase 1') and related Second Deed of Variation dated 25<sup>th</sup> April 2024 to the Principal Deed of Agreement dated 3rd May 2023;

-the Section 106 agreement associated with planning application reference 23/2811 ('Phase 2') and delegates authority to the Head of Planning and Development to agree the wording of the respective Deed(s) of Variation.

The separate Deed(s) of Variation sought for Phase 1 and Phase 2 would secure changes to the obligations secured already through legal agreements, to amend the Late Stage Review mechanisms, and to require the provision of additional PiL payment of £6m upfront; equating to £2.106m for Phase 1 and £3.911m for Phase 2 (indexed from date of committee resolution) towards the provision of additional low-cost rented affordable housing (within Use Class C3) within the local area.

## SITE MAP (Phase 1)

	<b>Planning Committee Map</b>
Site address: Fairgate House, 390-400 and 402-408, High Road, Wembley, HA9	
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This map is indicative only.

## SITE MAP (Phase 2)



**Brent**

### Planning Committee Map

Site address: Land rear of 390-408, High Road, Wembley, HA9

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This map is indicative only.

## PROPOSAL IN DETAIL

### Summary of Proposal

Planning permission was granted for the redevelopment of two adjacent sites (Fairgate House and the land to the rear of Fairgate House) to provide two blocks of student accommodation (998 rooms in total) and c.348sqm sqm of commercial space. Financial contributions of £2.224 million (Phase 1) and £5.34 million (Phase 2) towards off-site traditional affordable housing were secured through the respective permissions. These schemes were also subject to late-stage review mechanisms which would secure additional contributions towards affordable housing if scheme viability improved. The Applicant has proposed fixed contributions of £2.1 m (Phase 1) and £3.9 m (Phase 2) in lieu of the late-stage reviews as the amendment of the late stage reviews will allow the Applicant to secure beneficial lending terms providing construction commences within 24 months. This would be in addition to the financial contributions already secured for these schemes, as referred above.

### Background – planning history

#### *Phase 1:*

Planning permission (22/2225) was granted in May 2022 for the demolition of the existing buildings on site and the construction of a part 13 and part 17 storey building comprising purpose built student accommodation. This also included ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works.



A subsequent section 73 application (23/3188) was submitted for amendments to the approved scheme to amend planning conditions 2 (development built in accordance with approved plans and/or documents), 4 (commercial floor space - Use Class E) and 31 (storey heights of building) which would result in changes to the form and layout of the permission. 10 additional student bedspaces were also proposed from the original permission and the proposal would result in a slight reduction in student accommodation floorspace from 11,257.2 sq.m. to 10,958.78 sq.m. The scheme would also secure the widening of the underpass at the eastern end of the building to allow managed vehicle access to Network Rail land to the rear of the Site, together with other associated minor changes to the scheme. The S73 application also sought to change the requirement to enter into a nominations agreement with a higher education provider so that the developer was required to demonstrate that reasonable endeavours had been taken to enter into such an agreement.

The section 73 application was granted grant consent on 25<sup>th</sup> April 2024 and is subject to the completed First Deed of Variation dated 25<sup>th</sup> April 2024 to the Deed of Agreement dated 3rd May 2023.

The amendment of the on-site affordable student accommodation and its replacement with an offsite PiL contribution towards conventional affordable housing within the local area was also requested around the same time. The request was made to amend the affordable provision under Section 106A of the planning act, which is considered to be the appropriate route for such a change. This request to enter into a Deed of Variation to this change (Second Deed of Variation) was agreed by Planning Committee at the meeting held on 7 February 2024. The Second Deed of Variation was completed on 25<sup>th</sup> April 2024.

#### *Phase 2:*

The phase 2 consented scheme (23/2811) secured a PiL towards off site affordable housing rather than the delivery of affordable student accommodation on site. The Planning Committee resolved to grant permission for the Phase 2 scheme in December 2023, with the s106 legal agreement subsequently completed on 16<sup>th</sup> April 2024.

#### Deed of Variation through Section 106A of Town and Country Planning Act

Section 106A of the Town and Country Planning Act 1990 makes provision for existing planning obligations to be modified or discharged by agreement between the authority and the person or persons by whom the obligation is enforceable. Section 106A enables modification or discharge to be achieved either by an agreement with the local planning authority (which must be executed as a deed), or by an application to the local planning authority.

For obligations entered into after 6 April 2010, an application can only be made after 5 years beginning with the date the obligation has been entered into to. However, the Council may (at it's own discretion), agree to vary obligations to a legal agreement within this period. In this case, as the original obligation(s) concerned were made within the last 5 years, an obligation can only be modified or discharged through an agreement with the local planning authority (which must be executed as a deed). In such cases, there is no right of appeal under section 106B if any application is refused.

The Applicant has requested that the Council enters into a separate Deed of Variation, for both the Phase 1 and Phase 2 consented developments to make changes to the obligations associated with the s106 Legal Agreement (and in the case of Phase 1 development the subsequent Second Deed of Variation dated 25<sup>th</sup> April 2024) to secure the following changes:

- The amendment of the Late Stage Review mechanisms and the provision of additional payments in lieu (PiL) upfront towards affordable housing in the Borough.
- The additional PiL proposed overall is £6m; which will equate to an additional £2.106m for Phase 1 and £3.911m for Phase 2. This will be due to be paid no later than 12 months after a Material Start
- As per the previous Deed(s) of Agreement, the additional PiL proposed to be utilised to fund the provision of additional low-cost rent affordable housing, being affordable housing that is

provided that goes beyond the minimum secured through the relevant planning consents for the site(s).

- If at any time between a Material Start and Practical Completion of the Development works cease and subsequently no works of construction are carried out on the Land in respect of the Development for a continuous period of at least two (2) years, the agreed Late Stage Review mechanisms are retriggered

## EXISTING

The Phase 1 site has undergone recent demolition works, prior to this existed Fairgate House, which was a vacant seven-storey office building at 390-400 High Road, and Pitman House, a vacant three-storey office building at 402-406 High Road, both accommodated some retail floorspace at ground floor level. The site is on the north side of the High Road in Wembley Town Centre and is part of a secondary shopping frontage. The Phase 2 site adjoins Phase 1 and comprises an area of hardstanding and mixed scrub to the north, and further to the north of this are railway embankment land and the Chiltern Line railway tracks.

The site(s) are not in a conservation area and do not contain any listed buildings.

## RELEVANT SITE HISTORY

### Fairgate House (Phase 1)

#### **23/3188      Granted 25/04/2024**

Variation of Conditions 2 (development built in accordance with approved plans and/or documents), 4 (commercial floor space - Use Class E) and 31 (storey heights of building) of Full Planning Permission (ref. 22/2225 dated 3 May 2023), as amended by Non-Material Amendment (ref. 23/2537).

#### **23/2437      Granted 18/09/2023**

Non-material amendment (remove number of storeys from development description) of Full Planning Permission reference 22/2225 dated 3 May, 2023, for Demolition of existing buildings and construction of an up to part 13 and part 17 storeys (including ground level) building comprising purpose built student bed spaces (Use Class Sui Generis) together with ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works, subject to Deed of Agreement dated 3rd May 2023 under Section 106 of Town and Country Planning Act, 1990, as amended.

#### **22/2225      Granted 03/05/2022**

Demolition of existing buildings and construction of an up to part 13 and part 17 storeys (including ground level) building comprising purpose built student bed spaces (Use Class Sui Generis) together with ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works, subject to Deed of Agreement dated 3rd May 2023 under Section 106 of Town and Country Planning Act, 1990, as amended.

### Land to the rear of Fairgate House (Phase 2)

#### **23/2811      Granted 17/04/2024**

Erection of 2 purpose-built student accommodation buildings up to 20 and 22 storeys with basement level (Sui Generis) connected at ground floor level by a podium together with ancillary communal facilities, internal and external communal amenity space, cycle parking, mechanical plant, hard and soft landscaping, new public realm, play space and other associated works. This application is accompanied by an Environmental Statement.

## CONSULTATIONS

It should be noted that there is no statutory requirement to carry out public consultation on an application under Section 106A to modify or discharge existing planning obligations. Notwithstanding

this, the GLA has been notified of the request made under S106A and informed this is to be considered at Planning Committee on 10 July 2024.

## DETAILED CONSIDERATIONS

### Proposed Amendments

*Request for the amendment of the Late-Stage Review mechanisms;*

1. By way of context, works have commenced on site for Phase 1, and it is intended that Phase 2 works will start imminently. Whilst there are two separate planning permissions relating to Phase 1 and Phase 2, the Applicant is the same for both developments and these are being bought forward as one construction project. This is also the same from a funding perspective.
2. The request made under s106A submits that amendment of late-stage review mechanisms from the respective Deeds and securing the additional PiL upfront provides certainty at this stage of the total contribution (for both phases), for the Applicant and its funder, which subsequently secures the deliverability of the project going forward. It is said the primary reason why the Applicant is able to propose an additional upfront PiL of £6m is because they are required by their funder to provide less equity at the beginning of the project as the funder's future financial exposure will be reduced at the back end of the project. Consequently, this results in a reduced cost of borrowing, meaning the savings being made on reduced interest payments are able to be passed on to the Council through the proposed additional PiL. This is a significant planning benefit as it results in additional £6m of funding becoming available for the delivery of affordable housing in the Borough, which is on top of the PiL already secured through the Phase 1 and Phase 2 consents (which combined is £6.1m).

*Acceptability of proposed off-site cash in lieu approach and securing additional PiL;*

3. London Plan policy H15 requires the provision of the maximum level of affordable student accommodation within proposals for purpose-built student accommodation. The originally consented Phase 1 scheme secured the provision initially of 122 of the student bedspaces at affordable rent levels. This equated to 35% of the student bed spaces within the consented scheme and therefore qualified for fast track under policy H15 of London Plan. This meant that no financial viability assessment (FVA) was required to be submitted, and accordingly only an early-stage review mechanism was secured within the Section 106 Agreement, as set out by policy.
4. The subsequent S106A application referred to above, relating to Phase 1, which Planning Committee agreed to on 7 February 2024, sought to remove the requirement for Phase 1 to provide any affordable student accommodation on-site. Instead, a £2.24m PiL was proposed, and agreed as the maximum reasonable, which would be utilised for the delivery of low-cost rented Use Class C3 affordable housing in the Borough.
5. The Phase 2 development as submitted did not propose any affordable student accommodation on site. A PiL was proposed instead from the outset, and the consent secured a PiL of £5.34m, which was agreed as the maximum reasonable, also to be utilised in the same way as the Phase 1 PiL.
6. Both of the aforementioned demonstrate that the PiL approach has been found to be acceptable, in principle, subject to this being robustly justified in planning terms.
7. The PiL contributions already secured, which are to be utilised towards provision of traditional C3 affordable housing in the local area (as opposed to the provision of affordable student accommodation on site) recognise the very significant housing need for low-cost rent affordable housing (Social Rent and London Affordable Rent) within the Borough. Whilst the approach that has been agreed previously would not accord fully with London Plan policy H15 (as it would not secure the provision of affordable student accommodation on site), it is

considered to result in significant planning benefits given the current levels of housing need together with the ability to deliver additional affordable homes within extant consents already held by the Council. These benefits were attributed positive weight accordingly as part of the overall planning balance when the Phase 1 and Phase 2 schemes were being considered.

8. The accepted PiL approach towards provision of traditional C3 affordable housing in the Borough, instead of provision for affordable student accommodation on site was not objected to by the GLA at Stage 1, or Stage 2, in relation to the consented Phase 2 development.
9. Nevertheless, with regard to affordable housing delivery, the starting point as set out in London Plan Policy H4 (Delivering affordable housing) is that it should be provided on site and that it must only be provided off-site or as a cash in lieu in exceptional circumstances. Supporting text (Paragraph 4.4.10 of the LP) states that cash in lieu contributions should be used in even more limited circumstances, and only where there is detailed evidence to demonstrate that on-site affordable housing delivery is not practical, off-site options have been explored but are not acceptable and that accepting a cash in lieu contribution will not be detrimental to the delivery of mixed and balanced communities.
10. The following policy criteria must also be met in each case:

**Additionality:** Any cash in lieu payment must result in additional affordable homes over and above any affordable homes that would otherwise be expected to be provided.

**No financial benefit:** To avoid incentivising off-site provision, there must be no financial benefit to the applicant relative to on-site provision.

**Monitoring:** Robust monitoring and reporting mechanisms should be put in place to ensure the additional affordable homes are delivered.

**Viability and reviews:** Where a cash in lieu contribution is proposed then the viability tested route must be followed and schemes will need to be subject to early and late-stage review mechanisms.

11. An assessment of the agreed PiL approach for Phase 1 and Phase 2, against the above criteria, has already been made as part of the earlier considerations. For the avoidance of doubt this is repeated below (and updated as necessary).
12. In the context of policy H4, firstly consideration has previously been given to whether affordable accommodation could be delivered on site for both Phase 1 and Phase 2. While the provision of affordable student accommodation would be practical on-site, taking into account the design challenges of the site(s), its constraints, limited footprint available and proximity to the other developments, it would not be deemed practical to deliver high quality Class C3 housing, in addition to the student accommodation, including the necessary proportion of family housing and amenity space that would be required.
13. Secondly, off-site delivery of affordable housing has been considered by the Applicant. The Applicant has advised previously that they do not have any undeveloped land interests in the Borough that could deliver the additional affordable housing. It is noted that the Applicant is currently on-site with the Euro House development in Wembley, but that construction there is well advanced, and it was previously acknowledged that it would be difficult to change the tenure of homes at that advanced point in construction. Development on site has now advanced further since this was previously given consideration, therefore this position has not changed. As such, it is acknowledged that the provision of additional affordable housing on this site would be unrealistic, and it is accepted once again that it would not be practical to require of the Applicant off-site provision.
14. In these circumstances, as proposed and accepted before, the alternative is a financial contribution which in this instance would be secured as an additional PiL to be utilised towards delivery of conventional C3 affordable housing in the local area. As referred to above, the Applicant proposes an additional PiL upfront of £6m, which would be utilised specifically for this purpose, and would enable the further provision of additional low-cost rent affordable

housing within existing consented schemes, which would represent additionality and would be a significant planning benefit. The proposed additional PiL would be split such that £2.106m is for Phase 1 and £3.911m is for Phase 2. This split broadly apportions the contributions to the scale of the respective phases.

15. The Financial Viability Assessment's (FVA) that supported both Phase 1 and Phase 2 developments demonstrated that, in the case of Phase 1, even with the delivery of a PiL of £2.24m, and in the case of Phase 2, with delivery of a PiL of £3.958m (subsequently increased to £5.34m), each of the schemes would be in deficit. The benefits of delivering a contribution towards off site affordable housing delivery within the local area instead of affordable on-site student accommodation would be significant, as discussed in further detail below.
16. Delivery of conventional affordable housing is a strategic priority in Brent, with a particular emphasis on Social Rent and London Affordable Rent properties, as stated in the Local Plan. The proposed PiL approach, accepted in principle, provides the opportunity to help meet these priorities and is welcomed as this would help to address local housing need for low cost rented accommodation. The PiL already secured will help contribute towards the delivery of additional C3 affordable homes, which would help to provide additionally of affordable homes for already consented schemes, for which there is the greatest need at local and strategic level. It follows then that the requested amendment of the late-stage review mechanism(s) from both Deeds and the provision of an additional PiL upfront of £6m will help to provide an even greater level of additionality, which will help to address Borough housing need to a much greater extent than the previous consents are able to do.
17. As was the case previously, there would be a requirement through any new legal agreement(s) entered into that the additional PiL secured is specifically used to fund additional low cost rent affordable housing, being affordable housing that is provided which goes beyond the minimum secured through relevant planning consents for other site(s) in the local area. It is envisaged this could benefit either the Brent Council Homes programme, Wembley Housing Zone programme or the Estate Regeneration programme, where there are a number of potential site(s) across each of the programmes. The proposed approach that would see the amendment of the late-stage review mechanisms and the provision of an additional PiL upfront of £6m is therefore supported by the Council.

### ***Assessment of Scheme Viability***

18. As stated in London Plan policy H4, applications proposing off-site or a cash in lieu contribution must follow the viability tested route, and the applicant has submitted a further viability appraisal in connection with the request made under Section 106A, and the proposed additional PiL. Gerald Eve (instructed on the applicant's behalf) has undertaken further appraisals of the Phase 1 and Phase 2 schemes in order to forecast the potential future outcome of the late-stage viability reviews, in the event these were triggered. It needed to be robustly tested / demonstrated that the combined late-stage reviews of Phases 1 and 2 (if triggered) would unlikely provide additional payment in excess of the proposed £6m additional PiL.
19. In order to do so Gerald Eve updated the agreed appraisals, as agreed with BNPP (on behalf of the Council) at initial planning stage, on a forecast (growth) basis, using realistic growth rates for student accommodation rents, Opex (operating costs) and build costs. It is recognised that these are three of the key elements of change that would be expected over the development period of a scheme. It is forecast that rental growth of 2.5% pa could occur, that OPEX growth should be set at c.3%, and that build cost inflation rate of 3.0% would be reasonable and realistic. Gerald Eve provided a report, which used this forecasting to arrive at anticipated GDV and cost figures for both phases at the estimated time of the late-stage review(s) being triggered, as summarised in the tables below;

**Phase 1**

Input	Planning Stage	LSR Stage (grown)
PBSA GDV	£83,527,811	£90,324,689
Build Costs	£49,937,445 <sup>1</sup>	£55,108,306

**Phase 2**

Input	Planning Stage	LSR Stage (grown)
PBSA GDV	£152,987,221	£167,423,934
Build Costs	£90,497,175 <sup>2</sup>	£101,354,815

20. The appraisals previously agreed between Gerald Eve and BNPP at planning stage have been updated, using the above grown GDV and build cost figures, in order to identify updated appraisal outputs.

21. The growth appraisal results indicate that;

-Phase 1 will produce a deficit of -£4,345,299, and

-Phase 2 will produce a deficit of -£17,158,144

22. This shows that the growth scenario appraisals generate significant deficits, once profit allowances have been deducted at the agreed rate of 15% profit on GDV.

23. Gerald Eve concluded, based upon this further financial analysis undertaken, the late-stage reviews for both phases (if triggered) are likely to result in significant financial deficits and would unlikely provide payment in excess of the proposed £6m additional PiL.

24. On behalf of the Council BNPP were instructed to review Gerald Eve's appraisals. BNPP adopted some slightly different forecast figures, applying rental growth of 3% pa, OPEX growth at 2% and build cost growth at 2.5% pa. Notwithstanding the recommended differences BNPP's appraisal also arrived at deficits for both phases, albeit the level of deficit was reduced, as illustrated in the table below;

**Table 1.1: Growth and inflation assumptions**

Phase	Application Stage	GE Projected Late Stage Review	BNPPRE Projected Late Stage Review
<b>Phase 1</b>			
PBSA GDV	£83,527,811	£90,324,689	£92,910,741
Build Costs	£49,937,445	£55,108,306	£54,221,625
<b>Phase 2</b>			
PBSA GDV	£152,987,221	£167,423,934	£172,835,558
Build Costs	£90,497,175	£101,354,815	£99,481,694

25. Using the above forecast figures BNPP undertook updated appraisals (based upon the agreed application stage viability assessment) and assuming the updated values and costs in the table above. The updated appraisals conclude as follows;

Phase	GE surplus / deficit (£)	BNPPRE surplus / deficit (£)
Phase 1	-£4,345,299	-£2,887,312
Phase 2	-£17,158,144	-£10,898,979

26. It is concluded Phase 1 and Phase 2 would generate deficits and therefore would not generate any additional payment as a result of the late-stage review mechanisms being triggered.

27. Additional sensitivity analysis was undertaken by BNPP which shows that student accommodation rental growth would need to grow to 5.05% in order to generate a surplus equivalent to the applicants proposed additional £6m PiL.

28. It is an agreed opinion of Gerald Eve and BNPP that student accommodation yields are unlikely to change between now and the date of any late-stage reviews being triggered, that were they to change yields are unlikely to change during this period to the extent they would reach levels which result in a higher contribution than the proposed additional contributions, and if this was to change there is no guarantee yields will reduce in the coming years. The agreed yield position for both phases at application stage was 4.75%, which BNPP have maintained. BNPP carried out sensitivity tests, which concluded that yields would have to drop well below 4.5% for both phases to go into a combined surplus in excess of £6m. Even if student accommodation yields were to move to 4.5% (which is not possible to forecast), then the late-stage reviews for Phases 1 and 2 would result in outputs that are significantly below the additional £6m PiL offered by the Applicant.

### ***Balance of benefit and harm***

29. As discussed above, the proposed amendment of the late-stage review mechanisms from both Deeds results in a reduced cost of borrowing for the Applicant, which enables savings to be passed on as a planning benefit in the form of the proposed additional £6m PiL, to be made upfront. This provides certainty for the Applicant (and its funder) of the total financial contribution, which secures the early deliverability of the two phases.

30. It is considered that this approach would result in significant wider planning benefits, namely;

- the increased delivery of affordable housing in the Borough, representing greater additionality than already secured through the Phase 1 and Phase 2 consents, addressing local and strategic housing need;
- Early deliverability of the two phases will help to bring forward regeneration in this part of Wembley Growth Area, which in turn will ensure the improved pedestrian link is delivered, further helping to contribute towards wider regeneration aims;
- Delivery of student accommodation, meeting a known London wide need

31. It was previously agreed that the Phase 1 and Phase 2 PiL amounts secured represented maximum viable contributions. Further to the Deed of Variation request made under S106A, the Council has robustly tested whether the combined late-stage review mechanisms for Phases 1 and 2 (if triggered) would be likely (or not) to provide additional payment in excess of the proposed additional £6m PiL. It is agreed, based on forecast growth over the development period, that Phase 1 and Phase 2 would generate deficits and therefore would not generate any additional payment as a result of the late-stage review mechanisms being triggered.

32. It is necessary to consider whether the Deeds of Variation sought would result in a different outcome when weighing the planning balance (of benefit and harm) associated with the developments as a whole. Both phases were noted to result in some impacts, as set out in full in the respective committee reports. Phase 1 (22/2225) was noted to result in some impacts, including some daylight and sunlight impacts beyond BRE guidelines and a minor shortfall in the Urban Green Factor. The daylight and sunlight impacts were considered to be reflective of the emerging context (within a designated tall building zone). Phase 2 (23/2811) was also noted to result in some daylight and sunlight impacts, but it was considered that conditions would be commensurate with development within this emerging context. It was also identified there be harm through loss of trees, however, this harm would be replaced by tree planting.

33. The proposals would continue to result in significant wider planning benefits, as identified above. Overall, and on balance, it is considered that the benefits associated with the development as a whole will continue to outweigh the harm previously identified.

### ***Conclusion***

34. Payment in Lieu of affordable student accommodation on-site, to be utilised for delivery of C3 affordable housing in the local area was accepted, in principle, and secured through the above mentioned consents. The requested amendment of late-stage review mechanisms from the respective Deeds is not in full accordance with London Plan policy H5, or the Mayor's Affordable Housing and Viability SPG, however weight is given to the fact an additional £6m PiL (if secured) will help to address to an even greater extent the very significant need for low-cost rent affordable homes

(Social and London Affordable Rent), and the presence of extant consents held by the Council within which additional affordable housing could be provided, it is considered that an increased PiL would result in significant planning benefits beyond those previously secured.

35. It is considered that there are exceptional circumstances for the amendment of the late-stage review mechanisms and the increased PiL approach to be supported in this particular instance, as set out above. This offers greater public benefit to Brent and it is considered that even in the event late-stage reviews were triggered for Phases 1 and 2, these would be unlikely to provide additional payment in excess of the proposed £6m PiL. This has been robustly tested by consultants acting for the Council. The increased contribution would represent the maximum viable contribution, would help ensure the early delivery of both phases and would result in greater additionality in terms of affordable housing, helping ensure extant (but not yet commenced) Council scheme's becoming more deliverable. The wider benefits of the development are considered to outweigh the harm associated with the policy conflict. It is recommended that members delegate authority to the Head of Planning and Development Services to enter into a separate Deeds of Variation for Phase 1 and Phase 2 to secure the legal obligations set out above.



## COMMITTEE REPORT

Planning Committee on  
Item No  
Case Number

10 July, 2024  
06  
24/0773

## SITE INFORMATION

RECEIVED	22 March, 2024
WARD	Tokyngton
PLANNING AREA	Brent Connects Wembley
LOCATION	72 Vivian Avenue, Wembley, HA9 6RU
PROPOSAL	Proposed change of use from house in multiple occupation (HMO) to supported housing for 5 residents (amended description)
PLAN NO'S	Refer to condition 2.
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	<p><b><u><a href="#">When viewing this on an Electronic Device</a></u></b></p> <p>Please click on the link below to view <b>ALL</b> document associated to case  <a href="https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=DCAPR_168274">https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=DCAPR_168274</a></p> <p><b><u><a href="#">When viewing this as a Hard Copy</a></u></b></p> <p><b>Please use the following steps</b></p> <ol style="list-style-type: none"> <li>1. Please go to <a href="https://pa.brent.gov.uk">pa.brent.gov.uk</a></li> <li>2. Select Planning and conduct a search tying "24/0773" (i.e. Case Reference) into the search Box</li> <li>3. Click on "View Documents" tab</li> </ol>

## RECOMMENDATIONS

That the Committee resolve to GRANT planning permission.

That the Head of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

### Conditions


1. Three year consent
2. Approved Drawings
3. Use of the existing outbuilding

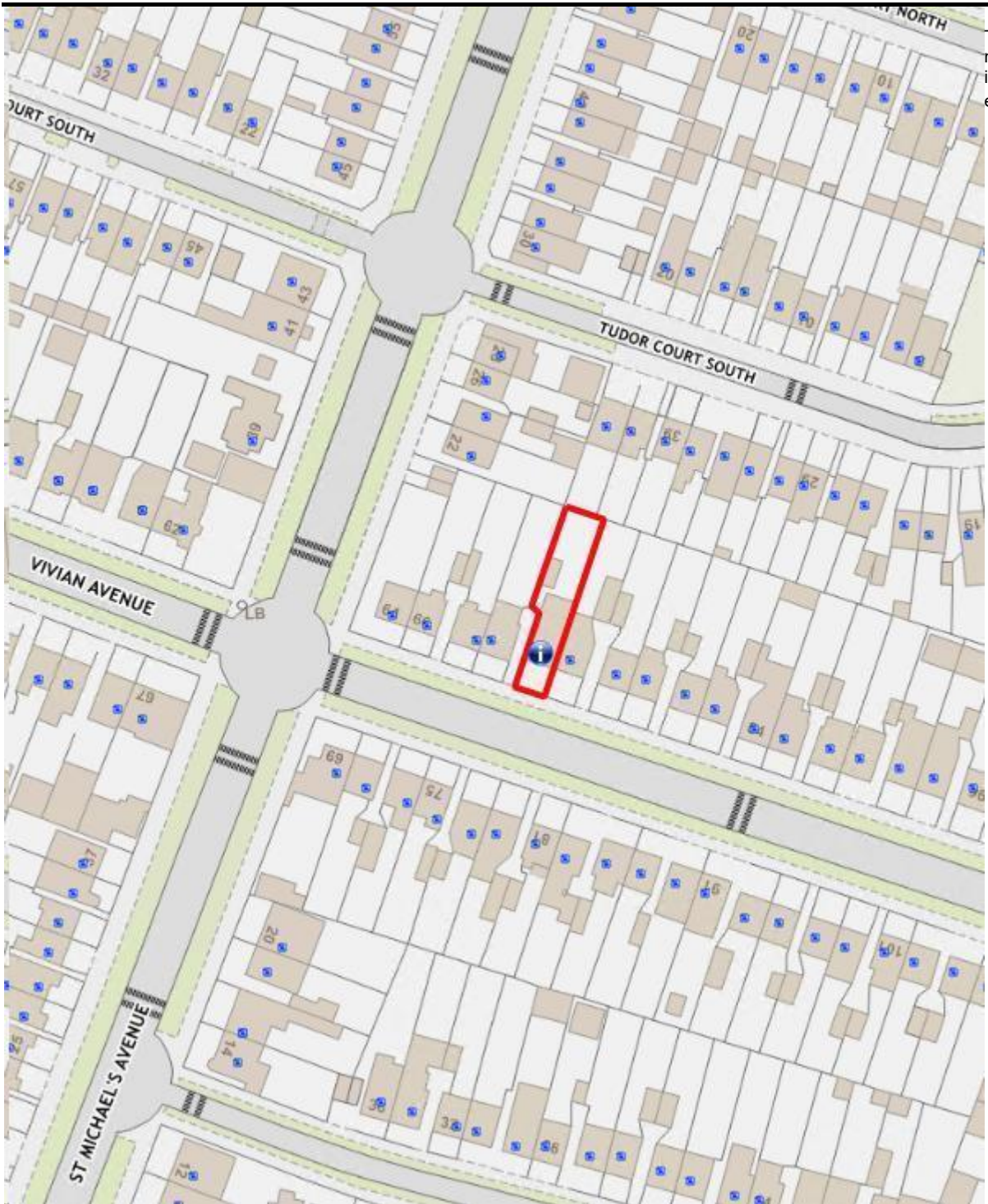
### Informative

Engagement with Brent Council's Adult Social Care Team, in relation in nominations for Brent residents

That the Head of Planning is delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

## SITE MAP

	<b>Planning Committee Map</b> Site address: 72 Vivian Avenue, Wembley, HA9 6RU © Crown copyright and database rights 2011 Ordnance Survey 100025260
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This map is indicative only.

## PROPOSAL IN DETAIL

The application seeks a change of use of the existing property which has recently been in use as a House in Multiple Occupation (HMO) (without the benefit of planning permission) to a C3(b) use for supported housing for up to five residents. No external alterations are proposed.

## EXISTING

The application site contains a two-storey semi-detached residential property, situated on the northern side of Vivian Avenue, Wembley. The property is not situated within a conservation area, nor is it a listed building. The rectangular plot is in a residential area and benefits from several extensions and alterations.

## SUMMARY OF KEY ISSUES

The key planning issues for Members to consider are set out below. Members will need to balance all of the planning issues and the objectives of relevant planning policies when making a decision on the application.

**Representations received:** Nine nearby properties along Tudor Court South, St Michaels Ave and Vivian Ave were notified by letter of this proposal on 28<sup>th</sup> March 2024. Four objections were received, including a petition with 73 signatures. The contents of these representations are summarised in detail below in the 'CONSULTATION' section below.

**Principle of the development:** The main considerations of relevance in regard to this application is the principle of the change of use. It is proposed to change the use of the building back to its lawful use, as a Dwellinghouse within Use Class C3. The submission specifies that it is intended to be used specifically for purposes within a sub-class of C3 which relates to up to six people living together as a single household and receiving care (C3(b)). However, it should be noted that changing the use of a property between the sub-classes within a Use Class is not development, and any of the Use Class C3 dwellinghouses in the surrounding area could be used for purposes within Use Class C3(a), (b) or (c) without the need to apply for planning permission. No external alterations are proposed as part of this application.

## RELEVANT SITE HISTORY

### Relevant Planning History

<b>App Type</b>	Full Planning	<b>Ref</b>	23/3863
<b>Decision</b>	Refused	<b>Date</b>	01/03/2024
<b>Description</b>	Proposed change of use from HMO (Use Class C4) to Secure Residential Institutional Care Home (Use Class C2a)		
<b>Reasons</b>	<ol style="list-style-type: none"><li>1. The proposed development would result in the loss of a larger family-sized residential unit, for which there is an identified need in the borough, in an area with poor public transport accessibility, resulting in higher levels of car dependency, contrary to policies DMP1, BH10 and BT1 of the Brent Local Plan (2019-2041).</li><li>2. The proposal by reason of insufficient evidence fails to demonstrate that it is an identified need in Brent. The development is therefore compromises the ability to meet housing need within the borough and is inconsistent with Policies DMP1 and BH7 of the Brent Local Plan (2019-2041).</li><li>3. By reason of the lack of a comprehensive management plan, it has not been demonstrated that there will be suitable management arrangements for the proposed use, contrary to BH7 of Brent's Local Plan (2019-2041).</li></ol>		

4. In the absence of submissions addressing fire safety, the proposed development would not demonstrably address the need for fire risk mitigation. The proposal is therefore unacceptable and contrary to the requirements of policy D12 of the London Plan (2021).

<b>App Type</b>	Householder	<b>Ref</b>	22/3443
<b>Decision</b>	Granted	<b>Date</b>	30/11/2022
<b>Description</b>	Retention of single-storey rear extension		

<b>App Type</b>	Enforcement Case	<b>Ref</b>	E/21/0712
<b>Decision</b>	Case Closed – No Action Taken	<b>Date</b>	-
<b>Description</b>	The alleged material change of use to a House in Multiple Occupation AND The alleged erection of a rear extension		

<b>App Type</b>	Certificate of Lawful Development	<b>Ref</b>	22/1356
<b>Decision</b>	Unlawful	<b>Date</b>	23/08/22
<b>Description</b>	Certificate of lawfulness for existing use as 5 room HMO and single-storey rear extension		

<b>App Type</b>	Certificate of Lawful Development	<b>Ref</b>	19/0393
<b>Decision</b>	Lawful	<b>Date</b>	27/03/19
<b>Description</b>	Certificate of lawfulness for proposed hip to gable loft conversion with rear dormer, 3 front rooflights and one side window to dwellinghouse		

<b>App Type</b>	Prior Approval – Larger Homes Extension	<b>Ref</b>	19/0399
<b>Decision</b>	Prior Approval Required + Approved	<b>Date</b>	18/03/19
<b>Description</b>	Prior approval for a single storey rear extension to dwellinghouse, in metres: Extending beyond the rear wall of the original house - 6m, Maximum height - 3.15m, Eaves height - 3m		

## CONSULTATIONS

Nine nearby properties along Tudor Court South, St Michaels Ave and Vivian Ave were notified by letter of this proposal on 28<sup>th</sup> March 2024. Four objections were received, including a petition with 73 signatures. The reasons for objection have been included in the table below.

Reasons For Objection	Officers Comments
The intended use of the property	This has been discussed in the 'Principle of Development' section of this report.
Security risk/safety concerns (anti-social behaviour)	The reasonable use of the property for purposes within Use Class C3 is not considered likely to result in an increase in crime.
Existing availability of nearby supporting housing	While any of the Use Class C3 properties in the area could be used for purposes within Use Class C3(a), (b) or (c) without planning permission, there is not a known overconcentration of supported housing in the locality.
Retention of the garage	This application does not relate to the existing garage in the rear garden. A condition is recommended for the garage to be used only for incidental purposes relating to the use of the C3 dwellinghouse.
Loss of the light	This application relates to the proposed change of use of the property. No physical works are proposed.

Inappropriate location for C2 use	It is proposed to change the use of the property to Use Class C3 rather than C2. This has been discussed in the 'Principle of Development' section of this report.
Impact on parking/traffic	See discussion below. The proposal is not considered to result in an increase in parking/traffic.
Access to the shared driveway	The proposal only involves the change of use of the property and does not affect access by any party. Any private rights of way would be a private legal matter which cannot be considered within this planning application.
Increase in noise	There is no reason to believe that the reasonable use of this property for purposes within Use Class C3(b) would result in significant levels of noise and disturbance.
Lack of detail relating to the proposed use	This has been discussed in the 'Principle of Development' section of this report.
Inaccuracies in the application form	This has been noted. The description of development has been updated to more accurately reflect the proposal.
The proposal would set a precedent	All planning applications are assessed on their own merits.
Loss of a family-sized unit	This has been discussed in the 'Principle of Development' section of this report.
Errors raised from the previous application	This has been noted.
Extended consultation	The consultation was carried out in line with statutory legislation and Brent's Statement of Community Involvement

## POLICY CONSIDERATIONS

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of this application should be in accordance with the development plan unless material considerations indicate otherwise.

The development plan is comprised of the London Plan (2021) and Brent Local Plan (2019-2041).

Key policies include:

### London Plan (2021)

D12a: Fire Safety

### Brent Local Plan (2019-2041)

DMP1 - Development Management General Policy

BH7 - Accommodation with Shared Facilities or Additional Support

### Other material considerations

The following are also relevant material considerations:

- National Planning Policy Framework
- National Planning Practice Guidance

## DETAILED CONSIDERATIONS

### Proposal in Detail

1. The application seeks a change of use of the existing property, which has recently been in use as an HMO (without the benefit of planning permission) to a C3(b) use for supported housing for up to five residents. No external alterations are proposed.

### Preamble

2. While the property was in use previously as a single-family dwellinghouse (Class C3) a Prior Approval application was made for a single-storey rear extension. Prior approval was required and subsequently approved. However, the works were not carried out in accordance with the plans. Subsequently the use of the property was changed to become a Use Class C4 small HMO .
3. The applicant advised that the property was changed from a C3 dwellinghouse to a C4 HMO prior to the introduction of the Article 4 direction (which removed the permitted development right for this change) and therefore they believed at the time that the conversion didn't require planning permission. However, the single-storey rear extension had not been completed in accordance with the plans approved under application reference 19/0399 and because of this, the property had lost its permitted development rights under Section 3(5) of the General Permitted Development Order 2015 which states:

*(5) The permission granted by Schedule 2 does not apply if –*

*(a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;*

*(b) in the case of permission granted in connection with an existing use, that use is unlawful.*

4. A planning enforcement case was opened in relation to the breaches in planning control, and the extension was subsequently granted planning permission under application reference 22/3443. However, the C4 use remained unlawful.
5. As a matter of law, as an Enforcement notice was not issued requiring a change back to Use Class C3, a change of use from the previous unlawful HMO (Class C4) use to the previous lawful use as a dwellinghouse (Class C3) use requires planning permission. If the Use Class C4 HMO use had been lawful then the change back to C3 would not require planning permission.
6. The application under consideration here is a result of this requirement.

### Principle of Development

7. The last lawful use of the property was as a C3 dwellinghouse. Indeed, the application form

submitted with this application states that the property is currently in use as a C3 dwelling under Class C3(a). However, at the time of visiting the property it was found to be unoccupied, though was generally fitted out and made ready for the proposed C3(b) use.

8. The proposal under consideration here is for the change of use of the premises to supported housing (Use Class C3(b)). Use Class C3(b) allows for up to six people living together as a single household and receiving care (e.g. supported housing schemes such as those for people with learning disabilities or mental health problems).
9. The proposed supported housing would be operated by Reliant Care Ltd. Details of the proposed supported housing have been included in a 'Housing Management Plan' which states that the property would be for vulnerable women from 18 years and above who require support for their mental health and other complex needs. The property would be staffed 24 hours a day by two support staff during daytime hours, and one waking staff member overnight. There would also be on-call management available, if required.

### **Change of Use**

10. It should be noted that a change from Class C3(a) to C3(b) or C3(c) does not in itself require planning permission. As all sub-classes (a, b and c) sit within the same Use Class as a C3 dwellinghouse, changes between the uses are not "development". Indeed, most of the homes in the area are likely to be within Use Class C3 and therefore could be used for purposes within Use Class C3(a), (b) or (c) without the need for planning permission and a change from a lawful Use Class C4 HMO to any use within C3 would not normally require permission. However, as discussed above, the last use of the premises appeared to be an unlawful C4 use. As such, a change of use is considered here.
11. While Policy BH7 (Accommodation with Shared Facilities or Support) of the Brent Local Plan would normally require proposals for non-self-contained residential accommodation with shared facilities or on-site support/care to meet a number of criteria, in this instance the proposed use would fall under the wider C3 use class as a dwellinghouse.
12. There is a significant shortfall of specialist supported residential accommodation for women with mental health issues in the Borough, and the proposed use would otherwise broadly comply with BH7. The proposed use would deliver accommodation of an acceptable quality, complete with a Management Plan, that meets a specific need and would not result in an over concentration of such a use in the area. While the PTAL rating of the area is low (between 1b and 2), there is a parade of shops within approximately 300m of the property, and Sherrans Farm Open Space is located approximately 350m away. The applicants supporting statement expresses a connection between their accommodation provision and a specific need being addressed (for example, first preference would be given to Brent Council for vacancies), which would reasonably reduce reliance on car use.
13. However, in this instance, as the previous lawful use of the premises was a C3 dwelling this is a material planning consideration, and reverting the use of the premises to a C3 use is acceptable, as it is for the original purpose that the property was built.

### **Design, Character and Impact on the Streetscene**

14. Policy DMP1 requires the scale, type and design of development to complement the locality. The proposal does not seek any material changes to the external appearance of the existing property. As such, the proposal would not be considered to have harm on the character or appearance of the application site or wider streetscene.



## **Impact on Residential Amenity**

15. It is always necessary for developments to take into account the residential amenity of neighbours and impact on the environment. Local Plan Policy DMP1 seeks to ensure new development does not unacceptably increase neighbours' exposure to noise, light and general disturbance. As stated above, the proposal would have limited direct impact on the living conditions of the neighbouring occupiers, as no material changes are sought to the external of the existing property. In terms of impact on neighbours, compared to an extended family that could be accommodated within the existing dwelling, movements are likely to be similar due to the small-scale nature of the proposal.

## **Fire Safety Considerations**

16. Policy D12A of the London Plan now requires all development proposals to achieve the highest standard of fire safety and requires submissions to demonstrate that they:
- 1) identify suitably positioned unobstructed outside space:
    - a) for fire appliances to be positioned on
    - b) appropriate for use as an evacuation assembly point
  - 2) are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures
  - 3) are constructed in an appropriate way to minimise the risk of fire spread
  - 4) provide suitable and convenient means of escape, and associated evacuation strategy for all building users
  - 5) develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in
  - 6) provide suitable access and equipment for fire-fighting which is appropriate for the size and use of the development.
17. This submission has been supported by a Fire Extinguisher Certificate, Fire Risk Assessment and Portable Appliance Test Certificate. Although the application has not been accompanied with specific the fire safety information set out within D12 of London Plan (2021), formal approval under the Building Regulations will be required, if the scheme goes ahead and therefore given the scale and location of the development, the absence of the fire statement does not render the scheme unacceptable.

## **Equalities**

18. In line with the Public Sector Equality Duty, the Council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

## **Conclusion**

19. As discussed above, as the previous lawful use of the premises was a C3 dwellinghouse, this is a material planning consideration, and reverting the use of the premises to a C3 use is acceptable, as it is for the original purpose that the property was built.
20. Planning permission is therefore recommended to be granted, subject to conditions.





**Brent**

**DECISION NOTICE – APPROVAL**

Application No: 24/0773

To: Buckmaster Batcup Architects Ltd  
70 Walter Road  
Swansea  
SA1 4QA

I refer to your application dated **22/03/2024** proposing the following:

Proposed change of use from house in multiple occupation (HMO) to supported housing for 5 residents (amended description)

and accompanied by plans or documents listed here:  
Refer to condition 2.

at **72 Vivian Avenue, Wembley, HA9 6RU**

The Council of the London Borough of Brent, the Local Planning Authority, hereby **GRANT** permission for the reasons and subject to the conditions set out on the attached Schedule B.

Date: 02/07/2024

Signature:

**David Glover**  
Head of Planning and Development Services

**Notes**

1. Your attention is drawn to Schedule A of this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
2. This decision does not purport to convey any approval or consent which may be required under the Building Regulations or under any enactment other than the Town and Country Planning Act 1990.

DnStdG

**SUMMARY OF REASONS FOR APPROVAL**

- 1 The proposed development is in general accordance with policies contained in the:-

National Planning Policy Framework (2023)  
The London Plan (2021)  
Brent Local Plan (2019-2041)

- 1 The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

945.P.01 - Site Location Plan  
945.P.02 - Existing Plans  
945.P.03 - Existing Elevations  
945.P.04 - Proposed Plans  
945.P.05 - Proposed Elevations  
945.P.06 – Proposed Fire Strategy

Supporting Documents

Housing Management Plan

Supporting Statement [BBA.945], prepared by Buckmaster Batcup Architects, dated 21<sup>st</sup> March 2024.

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

- 3 The existing outbuilding, labelled on the plans as 'store room', shall be used for purposes incidental to the use of the existing dwelling, as a C3(b) use and shall not be used for commercial storage relating to other premises nor for self-contained residential accommodation. It shall not contain a kitchen, toilet or shower room.

Reason: In the interests of the amenities of neighbouring occupiers.

**INFORMATIVES**

- 1 The applicant is encouraged to continue engagement with Brent Council's Adult Social Care Team, to agree a cascade mechanism that prioritises Brent Council referrals, in the first instance, before going wider to meet wider London needs.

Any person wishing to inspect the above papers should contact Jasmin Tailor, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5341

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