



Resources and Public Realm Scrutiny Committee

Thursday 3 April 2025 at 6.00 pm

Boardrooms 3, 4 and 5 - 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 the meeting can be followed via the live webcast. The link to follow proceedings via the live webcast is available [HERE](#)

Membership:

Members

Councillors:

Conneely (Chair)
Kennelly (Vice-Chair)
Ahmadi-Moghaddam
S Butt
Dixon
Long
Lorber
Maurice
Mitchell
Molloy
Shah

Substitute Members

Councillors:

Aden, Afzal, Ethapemi, Chohan, Fraser, Mahmood, Rajan-Seelan, Ketan Sheth and T.Smith

Councillors:

Kansagra and J.Patel

Councillors:

Clinton and Matin

For further information contact: Rebecca Reid, Governance Officer
Tel: 020 8937 2469 Email: rebecca.reid@brent.gov.uk

For electronic copies of minutes and agendas please visit:
[Council meetings and decision making | Brent Council](#)

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 **Page**

1 Apologies for absence and clarification of alternate 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 item on this agenda and to specify the item(s) to which they relate.

3 Call-In: Barham Park Trust Committee Decision - Operational Property matters and restricted covenants at 776-778 Harrow Road 1 - 122


To consider a call-in in respect of the following decision taken by Barham Park Trust Committee on Monday 24 February 2025:

- (a) Operational Property Matters relating to Barham Park and 778 Harrow Road Restrictive Covenant(s) Update

4 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 23 April 2025

 Please remember to set your mobile phone to silent 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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 Brent	Resources and Public Realm Scrutiny Committee 3 April 2025
	Report from the Director of Law
Call-in: Barham Park Trust Committee decision on Operational Property matters and Restrictive Covenant 776- 778 Harrow Road	
Wards Affected:	Wembley Central
Key or Non-Key Decision:	Not applicable
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt: Appendices 1 & 5 within the report to the Barham Park Trust Committee (24 February 25) are not for publication as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information).
List of Appendices:	Four: Appendix 1: Call-In Form Appendix 2: Report to Barham Park Trust Committee (24 February 25) – Operational Property Matters & 776-778 Harrow Road Restrictive Covenant(s) update Appendix 2a: Appendix 1 (exempt) Barham Park Trust Committee report (24 February 25): Designated Advisers Report Appendix 2b: Appendix 2 Barham Park Trust Committee report (24 February 25): 776-778 Transfer Documents Appendix 2c: Appendix 3 Barham Park Trust Committee report (24 February 25): (24 February 25) – Planning Committee report Appendix 2d: Appendix 4 Barham Park Trust Committee report (24 February 25): Planning decision notice Appendix 2e: Appendix 5 (exempt) Barham Park Trust Committee report (24 February 25): Heads of Terms.

	Appendix 3: Call-In Protocol
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	James Kinsella, Governance & Scrutiny Manager Tel: 020 8937 2063 Email: james.kinsella@brent.gov.uk

1.0 Executive Summary

1.1 This report presents details on a call-in which has been received, under Standing Order 14, relating to decisions made at the Barham Park Trust Committee (which has been established as a Cabinet Committee) on 24 February 2025 on the following item:

- (a) Operational Property Matters & 776-778 Harrow Road Restrictive Covenant(s) update

1.2 The call-in has been accepted as valid and now therefore needs to be considered by the relevant Scrutiny Committee (in this case Resources & Public Realm) with this report providing details on the decisions which have been called-in for review, reasons and alternative action being sought as a result and procedure for dealing with the call-in.

2.0 Recommendation(s)

2.1 That the Committee considers the call-in and agrees to one of the following outcomes:

2.1.1 The Committee does not wish to refer the matters back to the decision maker or to the Barham Park Trust Committee, at which point the decision is deemed to be confirmed and takes effect immediately following the call-in meeting; or

2.1.2 The Committee decides to ask the Barham Park Trust Committee to reconsider the decisions made, in light of any observations of the Committee; or

2.1.3 Having had regard to the advice of the Director of Law or Corporate Director of Finance & Resources, the Committee considers the decision is contrary to the Council's Budget or Policy Framework, at which point it refers the matter to the next practicable meeting of the Council, subject to the provisions of Standing Orders.

3.0 Detail

Contribution to Borough Plan Priorities & Strategic Context

3.1 The land (which includes various buildings) known as Barham Park was given by George Titus Barham on trust to the Council in 1938. The terms of the trust

are “to preserve the same for the recreation of the public in such manner and subject to such regulations in all respects as the Council may from time to time think proper”. The Trust was registered with the Charity Commission in June 1963 and is regulated by that body. The Council as sole trustee conducts the various governance and management arrangements on behalf of the Trust through the Barham Park Trust Committee, which has been established as a Committee of the Council’s Cabinet.

Background

3.2 At their last meeting on 24 February 2025, the Barham Park Trust Committee considered a report providing updates in relation to various operational property matters relating to Barham Park as well as the restrictive covenants on 776-778 Harrow Road.

3.3 The decisions taken by the Trust Committee were as follows:

RESOLVED *having acknowledged the written representation received from a local resident prior to the Trust Committee meeting and noted the exempt information contained within the appendices of the report to:*

- (1) *Approve the modification of the restrictive covenants at 776 and 778 Harrow Road, as detailed in paragraphs 3.8-3.11 of the report and delegate authority to the Director of Property and Assets to execute a deed with Zenaster Properties Ltd for the agreed sum of £200,000, subject to (2) below.*
- (2) *Approve seeking Charity Commission consideration of the Qualified Surveyor’s Report (included as an exempt appendix to the report) and authorisation under Section 105 of the Charities Act to modify or discharge the covenants.*
- (3) *Approve an increase in the allocated funding for Year 1 works from £268,950 plus professional fees to £352,221 to account for VAT and seek Charity Commission approval to utilise restricted funds.*
- (4) *Authorise the Director of Property and Assets to negotiate and finalise the lease re-gear for Unit 6 with ACAVA.*

3.4 The above decisions have subsequently been called-in by five members of the Council (comprised of members from two different political groups), with details of the call-in attached as Appendix 1 to this report.

3.5 The report and supporting appendices on which the called-in decision was based have been attached as Appendix 2 this report.

3.6 The procedure for dealing with the call-in and the conduct of the Scrutiny Committee meeting is attached at Appendix 3 of this report.

4.0 Stakeholder and ward member consultation and engagement

4.1 None specifically applicable to this report.

5.0 Financial Considerations

5.1 There are no direct financial considerations arising from this covering report. The financial considerations relating to the called-in decisions have been detailed within the report to the Barham Park Trust Committee (attached as Appendix 2) which formed the basis of the original decisions made.

6.0 Legal Considerations

6.1 There are no direct legal considerations arising from this covering report. The procedure for dealing with the call-in and options available to the Resources & Public Realm Scrutiny Committee have been set out in Appendix 3 of the report with the legal considerations relating to the called-in decisions having been detailed in the report to the Barham Park Trust Committee (attached as Appendix 2 and 3 of this report) which formed the basis of the original decision made.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 There are no direct Equity, Diversity & Inclusion considerations arising from this covering report.

8.0 Climate Change and Environmental Considerations

8.1 There are no direct climate change and environmental considerations arising from this covering report.

9.0 Communication Considerations

9.1 There are no direct communication considerations arising from this covering report.

Report sign off:

Marsha Henry
Director of Law

CALL-IN FORM

For the Attention of: Deputy Director Democratic Services

From: Councillor Lorber

Date: 2 March 2025

Decision(s): Item 5: Operational Property Matters and 776 and 778 Harrow Road Restrictive Covenant(s) Update

Date of decision: Barham Park Trust Committee (24 February 25)

Five non-cabinet members making request, which must include representatives from more than one political group (Note: all five members do not have to be listed on or sign the same form):

	Name of councillor	Signature <i>(only required if submitted in hard copy)</i>
1	Councillor Paul Lorber	
2	Councillor Hannah Martin	
3	Councillor Charlie Clinton	
4	Councillor Sunita Hirani	
5	Councillor Michael Maurice	

Please provide below an explanation as to why you are calling in the decision and if you are calling in all or part of the decision:

(Note: according to the Protocol On Call-in (Part 5 of the Constitution), call-in requests will not be considered valid if they:

- *are used as a means of gaining information/understanding or discussing general concerns with Members and officers,*
- *duplicate a call-in on the same issue within the previous six months,*
- *are based on reasons already discussed by the relevant Scrutiny Committee prior to the decision being made,*
- *concern a decision of the Cabinet referring a matter to Full Council for consideration.*
- *concern operational management decisions, or*
- *are otherwise considered by the Chief Executive to be frivolous, vexatious or clearly outside the call-in provisions.)*

The reasons for the call-in relating to the decisions taken by the Trust Committee on 24 February 2025 are as follows:

(a) Lack of apparent consideration of any of the Charity Commission’s (with contribution from LGA) guidance to a Local Authority as charity trustee.

1. If they were considered, there is no evidence. The section of the Report - “*Legal Implications*” – simply refers to the objects of the charitable trust and contains an assertion that the valuation (of the modification of the covenants) is “*consistent with Charity Commission guidance.*” We cannot tell, as the Valuation is exempted from disclosure. No reference is made to considering the interests of the beneficiaries, or if there is a necessity to consult with them, a discretion as to whether to do so, before agreeing to dispose, or a need to give public notice before disposal. These considerations are set out in various guidance documents below. They all contain references to considering the interests of the charity’s beneficiaries. These are the residents of Wembley, for whose recreation Titus Barham left Barham Park for their recreation.
2. To evidence the real and known public concern of beneficiaries, we are aware that planning consent 22/4128 (and the immediately previous application which was withdrawn) attracted substantial local opposition - numerous objections from local residents, petitions, representations from 2 local Residents’ associations and the local Neighbourhood Forum, from both Sudbury Councillors and the Brent North MP (resident near the park) in the case of the withdrawn application. Both Sudbury Councillors (including the current Cabinet Member for Regeneration) spoke at the June 2023 Planning Committee, requesting rejection of the application. One of the members for Wembley Hill who had a clashing meeting sent in written objections. We can represent local feeling, i.e., the position of the beneficiaries of the Trust who have not been consulted, and were relying on the covenant to protect the Park from development when the planning consent 22/4128 was granted.
3. The Report does not mention the Charity Commission’s guidance on the sale of Charity land at <https://www.gov.uk/government/publications/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land-cc28/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land>

It should in the legal implications, as it sets out duties and considerations. From this, we conclude that the transaction is a disposal of land. “*What we mean by ‘land’ and ‘disposal’.* ‘*Land*’ means any:… ;rights over land such as easements or restrictive covenants “ The benefit of the restrictive covenant forms part of the Trust’s land, clearly “designated land” by its purposes. (The Report mentions this status but at no point sets out its view of the legal status, which it should so that it can show the Trust Committee has considered the need to consult (if applicable) before agreeing to dispose and/or give public notice before actual disposal.

The Trustees have always to make sure that a disposal is in the charity’s best interests. These are not only financial interests, and, in fact, if financial issues only are considered, a Local Authority appointed trustee (thinking about financial contributions the Local Authority might have to make for the upkeep of the charity land) has to be very careful to avoid conflicts of interest. Similarly,

because the Local Authority is also the planning authority which will make decisions on development of land. The Trustees have to be careful not to treat the Trust's land as the Local Authority's. Because of many recent instances the Charity Commission is dealing with on these very points, a guide has been written by the Charity Commission for England and Wales with the contribution of the Local Government Association, and published in August 2024.

<https://www.gov.uk/government/publications/local-authorities-as-charity-trustees/d41c2473-904d-4bbfb8d3-652591facf21#if-the-local-authority-has-appointed-you-as-trustee>.

From this guide, under the heading "***If the local authority has appointed you as trustee***":

"Local authorities can have the right (under the terms of a governing document) to appoint trustees. Your local authority may have appointed you – a councillor – to be a trustee of a charity. If so:

- you, rather than the local authority, are responsible for the administration of the charity, along with your fellow trustees*
- you and your fellow trustees are personally liable for the decisions you make*
- you must act in the interests of the charity, not those of the local authority*
- you do not 'represent' the council on the trustee board"*

This is the governance model adopted for the Barham Trust. The section makes it clear that the individual Trustees are personally legally liable for decisions they make. Having regard to that personal legal liability, it is even more important that the issues we highlight here are the subject of specialist legal advice to the Committee.

4. Case Study 1 is instructive: *"Highton District Council (which is also the planning authority) is trustee of a recreation ground and children's play area located in one of its wards, which is held on charitable trust. The council has been paying out of its corporate funds the maintenance and upkeep of the land. A decision to close the play area and sell part of the land will provide the charity with the funds it needs to maintain the recreation ground. **This means the council can stop subsidising the charity from public funds.** The council must manage the conflict of interest that exists:*

- because it stands to benefit from the disposal – disposing of the land will enable it to stop subsidising the charity***
- because it is the planning authority which will make decisions on how the land can be developed***

If it cannot manage the conflict of interest, the local authority will need authority from the Charity Commission if it wanted to go ahead with the disposal."

Here, the Council as Local Planning Authority **has** already granted the Planning consent, at a time when previous decisions of the Trust at AGMs pre-dating that consent, and the previous withdrawn application, have instructed

officers to open negotiations with Zenastar. The Trust did not comment on the planning applications, despite being invited to do so by beneficiaries concerned at the major development in a corner of the park which would change its character. Even without hindsight, and the benefit of the new guidance, it could now be perceived as a patent conflict of interest between the statutory planning functions, the end of subsidy to Trust funds and the considerations of the Trust. It has been mentioned at the AGM that the Council has to contribute financially to the Trust. These examples of conflict of interest should immediately be referred to the Charity Commission under this latest guidance, before any decision is taken.

5. Trustees have to observe the 7 decision making principles:

<https://www.gov.uk/government/publications/its-your-decision-charity-trustees-and-decisionmaking/decision-making-for-charity-trustees>

Phrases from those 7 principles include :*” making sure you share all details relevant to the decision”;**” the type and amount of information you will be expected to consider can depend upon: the impact and risks of the decision, including on your charity’s resources, beneficiaries, property or reputation; the cost or value involved; its complexity; whether the decision may be controversial” and “intentionally benefiting someone in a way that is not in your charity’s best interests.”;* *“You should usually consult stakeholders about important decisions, especially when the outcome will significantly affect them. This might include, for example, your charity’s beneficiaries. Make sure that the people you consult know that the trustees will make the final decision. Conducted well, consultation can: help you understand different views; help you assess the impact of the proposed decision; show that you are open and transparent. Sometimes you are required to consult about your decision, for example, for some land disposals.”*

6. Further the Trustees have to consider the “public benefit“ aspect; there is separate guidance on that aspect at <https://www.gov.uk/guidance/public-benefit-rules-for-charities>

See Section 2 *“Be satisfied that the disposal is in your charity’s best interests”:* *“you have a duty to your charity as trustees to ensure that you use reasonable care and skill when disposing of land. Disposing of land may help you to: raise money; But you should also think about how: disposing the land may affect your beneficiaries or affect public support for your charity”*

7. As to the requirements of the Valuation Report in regulation 4 of *“The Charities (Dispositions of Land: Designated Advisers and Reports) Regulations 2023”* <https://www.legislation.gov.uk/uksi/2023/467/regulation/4/made> there is no evidence that the Trust was advised *“whether & , if so, how the relevant land should be marketed”*, considering that there is a “market of one”, with the owner already in place, and the special value attributable to his ownership as connected to the twice yearly fun fair and the avoidance of claims for nuisance.

*“4.—(1) A report prepared for the purposes of section 119(1) of the 2011 Act **must** deal with the following matters— (a)the value of the relevant land; (b)any steps which could be taken to enhance that value; (c)whether and, if so, how*

the relevant land should be marketed; (d) anything else which could be done to ensure that the terms on which the disposition is made are the best that can reasonably be obtained for the charity; and (e) any other matters which the adviser believes should be drawn to the attention of the charity trustees.”

8. The above will indicate the complexity of issues that the Trust Committee, members of which are personally liable for the decisions, need to consider. We note that none of these aspects are even mentioned in the report, despite the fact that the Trust’s beneficiaries have attempted to take active part in opposing the decision. The Trust may eventually be at liberty still to take the decision it took but its thinking against all the above principles, and dealing with the conflict of interest issues, and its advice should be clear, and recorded in the public domain.

(b) The terms of the Substitute Restrictive Covenant are not certain and do not comply with Planning Consent 22/4214

As to the detail of Decision (1) " Approve the modification of the restrictive covenants at 776 and 778 Harrow Road, as detailed in paragraphs 3.8-3.11 of the report and delegate authority to the Director of Property and Assets to execute a deed with Zenaster Properties Ltd for the agreed sum of £200,000, subject to (2) below. " (2) is the approval of the submission of the Valuation Report (which is in a confidential Appendix to the Report).)

The terms of the modification of the current restrictive covenants are imprecise. Major sections are in contravention of conditions of planning consent 22/4128; their terms are stated to be amendable (with no limiting parameters) by officers with no reference back to the Trust Committee, and no apparent appreciation of the fact that the valuation of consideration to be received by the Trust was (or should have been) based on what the **actual** modification terms are specifically:

- a) We have no means of knowing that the sum of £200,000 represents a correct value for the “modification” of the current restrictive covenants. We do not in fact know what the modification is. The “detail” of the changes was not set out to the Trust Committee. Further, the Valuation report is excluded from the public’s (and non-Trust Committee Councillor members’) view. We do not know what the precise amendment of the restrictive covenants was that formed the **basis** of the Valuer’s opinion of value. However, if the Valuer had precise wording, this should have been set out in the open part of the Report, **and paragraphs 3.9-3.11 are not then accurate**. If the precise wording of the proposed modification of the 2011 restrictive covenants was **not** precisely agreed, and set out in the Valuer’s instructions, then the Valuation cannot be robust as an assessment of value of the change.
- b) To illustrate specifically the lack of detail comprised in paragraphs 3.8 – 3.11:
- the Report sets out, at paragraph 3.8, the exact terms of the very detailed restrictive covenants currently binding 776 and 778 Harrow Road (“776/778”) imposed under two 2011 Transfer Deeds. Both of these Transfers are appended to the Report. The tight terms of these restrictive covenants are likely to have suppressed the value obtained by the Trust, and even potentially

reduced the market for the 776/778 to a “market of one” - Mr George Irvin who wrote to a Councillor that he “*bought the land to protect the park from overdevelopment, as [he] was under the impression that [the cottages] were going to be replaced with high rise flats and would then end up affecting the annual two funfairs in the park*”. It is notable that, at the time of the sale, the Trust did **not** obtain a Designated Valuer’s valuation in the Charity Commission compliant form and transfer, and the Trust did not seek, still less obtain, any consent from the Charity Commission for the sale of part of the Trust’s permanent endowment, as it should have done. (This was discovered by the Charity Commission some years later, and the Trust directed to ringfence what was left of the proceeds of sale as “restricted funds”, part of the permanent endowment.) There was never, therefore, a Charities Act compliant valuation at the time of the 2011 sale at £620,000. 776/778 was transferred to its current owner, Zenastar Properties in 2016 at a declared value increased by £180,000.

- Paragraphs 3.9 -3.11, by contrast to the detailed 2011 covenants set out in paragraph 3.8 , do **not** set out the exact wording of the new restrictive covenants. The summaries purport to reflect the terms of planning consent 22/4128 but they permit in clear terms the overriding of conditions 3 and 28 in the planning consent - namely the prohibition of extensions or buildings in the curtilage, and the prohibition of any car parking in the development, Condition 28 referring to measures to prevent vehicle parking, and ensuring the car-free status for the lifetime of the development. Paragraph 3.9 refers to a Deed “*to be prepared in accordance with the planning committee report dated 12 June 2023 and decision notice dated 13 June 2023 will amend these covenants to permit the development of four houses.*” Neither the planning report nor the planning consent were drafted to form the basis of any modification of restrictive covenants (the final informative stresses the separate nature of planning and restrictive covenant)> A reference to permitting the development of 4 houses is very wide.
- Paragraph 3.10 then states that the revised version of the restrictive covenant is set out below. However, triggering our concern that the modifications are not fully articulated, and cannot therefore have formed the basis of the Valuation, paragraph 3.10 states that the covenants “*may be subject to further refinement*” presumably by officers. There is no indication how they may be refined by officers in the future, certainly not the subject of approval by the Trust Committee and without any regard for the Valuation and its precise basis, whatever that is.
- Within Paragraph 3.10, under the heading “**Construction of Buildings & Structures**”, the restriction on building in the curtilage is lifted to allow “*garages and outbuildings*”, despite the clear terms of the planning consent conditions above. Under “**Vehicle and Storage Restrictions**”, there should be **no** removal of the current complete “*restriction on standing or supporting vehicles, commercial vehicle trailers, mobile homes, caravans, trailers, carts, or boats on the Property is modified to permit reasonable residential use, including the parking of vehicles by residents and visitors in designated parking areas as approved under planning permission 22/4124*” Again, to do so would completely override Conditions 3 and 28 of 22/4128. This cannot be agreed. “Designated parking areas” were not agreed and were specifically

prohibited. Under the heading "**Permitted Development**", the restriction on carrying out development should not be removed but only modified in so far as necessary to permit the development under 22/4128. Under the heading "**Accessway and Parking Restrictions**", again "*restriction on parking and obstruction of the accessway hatched yellow and hatched green or any part of the Retained Land is modified to allow **vehicular and pedestrian** access as required for the lawful residential use of the Property, ensuring that any access arrangements comply with planning permission 22/4128 and any subsequent highway or planning authority requirements*" > This comprehensive lifting of restrictions on the accessway, over which only defined easements are granted by the 2011 Transfers is completely unacceptable . The access road is not part of 776/778, it is in the park and therefore part of the Trust's assets. First, it again contradicts the clear vehicle free specified status of the development under 22/4128. It purports to authorise the residents of the development to park on land over which it is only granted rights, and to "**obstruct**" a jointly used accessway. Confusingly, this section of the Report then refers to ensuring "access arrangements" comply with the planning consent, which may be an attempt to recognise this problem. However, we believe that this section of 3.10 must be completely deleted. If there can be no vehicular access, the section has no effect but its presence opens up vehicular use on the easement land. As it is also subject to change "*if highway or planning requires*", it is not certain and therefore no basis for a robust Valuation.

- Finally, on the terms of the modification of restrictive covenants, on which the Valuation is based, paragraph 3.11 introduces even more uncertainty:" *The precise wording of the changes may be further refined or amended during the legal conveyancing process*". If that is the case, how may the valuation be affected, and how will the changes be authorised? Since they go to the heart of value, Trustees cannot derogate their trustee responsibility and delegate to "*the legal conveyancing process*". This seems to mean delegated to an officer but the Trust Committee cannot delegate to an officer; changes have to be instructed, and advice must be sought.

(c) No information given to Trustees of costs incurred and/or estimated to be incurred to give a likely net figure of receipt for modification

There is no clarification of any costs of the Valuation or other costs (including legal) of the disposal which would be deducted from the Trust's receivable figure of £200,000. The Trust Committee is not provided with any details of the net figure the Trust will receive, in order to assess the financial benefits of the transaction (which are a part of the assessment of the benefits to the Trust and the public benefit test).

(d) The Plan embedded in the report is incorrect

The plan embedded in the Report is incorrect. The Supplemental Report to Planning Committee on June 12 2023 set out a dispute with the applicant about the extent of the land comprised in 776/778. It recorded a substitute plan with blue edging (but the same numbering 1463 100-Rev E) to reflect the correct extent of 776/778's boundaries, and a reduced width and length of the accessway from that shown on the application "proposed site plan" over which the easement of access was granted by the 2011 Transfers. (The Report refers

to its resolution, by reference to agreed surveyor's aerial plan signed by George Irvin on behalf of Zenastar Properties on 28 August 2024 (paragraph 3.14)). As the wrong version of plan 1463 100-Rev E (with no blue edging) is in the Report, there is an implication that a wider access is being granted. This would be an extension to the right of way over the Trust land, and would be a disposal of designated land, needing a further valuation, and considerations of consent, consultation and public notice referred to in the guidance documents referred to in Section A above. This needs to be corrected.

(e) Decision (3) Approval of increase in allocated Funding for Year 1 Work to account for VAT

There have always been substantial works to the building and the issue of VAT has not previously arisen. The report mentions that tree-works ("non-business works") do not attract VAT.

There is no exploration in the Report of the possibility of electing the buildings for VAT. It is possible for charities to do so. We acknowledge that the issue of VAT on buildings is a complex issue. Advice should at least be sought on this possibility, and advantages and disadvantages explored, if possible. (e.g., VAT could be recoverable; rents will become liable for VAT, adding to tenants' burdens.) However, the Trust could then weigh these, rather than agreeing a yet further draining of Trust's diminishing resources.

(f) Re gear of ACAVA Lease

ACAVA appear to be in arrears; there is no provision in their Lease for a partial break clause, so it has no right to request a partial surrender. There is no obligation on the Trust to agree a partial surrender of the ACAVA demise just because ACAVA no longer has a need for the unit. The Trust should not agree this unless and until the arrears are fully cleared, a market assessment of the value of Unit 6 is obtained, confirmation that there will be no reduction in rental income if a back-to-back letting to a new tenant of Unit 6 can be secured. The Trust should only accept a surrender back-to-back with such a new letting. It cannot be in the best interests of the Trust to allow a reduction in income by any criterion of Trustees' considerations of the best interest of the Trust.

(g) Unit 8 and Council's proposal to end its occupation

Although this matter was only for noting by the Trustees, we wish to record our concern that no objection was taken to the apparent proposal by the Council to vacate on 3 months' notice or that the Trust might have agreed a surrender, especially as the Council proposes to leave Young Brent Foundation (YBF) in occupation, and we have just ascertained that YBF is hiring out space to other charities. The Trust should not simply agree this. It will be a reduction in income; it has not previously been flagged as a possibility in any AGM; if the Council vacates, it will trigger a payment by way of clawback under the Sure Start grant scheme which will be payable by the Council which is of concern to us as Councillors. (recently, the sum was quantified at £93,000, although it decreases as the 25-year grant period expires). As mentioned, there was no indication at the September 2024 meeting that the Council proposed to vacate. The Trust should not in any event permit this if full vacant possession is not

granted. We wish to record our disappointment that, after approximately 4 years of the Trustees being told at AGMs that YBF were taking a sublease, they remain in informal occupation of a trust asset, permitted by the Council. Since the arrangement was never regularised, we are further disappointed that the Council did not receive rent to mitigate its own rental payments for Unit 8 at £11,300 per annum.


Please provide below an outline alternative course of action to the decision being called in:

In view of the issues highlighted above, the decisions made by the Trust Committee on the Operational Property Matters and 776 and 778 Harrow Road Restrictive Covenant(s) be referred back for reconsideration with the following action being sought as a result:

- (1) The Trust should refer to the Charity Commission as to the conflicts of interest which have already arisen as a result of the grant of consent 22/4128, the stopping of any Council subsidy to the Trust from the sale price and the current decision without regard to such factors, in light of the August 2024 Guidance issued by the Charity Commission and report to Barham Trust.
- (2) Dependent on the result of that referral, if the transaction is to proceed, the Trust should obtain specialist legal advice on (a) whether the release (in whole or in part) of the 2011 restrictive covenants is a disposal of designated land; and (b) whether consultation should be undertaken with the Trust's beneficiaries and anyone else who may be affected by the disposal prior to making a decision; (c) whether public notice has to be given before disposal and, as appropriate, consult and/or give public notice before disposal; and , if either (b) and/or (c) is a matter of discretion , that such discretion should be exercised to ensure that the beneficiaries are given full opportunity to contribute their views.
- (3) The Trust should reconsider the proposed modification of restrictive covenants based on the Charity Commission's advice as to the best interests of the Trust (extending, as they do, beyond financial interests), and having regard to the recently updated guidance of August 2024 to local authorities as to conflicts of interest (e.g. considering the Council's standing to benefit by the Council being able to stop subsidising the Trust from public funds, its role as planning authority in granting consent 22/4128, including having regard to policy such as housing provision). The Trust Committee should be advised on all the aspects of the decision-making process for Local Authority charity trustees and the decision remitted until (as appropriate) issues of conflict have been resolved, any consultation and/or notice requirements ascertained, carried out and weighed up as against the net financial benefit, and the final form of the restrictions are agreed and the revised Valuation obtained
- (4) Subject to the outcome of the matters set out in (1), (2) and (3) above, the Trust should procure the drafting of the precise wording of the new restrictive covenants and how they will substitute the existing covenants, and new instructions on the basis of the revised wording should be given to the Valuer to provide a fresh valuation. The terms of both should be in the public domain.

- (5) The Trust should ascertain the costs of dealing with the substitution of the restrictive covenants and costs of all the other advice obtained and to be obtained and should make the information available to the Trustees as they take any new decision.
- (6) The Trust should clarify whether the development in accordance with 22/4128 requires a wider accessway, and, if so, consult and/or give public notice before disposal as appropriate.
- (7) The Trust should obtain advice as to whether it can elect the buildings for VAT, and the Trustees should then consider the advantages and disadvantages if the Trust is legally able to opt to tax.
- (8) The Trust should defer re-gearing ACAVA's lease pending a marketing exercise for Unit 6, the possibility of a back-to-back letting to a third party of Unit 6 at no loss of income to the Trust and completion of such a back-to-back letting.
- (9) The Trust should ascertain the precise position as to occupations within Unit 8 before agreeing to accept as valid a S 27 Landlord & Tenant Act 1954 notice or agreeing a surrender from the Council and, if early termination is not agreed, the Trust should procure the regularisation of the occupation by YBF by sublease as instructed in previous AGMs

Please return this form to a representative of the Deputy Director Democratic Services, by email (from your individual email address) james.kinsella@brent.gov.uk at or in hard copy (with signatures) and in person to the Governance Team on the fourth floor of Brent Civic Centre.

	<p align="center">Barham Park Trust Committee Meeting 24 February 2025</p>
	<p align="center">Report from Director Property & Assets</p>
<p>Operational Property Matters and 776 and 778 Harrow Road, Restrictive Covenant(s) Update.</p>	
Wards Affected:	Wembley Central
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1 Schedule 12A of 1972 Local Government Act)</small>	Part Exempt: Appendices 1 and 5 are not for publication as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)".
No. of Appendices	<p>Five</p> <p>Appendix 1: (exempt) Designated Adviser's Report</p> <p>Appendix 2: 776 and 778 Transfer Documents</p> <p>Appendix 3: Planning Committee Report</p> <p>Appendix 4: Planning Decision Notice</p> <p>Appendix 5: (exempt) Heads of Terms</p>
Background papers:	None
Contact Officer(s):	<p>Denish Patel, Head of Property 020 8937 2529 Denish.Patel@brent.gov.uk</p> <p>Tanveer Ghani, Director of Property and Assets 020 8937 1722 Tanveer.ghani@brent.gov.uk</p>

1.0 Executive Summary

- 1.1 The Barham Park Trust (Trust) currently benefits from restrictive covenants in the 776 and 778 Harrow Road sale and transfer documents. These covenants limit development to two residential dwellings on the combined plots, as set out when the properties were sold in 2011. In June 2023, Zenaster Properties Ltd

(Zenaster) obtained planning permission (reference: 22/4128) to demolish the existing dwellings and construct four new three-story houses. Zenaster is now seeking to modify these covenants to enable the proposed development.

- 1.2 The purpose of this report is to secure approval and/or provide information to:
- Modify the restrictive covenants in exchange for an agreed sum of £200,000, thereby generating significant income for the Trust to support ongoing maintenance of the Barham Park Estate.
 - Increase the allocation of funds for Year 1 repair works to account for VAT.
 - Inform the Trust Committee of the ongoing review of removing Unit 6 from ACAVA's demise (re-gear), as it is surplus to their requirements.
 - Provide an update on the operational and strategic initiatives approved by the Trust Committee in September 2024.
 - Provide an update on the status of Unit 8 and the Council's intention to surrender its lease by the end of March 2025, which will allow the Trust to re-market the unit on the open market, ensuring the best possible terms.
- 1.3 The proposed modification of restrictive covenants, the increased funding allocation for urgent repairs, and the lease re-gear with ACAVA collectively support the Trust's operational and strategic objectives. These measures will generate essential income and help ensure the long-term stability of the Barham Park Estate. Officers recommend that the Trust Committee approve the resolutions outlined below.

2.0 **Recommendations:**

The Barham Park Trust Committee RESOLVES to

- 2.1 Approve the modification of the restrictive covenants at 776 and 778 Harrow Road, as detailed in paragraphs 3.8-3.11 and delegate authority to the Director of Property and Assets to execute a deed with Zenaster Properties Ltd for the agreed sum of £200,000, subject to 2.2 below.
- 2.2 If required, approve seeking Charity Commission consideration of the Qualified Surveyor's Report (Appendix 1) and authorisation under Section 105 of the Charities Act to modify or discharge the covenants.
- 2.3 Approve an increase in the allocated funding for Year 1 works from £268,950 plus professional fees to £352,221 to account for VAT and seek Charity Commission approval to utilise restricted funds.
- 2.4 Authorise the Director of Property and Assets to negotiate and finalise the lease re-gear for Unit 6 with ACAVA.

3.0 **Detail**

776 and 778 Restrictive Covenant modifications

- 3.1 The restrictive covenants were imposed in August 2011 to preserve the area's character and limit development. Zenaster's planning permission, secured in June 2023, envisages the construction of four houses—an objective hindered by the current covenants.
- 3.2 An independent Designated Adviser's Report (Appendix 1) was obtained for the Trust in accordance with Charity Commission guidelines. The report confirms that modifying the restrictive covenants, in light of the enhanced development potential, results in a measurable uplift in the land's value. The agreed sum of £200,000, negotiated with Zenaster, represents the assessed market value of the modification and will be allocated to the Trust's restricted funds in line with Charity Commission guidance on disposals. This includes transactions involving rights over land, such as easements and restrictive covenants. The Designated Adviser has revised the valuation since its presentation to the Trust Committee on 5 September 2023. It includes an up-to-date development appraisal with revised assumptions, ensuring all relevant costs, including the required Community Infrastructure Levy (CIL) contribution (a significant cost), are appropriately accounted for.
- 3.3 The transaction satisfies the key principles outlined in the Charity Commission's guidance on land disposals, specifically:
- The Trust is the legal beneficiary (owner) of the restrictive covenants, giving it the right to negotiate their modification or discharge.
 - The disposal is in the Trust's best interests, as it generates funds to support its charitable objectives.
 - The Trust's landholding has not been reduced, as the 776 and 778 Harrow Road properties were previously sold and are no longer in the Trust's ownership.
 - The Trust has the legal power to dispose of property interests, including restrictive covenants.

Compliance with the Charities Act 2011

- 3.4 The two key legal requirements under the Charities Act for land disposal have also been met:
- **Independent advice:** A report has been obtained from a qualified Designated Adviser acting solely in the interests of the Trust.
 - **Best terms achieved:** The proposed transaction represents the best financial terms reasonably obtainable by the Trust.

Requirement for Charity Commission Approval

- 3.5 Under the Charities Act 2011, charities do not typically require prior Charity Commission approval for land disposals where the two legal requirements above are satisfied. However, approval may be required in specific circumstances, including:
- Disposals to a "connected person" (as defined in the Charities Act).
 - Disposals involving designated land in most cases.

- 3.6 As neither of these conditions appears to apply in this case, Charity Commission approval may not be required. However, further due diligence will confirm whether approval should be sought.
- 3.7 The land affected by the restrictive covenants has already been removed from the Trust's estate; modifying or discharging the covenants does not impact land ownership, reduce the estate's physical footprint, or diminish the land available for public use.
- 3.8 To facilitate the development of four houses, the following covenants (as detailed in Appendix 2) require amendment or discharge:

Existing Covenants (extract from single plot):

- Not to use the Property otherwise than as a single private dwelling house and the garage for any purpose other than as an ancillary private garage.
- Not to divide the Property into two or more dwellings or residential units.
- Not to erect or cause to be erected on the Property any building or structure whatsoever except a greenhouse or shed of not greater length than 4 meters and of not greater height than 3 meters or permit or suffer any person under the Transferor's control to do so.
- Not to stand or support any vehicle, commercial vehicle trailer, mobile home, caravan, trailer, cart or boat on any part of the Property.
- Not to carry out any development within the meaning of Section 55 of the Town and Country Planning Act 1990 in or upon the Property.
- Not to park any motor vehicle on or otherwise obstruct any part of the accessway hatched yellow and hatched green or any part of the Retained Land at any time.

Proposed Modification (combined plots)

- 3.9 The deed (to be prepared in accordance with the planning committee report dated 12 June 2023 and decision notice dated 13 June 2023—see Appendices 3 and 4) will amend these covenants to permit the development of four houses.
- 3.10 A revised version of the restrictive covenants that would enable the proposed redevelopment in accordance with the granted planning permission is set out below and may be subject to further refinement.

Permitted Use:

- The Property may be used for residential purposes, permitting the construction and occupation of up to four residential dwellings, together with any ancillary buildings, structures, and facilities required for their use

in accordance with the planning permission granted under reference 22/4128.

Subdivision of the Property:

- The restriction on dividing the Property into multiple dwellings is removed, allowing for the development of up to four separate residential units, as approved under planning permission 22/4128.

Construction of Buildings and Structures:

- The restriction on erecting buildings or structures is modified to permit the construction of four residential dwellings and any associated infrastructure, including garages, outbuildings, and landscaping, in accordance with planning permission 22/4128.

Vehicle and Storage Restrictions:

- The restriction on standing or supporting vehicles, commercial vehicle trailers, mobile homes, caravans, trailers, carts, or boats on the Property is modified to permit reasonable residential use, including the parking of vehicles by residents and visitors in designated parking areas as approved under planning permission 22/4128.

Permitted Development:

- The restriction on carrying out development within the meaning of Section 55 of the Town and Country Planning Act 1990 is removed to allow the construction and occupation of four residential dwellings in accordance with planning permission 22/4128.

Accessway and Parking Restrictions:

- The restriction on parking and obstruction of the accessway hatched yellow and hatched green or any part of the Retained Land is modified to allow vehicular and pedestrian access as required for the lawful residential use of the Property, ensuring that any access arrangements comply with planning permission 22/4128 and any subsequent highway or planning authority requirements.

3.11 These modifications preserve reasonable protections while enabling the approved redevelopment. The precise wording of the changes may be further refined or amended during the legal conveyancing process.

Timeline

3.12 The overall timeline for these steps is expected to span several months. Suppose the Trust Committee approves the restrictive covenants' modification and/or discharge. In that case, completion may be subject to obtaining Charity Commission approval, if required, and the conclusion of legal formalities by the

parties. This includes Zenaster applying to the Land Registry to register the Deed and effect the necessary changes.

- 3.13 The modification or discharge of the restrictive covenants is subject to the satisfactory reinstatement of the boundary in respect of 776 and 778 Harrow Road and return of the Barham Park Trust land to open space as agreed by way of surveyor's aerial plan signed by George Irvin on behalf of Zenaster on 28th August 2024.

Year 1 Works – Funding Allocation Increase

- 3.14 The initial repair works approved in the September 2024 Trust Committee Operational Property Matters report were estimated at £268,950 plus 10% professional fees.
- 3.15 OCR Surveying Ltd has prepared a tender with a revised estimate of £352,221 (£266,834 for works plus £26,683 professional fees plus £58,703 VAT). To cover the additional VAT cost, officers request an increase in the funding allocation—either from restricted funds (subject to Charity Commission approval) or unrestricted funds. The anticipated income from the restrictive covenant modification would ultimately replenish the restricted funds for future works.
- 3.16 As at March 2024, the Trust held cash reserves of £638,206. Out of this total sum of £638,206, the sum of £285,054 relates to unrestricted funds and the sum of £353,152 relates to restricted funds. The Trust Committee to note that a bank account with NatWest is in the process of being set up for the Trust.

ACAVA Lease Re-gear

- 3.17 ACAVA currently occupies Unit 6, which has remained largely vacant and unused for an extended period and is no longer required. In response to ACAVA's request, officers propose a lease re-gear (mid-lease amendment) to remove Unit 6 from ACAVA's demise, subject to negotiating a pro-rata rent adjustment. This will enable the Trust to market and re-let the unit on the best possible terms, aligning with its charitable objectives.

Operational Update

3.18 Lease Renewals and Negotiations:

- **Units 1 and 2:** Negotiations with tenants such as Tamu Samaj UK and the Veterans' Club are ongoing. It is anticipated that heads of terms for the lease renewals will be completed by March 2025. Officers may utilise Section 25 notices to formalise the lease renewal process and apply for interim rent if lease renewals cannot be completed by negotiation by the end of March.
- **Unit 7:** Discussions with the Friends of Barham Library are advancing to reactivate unit 7, which has remained vacant for several years.

Unit 8 Proposal:

- 3.19 The Council currently occupies Unit 8 under an expired lease arrangement, with the Young Brent Foundation (YBF) providing Children's Centre services from the unit. The Council has notified officers of its intention to vacate Unit 8 by the end of March 2025. Consequently, the unit will be marketed for re-letting following a voluntary surrender by the Council, or by the Council serving 3 months' notice as required. This transition is expected to regularise future occupancy while aligning with the Trust's operational and strategic objectives. Acting under delegated authority, the Director of Property and Assets will oversee the transition, ensuring the correct procedures for surrender and vacant possession are followed. Given this transition, YBF will need to consider its future occupancy arrangements. In the interim, YBF may have the opportunity to enter into a short-term agreement with the Trust, subject to terms being agreed upon, or it may need to vacate the premises while the marketing and reletting process is completed.

Arrears Update:

- 3.20 The current arrears for occupying tenants total approximately £34k. A repayment plan, in place since December 2024, anticipates clearing most of the outstanding arrears by the end of March 2025. Virgin Media has notified the Trust that it has vacated the site, and its arrears are being actively pursued.

Rent Reviews:

- 3.21 Rent reviews have been completed, resulting in an annual income increase of £15,671. All future rent reviews will be conducted on time, ensuring rental income remains aligned with lease terms and maximised in the Trust's best interests.

Health, Safety, and Compliance:

- 3.22 Energy Performance Certificates (EPCs) have been updated, with all units achieving C-D ratings. Asbestos surveys have been completed, identifying only low-risk classifications. Officers are developing and implementing an asbestos management plan to ensure ongoing safety, including clear labelling of identified areas and a schedule for regular inspections. Long-term accessibility improvements are planned as part of broader redevelopment efforts; however, access to the upper floor will remain limited due to the absence of a lift. Certification and compliance for electrical, gas and legionella are being monitored and updated. From April 2025, a planned preventative maintenance (PPM) schedule will be implemented, part-funded by service charges.

Parks and Estate Management:

Drainage Challenges and Remedial Works

- 3.23 The events field continues to experience drainage issues, and the results of vertical drainage trials are pending. Once available, officers will review the findings and determine the most effective course of action to improve site conditions.

Tree Maintenance and Funding Allocation

- 3.24 Following the Barham Park Tree Survey (2024)—conducted after the winter storm—essential tree maintenance is required in high-traffic areas of the park. Previous and ongoing works have been funded through restricted funds already approved by the Charity Commission.
- 3.25 Following a competitive procurement process, two quotes were received from the four suppliers approached, with the lowest quote for the required tree works being £18,055. To ensure the timely completion of these essential safety and maintenance works, the Trust Committee is asked to note using unrestricted funds to cover the cost. This is necessary as the Year 1 works will exhaust the current restricted funds, and there will be a delay before funds are replenished following the transaction relating to 776 and 778 Harrow Road.

Consultation and Charitable Purpose Expansion:

- 3.26 Formal and informal consultations are scheduled to inform future estate redevelopment proposals and a comprehensive business case for expanding the estate's permissible uses (to be submitted to the Charity Commission).

Strategic Update

Consultation:

- **Phase 1 (Informal):** Officers have distributed a questionnaire to tenants to gather feedback on management issues and assess usage. To facilitate further engagement, individual meetings are scheduled for February/March 2025, during which tenants can complete the questionnaire and discuss their responses with officers.
- **Phase 2 (Formal):** Following phase 1, a formal consultation on the bronze redevelopment option is planned for July/August 2025 to help shape the redevelopment business case.

Charitable Purpose Expansion:

A comprehensive business case will be developed to expand the Estate's permissible uses, including commercial activities. After the consultation exercise, the proposal will be submitted to the Charity Commission to support advancing the Trust's strategic objectives.

Approach to Strategic Property Management

- 3.27 Officers will review the Council's Property Strategy to assist the Trust Committee in considering its approach to property management. While the Council's strategy may provide a useful reference, it will be for the Trust

Committee to independently assess whether, and to what extent, any elements of that strategy align with the Trust's charitable objectives and legal obligations. Any approach adopted must be in the charity's best interests, ensuring that property lettings secure the best terms reasonably obtainable and support the Trust's financial sustainability in furtherance of its charitable purposes. Following this review, officers will bring forward recommendations for consideration at a future Trust Committee meeting.

4.0 Financial Implications

- 4.1 The Trustees of Barham Park Trust have a fiduciary duty to ensure the Trust's long-term financial stability. When acting as Trustees, they must prioritise the Trust's financial interests over those of the Council.
- 4.2 The background papers referenced at the start of this report detail the Trust's challenging financial position. While the funds for modifying or discharging the restrictive covenants will help address some of these challenges, they are insufficient to secure the Trust's long-term financial security.
- 4.3 Through the amendment of the restrictive covenants enabling the redevelopment of 776 and 778 Harrow Road, a one-off capital receipt of £200k could be made to support future works.
- 4.4 The Trust is limited in its ability to recover VAT. It can only recover VAT on its non-business activities, and not on its business activities.
- 4.5 Operating the park for the public's benefit is a non-business activity, so the Trust can recover VAT paid for tree maintenance.
- 4.6 The Trust charges to rent out the building, which is a business activity. Therefore, the Trust cannot recover VAT on building maintenance. The Trust needs to budget for the entire work cost on its building, including VAT.
- 4.7 The Trust could only recover VAT on building maintenance with a major reconfiguration of its operations using the building, and it is not clear that the benefits would outweigh the disadvantages.

5.0 Legal Implications

- 5.1 The land (which includes various buildings) known as Barham Park was given by George Titus Barham on trust to the Council in 1938. The terms of the Trust are 'to preserve the same for the recreation of the public in such manner and subject to such regulations in all respects as the Council may occasionally think proper'. It was registered with the Charity Commission in June 1963 and is regulated by that body.
- 5.2 The independent valuation appended to the report is consistent with Charity Commission guidance.

6.0 Equity Diversity and Inclusion Considerations

6.1 Any proposals that come forward in due course must be assessed in compliance with the Trust's equality duties. The recommendations in this report have been carefully reviewed and are confirmed to have no adverse impacts on equality, diversity and inclusion.

7.0 Consultation with Ward Members and Stakeholders

7.1 Officers meet regularly with Trust Committee Members and Ward Members.

8.0 Human Resources/Property Implications (if appropriate)

8.1 These have been highlighted in the main body of the report.

Related document(s) for reference:

Report to Trust Committee on Operational Property Matters Relating to Barham Park, 660 Harrow Road, Wembley HA0 2HB – 10 September 2024

Report to Trust Committee on Strategic Property Matters Relating to Barham Park, 660 Harrow Road, Wembley HA0 2HB - 5 September 2023.

Report sign off:

Tanveer Ghani

Director of Property and Assets

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Land Registry
Transfer of part of registered title(s)

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

Give full name(s).

Complete as appropriate where the transferor is a company.



Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

1	Title number(s) out of which the property is transferred: . MX81314
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	<p>Property: 776 Harrow Road, Wembley, HA0 2HE</p> <p>The property is identified</p> <p><input checked="" type="checkbox"/> on the attached plan and shown edged and stippled red and as to part edged red stippled red cross hatched blue and hatched blue</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p>
4	Date: 12th August 2011
5	<p>Transferor: THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>
6	<p>Transferee for entry in the register: GEORGE/IRVIN CHRISTOPHER.</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation:</p> <p>(b) Registered number in the United Kingdom including any prefix:</p>

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted

7 Transferee's intended address(es) for service for entry in the register:

**Victoria House
Main Street
Hanworth
Middlesex
EW136SU**

8 The transferor transfers the property to the transferee

9 Consideration

The transferor has received from the transferee for the property the following sum (in words and figures):
THREE HUNDRED AND TEN THOUSAND POUNDS (£310,000)

The transfer is not for money or anything that has a monetary value

Insert other receipt as appropriate:

10 The transferor transfers with

full title guarantee

limited title guarantee

The Transferor transfers with full title guarantee subject to the following modifications:

10.1 The words "at his own cost" in the Law of Property (Miscellaneous Provisions) Act 1994 ("1994 Act") Section 2(1)(b) are replaced by "at the Transferee's cost"

10.2 For Section 6(2)(a) of the 1994 Act there are deemed to be within the actual knowledge of the Transferee all entries in any public register

11 Declaration of trust. The transferee is more than one person and

they are to hold the property on trust for themselves as joint tenants

they are to hold the property on trust for themselves as tenants in common in equal shares

they are to hold the property on trust:

12 Additional provisions

The land transferred is held by the Transferor in trust for the Barham Park charity a non-exempt charity, and this transfer is not one falling within paragraph (a), (aa), (b) or (c) of section 36(9) of the Charities Act 1993, so that the restrictions on disposition imposed by section 36 of that Act apply to the land'

The Transferor being the London Borough of Brent as sole trustee certifies that it has power under the trusts of the charity

or reserved or by restrictive covenants should be defined by reference to a plan.

to effect this disposition and that it has complied with the provisions of the said section 36 of the Charities Act 1993 so far as applicable to this disposition

This Transfer is made by the Transferor pursuant to Section 123 Local Government Act 1972 where applicable

12.1 Definitions

In this Transfer:

1. 'the Plan' means the plan annexed to this Transfer
2. "the Property" means that part of the land and premises comprised in Title number MX 81314 shown edged and stippled red and edged and stippled red crosshatched blue and hatched blue on the Plan known as 776 Harrow Road
3. 'the Retained Land' means the land and buildings comprised in tile number MX 81314 retained by the Transferor or has been sold by the Transferor
4. 778 Harrow Road means that part of the Retained Land shown edged orange on the Plan
5. masculine shall include the feminine and the neuter and words importing the singular shall be construed as importing the plural and vice versa
6. words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
7. where any party comprises more than one person the obligations and liabilities of that party under this transfer shall be joint and several obligations and liabilities of those persons
8. the panel and clause headings do not form part of this transfer and shall not be taken into account in its construction or interpretation
9. In the absence of an indication to the contrary any reference to a statute or any section thereof includes any amendments modifications consolidation or re-enactment thereof and any statutory instrument or regulation made thereunder for the time being in force

12.2

Rights granted for the benefit of the Property

12.2.1

The Property is transferred together with the following rights but conditional upon the observance and performance of the covenants contained in clause 12.5.1 and 12.5.2 :

12.2.1.1 to pass and repass at all times and for all purposes on foot for access to and egress from the Property shown edged and stippled red and hatched blue on the Plan to the public highway and to the separate garage shown edged and stippled red cross hatched blue on the Plan forming part of the Property over the pathway shown hatched brown on the Plan in common with the Transferor and the owners and occupiers of 778 Harrow Road

12.2.1.2 to pass and repass at all times and for all purposes

12.2.1.2.1 with or without vehicles for access and egress from the public highway over the roadway shown hatched yellow in common with the Transferor and the owners and occupiers of 778 Harrow Road

12.2.1.2.2 with or without vehicles for access and egress from the public highway and by foot to and from the Property to the separate garage forming part of the Property and shown edged and stippled red and cross hatched blue on the Plan over the roadway shown hatched green on the Plan in common with the Transferor and the owners and occupiers of 778 Harrow Road

12.3

Rights reserved for the benefit of the Retained Land

There are reserved out of the Property for the benefit of each part of the Retained Land the right for the Transferor to pass at all times and for all purposes on foot for access and egress from the public highway over the pathway shown hatched blue on the Plan for the purpose of maintaining the Retained Land

12.4

Restrictive covenants by the Transferee

12.4.1

The Transferee covenants with the Transferor pursuant to Section 16 Greater London Council (General Powers) Act 1974 and Section 33 Local Government (Miscellaneous Provisions Act) 1982 to observe and perform the restrictions contained in clause 12.4.2 ('the Restrictions') and it is agreed and declared that:

12.4.1.1

the benefit of this covenant is to be attached to and enure for each and every part of the Retained Land that remains unsold by the Transferor or has been sold by the Transferor (or by any person claiming through the Transferor otherwise than by a transfer on sale) with the benefit of this covenant

12.4.1.2

the burden of this covenant is intended to bind and binds each and every part of the Property into whosoever hands it may come

12.4.1.3

an obligation in the Restrictions not to do any act or thing includes an obligation not to permit or suffer that act or thing to be done by another person

12.4.2

The Restrictions are the following:

12.4.2.1 not to use the Property otherwise than as a single private dwelling house and the garage for any purpose other

than as an ancillary private garage

12.4.2.2 not to divide the Property into two or more dwellings or residential units

12.4.2.3 not to erect or cause to be erected on the Property any building or structure whatsoever except a greenhouse or shed of not greater length than 4 metres and of not greater height than 3 metres, or permit or suffer any person under the Transferee's control to do so

12.4.2.4 not to stand or support any vehicle, commercial vehicle trailer, mobile home, caravan, trailer, cart or boat on any part of the Property, and

12.4.2.5 not to carry out any development within the meaning of Section 55 of the Town and Country Planning Act 1990 in or upon the Property

12.4.2.6 not to park any motor vehicle even for the purposes of loading or unloading on or otherwise obstruct any part of the roadway hatched yellow or hatched green or any part of the Retained Land at any time

12.5

Positive covenants by the Transferee

The Transferee covenants on behalf of itself and its successors in title with the Transferor and its successors in title to the Retained Land for the benefit of the Retained Land and each and every part of the Retained Land and with the Transferor pursuant to Section 16 Greater London Council (General Powers) Act 1974 and Section 33 Local Government (Miscellaneous Provisions Act) 1982:

12.5.1

to contribute and pay within 14 days of demand

(a) fifty percent (50 %) of the reasonable and proper cost of maintaining repairing and (where necessary) renewing the accessways hatched yellow and hatched green and pathway hatched brown

(b) a fair and due proportion of the reasonable and proper cost of maintaining repairing and (where necessary) renewing sewers drains pipes cables party walls and all other structures apparatus or installations which service the Property in common with any neighbouring or adjoining property

12.5.2

to maintain repair and renew at all times hereafter to the satisfaction of Transferor

12.5.2.1

a good and sufficient fence hedge or wall on any of the boundaries of the Property marked with "T" (if any) within the boundaries of the said plan.

12.5.2.2

the pathway hatched blue on the Plan to a reasonable standard

12.5.3

not to transfer the Property or grant a lease of the Property or the Transferee's freehold estate in the Property or any other estate or interest in it to any person without first ensuring that the person has executed a deed directly with Transferor and its successors in title to the Retained Land for the benefit of each and every part of the Retained Land containing the covenants and provisions of clause 12.5. mutatis mutandis including this present covenant 12.5.3.

12.5.4

for the purpose of affording to the Transferor a full and sufficient indemnity but not further or otherwise hereby covenants with the Transferor that the Transferee shall at all times hereafter observe and perform any covenants and stipulations set out in the Charges Register of the title above mentioned or affecting the Transferor's freehold title so far as the same relate to the property and are still subsisting and capable of taking effect and that the Transferee shall indemnify and keep indemnified the Transferor from and against all actions claims and demands in respect of any future non-observance or non-performance thereof.

12.6

Agreements and declarations

It is agreed and declared that nothing in the Transfer is intended to confer on any person any right to enforce any term of the Transfer which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

12.7

Land Register entries

The Transferee shall within seven days of completion of the registration of the transfer supply the Transferor with an official copy of the register of title and title plan relating to the Property.

Include words of covenant.

Include words of covenant.

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

Other

The Transferee hereby applies to the Registrar to enter the following restriction against the Property

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by a conveyancer that the deed referred to in clause 12.5.3 of the Transfer dated 12 August 2011 made between The Mayor and Burgesses of the London Borough of Brent (1) and George Irvin (2) has been prepared executed and delivered to the registered proprietors of the Retained Land"

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

13 Execution

EXECUTED as a DEED)
by the affixing of **THE**)
COMMON SEAL of THE)
MAYOR AND BURGESSES)
OF THE LONDON BOROUGH)
OF BRENT in the presence)
of :-)



[Handwritten signature]

.....
Solicitor

SIGNED as a DEED by the said
GEORGE IRVIN
in the presence of:-

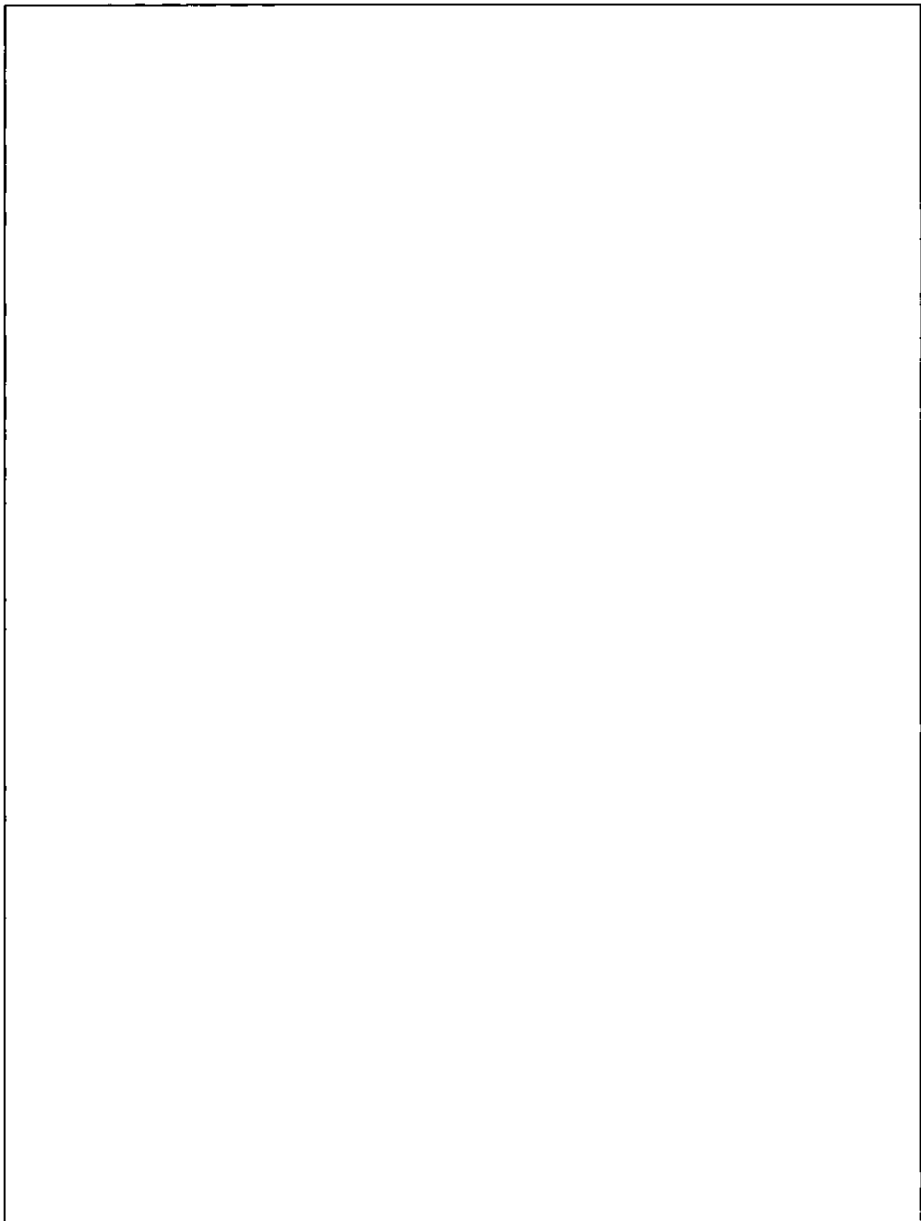
[Handwritten signature]
GEORGE IRVIN
26-7-11

Name of Witness: *NSMITH*
Signature: *[Handwritten signature]*
Address: *35 Waltham St*
Occupation: *Consultant*

14th
Essex
IG5 8QQ

COLOUR





WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.






Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

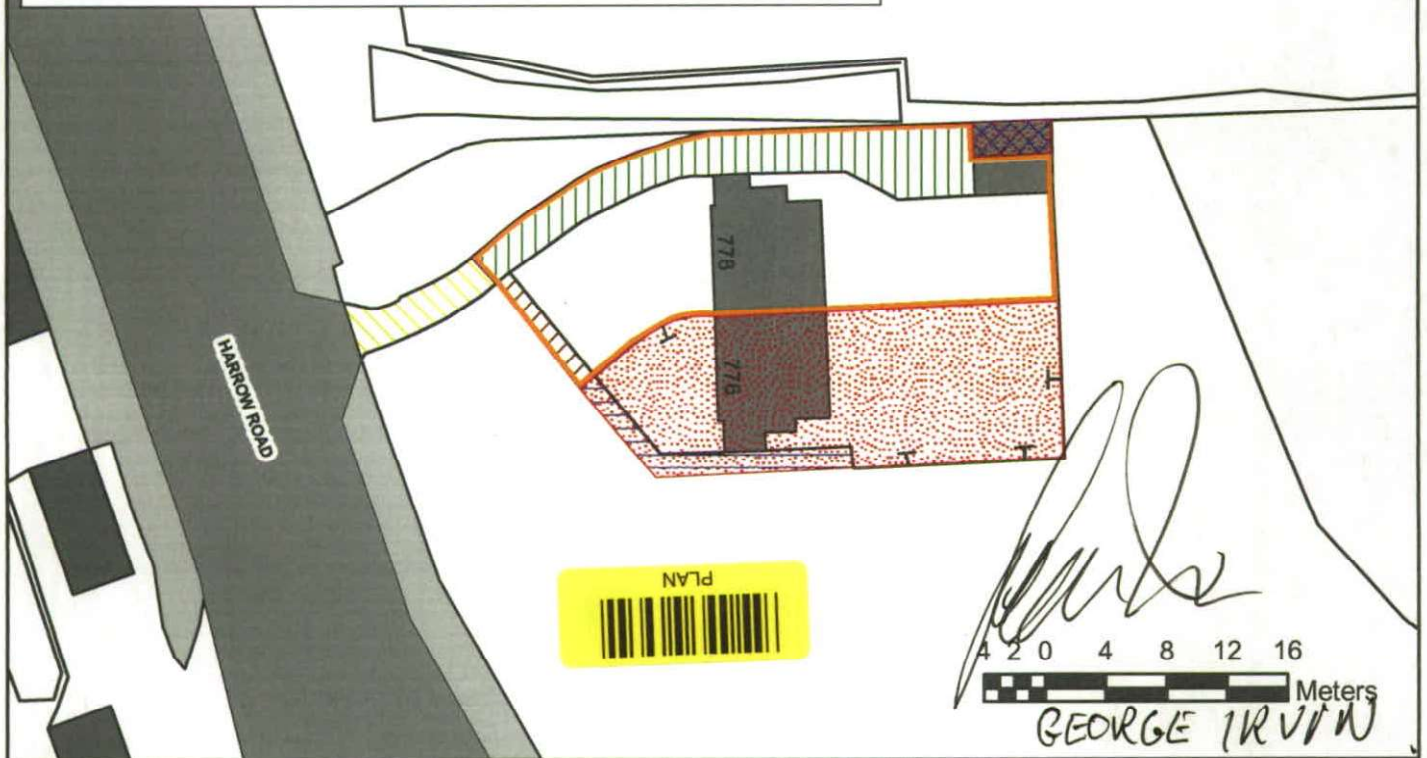
© Crown copyright (ref: LR/HO) 07/09

776 Harrow Road, Wembley, HA0 2HE. Premises shown edged and stippled red.



Legend

-  Right to access garage, 776 Harrow Road
-  Pedestrian access only, 776 Harrow Road and the Vendor
-  Right to pass and repass, 776 Harrow Road and the Vendor
-  Right to pass and repass, 776 and 778 Harrow Road
-  Pedestrian access only, The Vendor



1:500

Plan to stated scale if printed at A4.

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NORTH



Land Registry

Transfer of part of registered title(s)

We hereby certify this to be a true copy of the original

25/8/11

SZ

TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

Give full name(s).

Complete as appropriate where the transferor is a company.

SE0229



Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

1	Title number(s) out of which the property is transferred: MX81314
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	Property: 778 Harrow Road, Wembley, HA0 2HE The property is identified <input checked="" type="checkbox"/> on the attached plan and shown edged and stippled red and in part edged and stippled red hatched green or brown <input type="checkbox"/> on the title plan(s) of the above titles and shown:
4	Date: <u>12th August 2011</u>
5	Transferor: THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	Transferee for entry in the register: GEORGE IRVIN <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:



Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

7	<p>Transferee's intended address(es) for service for entry in the register: Victoria House Main Street Hanworth Middlesex TW13 6SU</p>
8	<p>The transferor transfers the property to the transferee</p>
9	<p>Consideration</p> <p><input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): THREE HUNDRED AND TENTHOUASND POUNDS (£310,000)</p> <p><input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input type="checkbox"/> Insert other receipt as appropriate:</p>
10	<p>The transferor transfers with</p> <p><input checked="" type="checkbox"/> full title guarantee</p> <p><input type="checkbox"/> limited title guarantee</p> <p>The Transferor transfers with full title guarantee subject to the following modifications:</p> <p>10.1 The words "at his own cost" in the Law of Property (Miscellaneous Provisions) Act 1994 ("1994 Act") Section 2(1)(b) are replaced by "at the Transferee's cost"</p> <p>10.2 For Section 6(2)(a) of the 1994 Act there are deemed to be within the actual knowledge of the Transferee all entries in any public register</p>
11	<p>Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p><input type="checkbox"/> they are to hold the property on trust:</p>
12	<p>Additional provisions</p> <p>The land transferred is held by the Transferor in trust for the Barham Park charity a non-exempt charity, and this transfer is not one falling within paragraph (a), (aa), (b) or (c) of section 36(9) of the Charities Act 1993, so that the restrictions on disposition imposed by section 36 of that Act apply to the land'</p> <p>The Transferor being the London Borough of Brent as sole trustee certifies that it has power under the trusts of the charity to effect this disposition and that it has complied with the provisions of the said section 36 of the Charities Act 1993 so far as applicable to this disposition</p>

This Transfer is made by the Transferor pursuant to Section 123 Local Government Act 1972 where applicable

12.1 Definitions

In this Transfer:

- 1 'the Plan' means the plan annexed to this Transfer
- 2 "the Property" means that part of the land and premises comprised in Title number MX 81314 shown edged and stippled red and in part hatched green or brown on the Plan known as 778 Harrow Road
- 3 'the Retained Land' means the land and buildings comprised in title number MX 81314 that remains unsold by the Transferor or has been sold by the Transferor
- 4 776 Harrow Road means that part of the Retained Land shown edged orange and edged orange crosshatched blue on the Plan
- 5 masculine shall include the feminine and the neuter and words importing the singular shall be construed as importing the plural and vice versa
- 6 words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 7 where any party comprises more than one person the obligations and liabilities of that party under this transfer shall be joint and several obligations and liabilities of those persons
- 8 the panel and clause headings do not form part of this transfer and shall not be taken into account in its construction or interpretation
- 9 In the absence of an indication to the contrary any reference to a statute or any section thereof includes any amendments modifications consolidation or re-enactment thereof and any statutory instrument or regulation made thereunder for the time being in force

12.2

Rights granted for the benefit of the Property

12.2.1

The Property is transferred together with the following rights but conditional upon the observance and performance of the covenants contained in clause 12.5.1 and 12.5.2 to pass and repass at all times and for all purposes with or without vehicles for access and egress from the public highway over the accessway shown hatched yellow in common with the Transferor and the owners and occupiers of 776 Harrow Road

12.3

Rights reserved for the benefit of the Retained Land

12.3.1

There are reserved out of the Property for the benefit of each part of the Retained Land the right for the Transferor and the owners and occupiers of 776 Harrow Road to pass and repass at all times and for all purposes :

12.3.1.1 on foot for access and egress from the public highway over the pathway shown hatched brown stippled red on the Plan to the Retained Land inclusive of 776 Harrow Road

12.3.1.2 with or without vehicles for access and egress from the public highway and by foot to and from 776 Harrow Road to the separate garage shown edged orange and crosshatched blue on the Plan over the accessway shown stippled red hatched green on the Plan

12.4

Restrictive covenants by the Transferee

12.4.1

The Transferee covenants with the Transferor pursuant to Section 16 Greater London Council (General Powers) Act 1974 and Section 33 Local Government (Miscellaneous Provisions Act) 1982 to observe and perform the restrictions contained in clause 12.4.2 ('the Restrictions') and it is agreed and declared that:

12.4.1.1

the benefit of this covenant is to be attached to and enure for each and every part of the Retained Land that remains unsold by the Transferor or has been sold by the Transferor (or by any person claiming through the Transferor otherwise than by a transfer on sale) with the express benefit of this covenant

12.4.1.2

the burden of this covenant is intended to bind and binds each and every part of the Property into whosoever hands it may come

12.4.1.3

an obligation in the Restrictions not to do any act or thing includes an obligation not to permit or suffer that act or thing to be done by another person

12.4.2

The Restrictions are the following:

12.4.2.1 not to use the Property otherwise than as a single private dwelling house and the garage for any purpose other than as a ancillary private garage

12.4.2.2 not to divide the Property into two or more dwellings or residential units

12.4.2.3 not to erect or cause to be erected on the Property any building or structure whatsoever except a greenhouse or shed of not greater length than 4 metres and of not greater height than 3 metres or permit or suffer any person under the Transferor's control to do so

12.4.2.4 not to stand or support any vehicle, commercial vehicle trailer, mobile home, caravan, trailer, cart or boat on any part of the Property, and

12.4.2.5 not to carry out any development within the meaning of Section 55 of the Town and Country Planning Act 1990 in or upon the Property

12.4.2.6 not to park any motor vehicle on or otherwise obstruct any part of the accessway hatched yellow and hatched green or any part of the Retained Land at any time

12.5

Positive covenants by the Transferee

The Transferee covenants on behalf of itself and its successors in title with the Transferor and its successors in title to the Retained Land for the benefit of the Retained Land and each and every part of the Retained Land and with the Transferor pursuant to Section 16 Greater London Council (General Powers) Act 1974 and Section 33 Local Government (Miscellaneous Provisions Act) 1982

12.5.1

to contribute and pay within 14 days of demand

(a) fifty percent (50%) of the reasonable and proper cost of maintaining repairing and (where necessary) renewing the accessway shown hatched yellow on the Plan

(b) a fair and due proportion of the reasonable and proper cost of maintaining repairing and (where necessary) renewing sewers drains pipes cables party walls and all other structures apparatus or installations which service the Property in common with any neighbouring or adjoining property

12.5.2

to maintain repair and renew at all times hereafter to the satisfaction of Transferor

12.5.2.1

a good and sufficient metal palisade fence and timber fence or wall on any of the boundaries of the Property marked with "T" (if any) within the boundaries of the said plan.

12.5.2.2

the pathway hatched brown stippled red and the accessway hatched green stippled red on the Plan to a reasonable standard

12.5.3

not to transfer the Property or grant a lease of the Property or the Transferee's freehold estate in the Property or any other estate or interest in it to any person without first ensuring that the person has executed a deed directly with Transferor and its successors in title to the Retained Land for the benefit of each and every part of the Retained Land containing the covenants and provisions of clause 12.5. mutatis mutandis including this present covenant 12.5.3.

12.5.4

for the purpose of affording to the Transferor a full and sufficient indemnity but not further or otherwise hereby covenants with the Transferor that the Transferee shall at all times hereafter observe and perform any covenants and stipulations set out in the Charges Register of the title above mentioned or affecting the Transferor's freehold title so far as the same relate to the property and are still subsisting and capable of taking effect and that the Transferee shall indemnify and keep indemnified the Transferor from and against all actions claims and demands in respect of any future non-observance or non-performance thereof.

12.6

Agreements and declarations

It is agreed and declared that nothing in the Transfer is intended to confer on any person any right to enforce any term of the Transfer which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

12.7

Land Register-entries

The Transferee shall within seven days of completion of the registration of the transfer supply the Transferor with an official copy of the register of title and title plan relating to the Property.

NOT TO SUBDI

Include words of covenant.

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

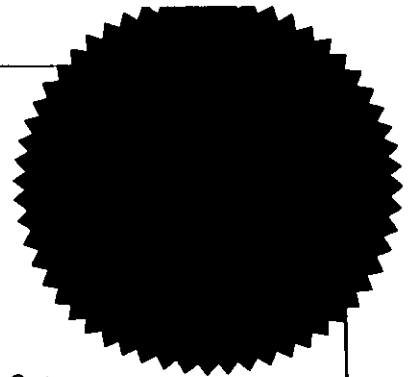
Other

The Transferee hereby applies to the Registrar to enter the following restriction against the Property

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a certificate signed by a conveyancer that the deed referred to in clause 12.5.3 of the Transfer dated ~~2 August 2011~~ ^{2 August 2011} made between The Mayor and Burgesses of the London Borough of Brent (1) and George Irvin (2) has been prepared executed and delivered to the registered proprietors of the Retained Land "

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

13 Execution



EXECUTED as a DEED)
by the affixing of THE)
COMMON SEAL of THE)
MAYOR AND BURGESSES)
OF THE LONDON BOROUGH)
OF BRENT in the presence)
of :-)

ARBAC

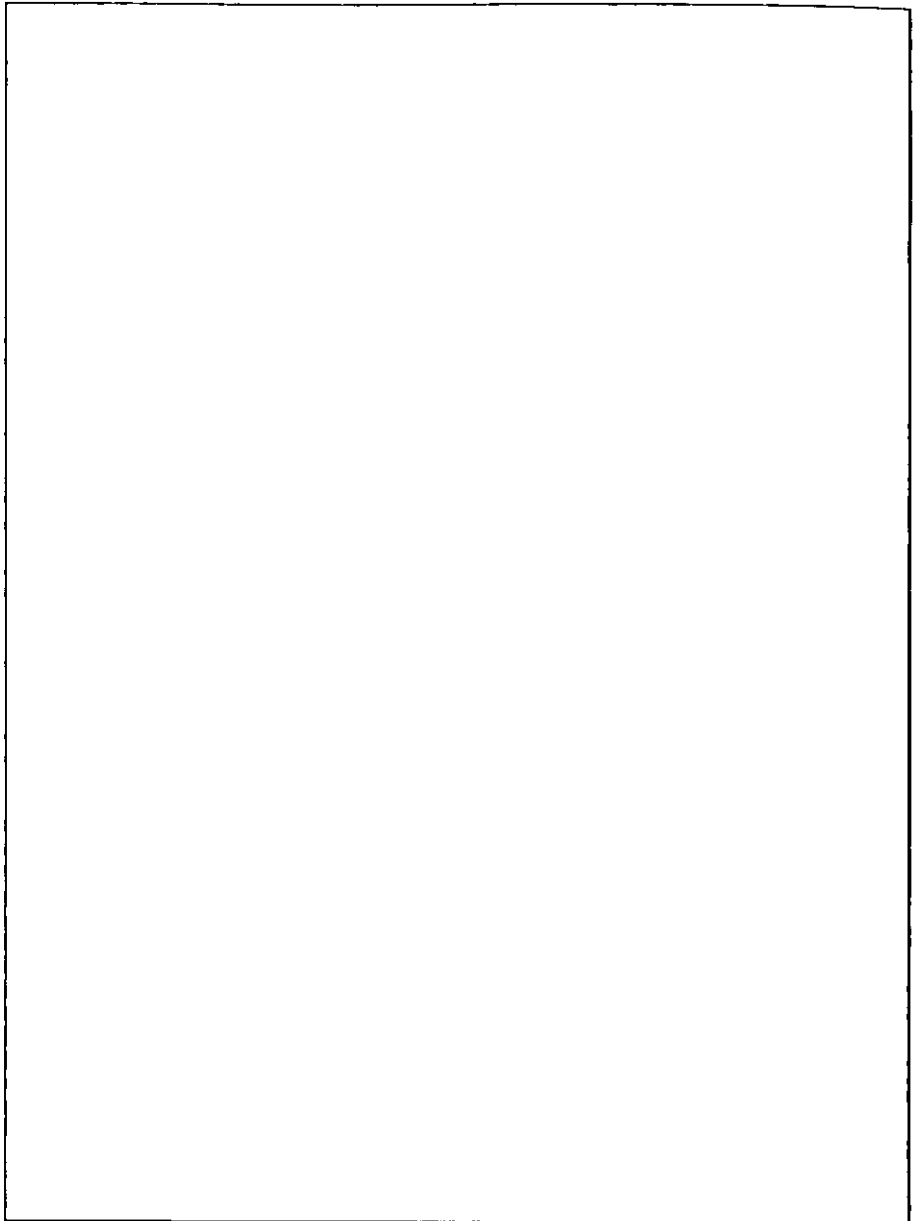
.....
Solicitor

SIGNED as a DEED by the said
GEORGE IRVIN
in the presence of: ~~GE~~

George Irvin
George Irvin.

Name of Witness: *N SMITH*
Signature: *[Signature]*
Address: *35 Wellington*
Occupation: *Consultant*

27-7-11
LD



WARNING

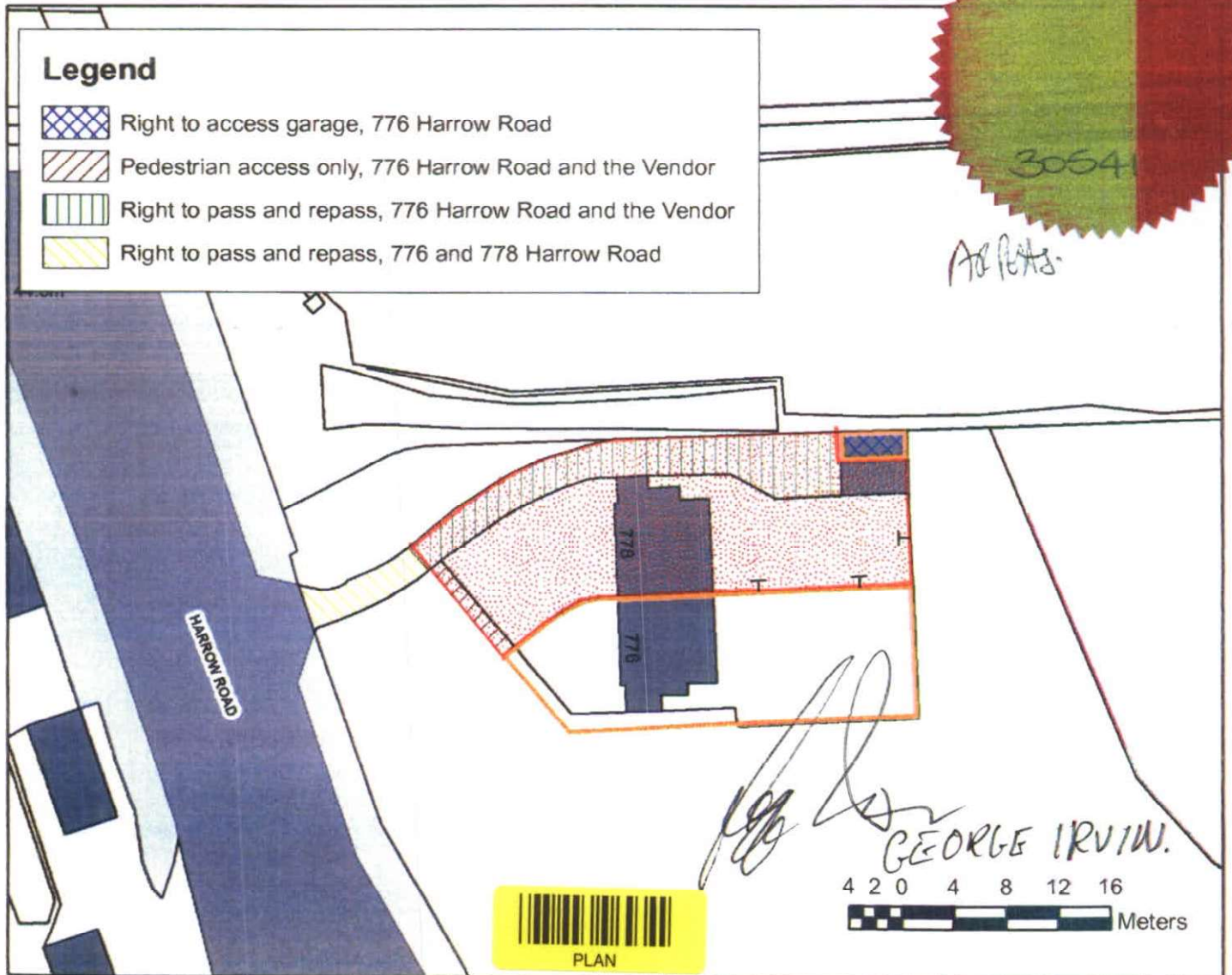
If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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778 Harrow Road, Wembley, HA0 2HE. Premises shown edged and stippled red.



1:500

Plan to stated scale if printed at A4.

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NORTH



COMMITTEE REPORT

Planning Committee on
Item No
Case Number

12 June, 2023
04
22/4128

SITE INFORMATION

RECEIVED	8 December, 2022
WARD	Wembley Central
PLANNING AREA	Sudbury Town Neighbourhood Forum
LOCATION	776 & 778, Harrow Road, Wembley, HA0 2HE
PROPOSAL	Demolition of 2 existing dwellings and construction of 4x new three storey dwellinghouses, associated cycle and refuse storage, amenity space and boundary treatment
PLAN NO'S	Please refer to condition 2
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	<p><u>When viewing this on an Electronic Device</u></p> <p>Please click on the link below to view ALL document associated to case https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_162930</p> <p><u>When viewing this as an Hard Copy</u></p> <p>Please use the following steps</p> <ol style="list-style-type: none">1. Please go to pa.brent.gov.uk2. Select Planning and conduct a search tying "22/4128" (i.e. Case Reference) into the search Box3. Click on "View Documents" tab

RECOMMENDATIONS

That the Committee resolve to GRANT planning permission subject to:

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

Conditions

1. Three year commencement rule
2. In accordance with approved plans
3. Restriction of PD rights for dwellinghouses
4. Water Consumption
5. Drainage Strategy compliance
6. Ecology report compliance
7. Car free development
8. Cycle and Bins compliance
9. External amenity compliance
10. Construction Method Statement
11. Construction Environmental Method Statement
12. Tree Protection measures
13. Network rail -risk assessment
14. Network rail- scaffolding
15. Network rail crane details
16. Thames water piling details
17. Network rail piling details
18. Network rail excavation details
19. Contaminated land condition 1-investigation
20. Network rail surface water and foul water disposal drainage strategy
21. External Materials
22. Water butts details
23. Hard/ soft landscaping and lighting details
24. Internal Noise insulation
25. Contaminated land condition 2- Remediation and verification
26. Plant Noise
27. Sustainability

Informative

1. CIL liability
2. Party Wall Act
3. Building Near Boundary
4. Asbestos
5. Fire Statement
6. Construction hours
7. Network Rail BAPA (Basic Asset Protection Agreement)

As set out within the draft decision notice

1. 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.

2. 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

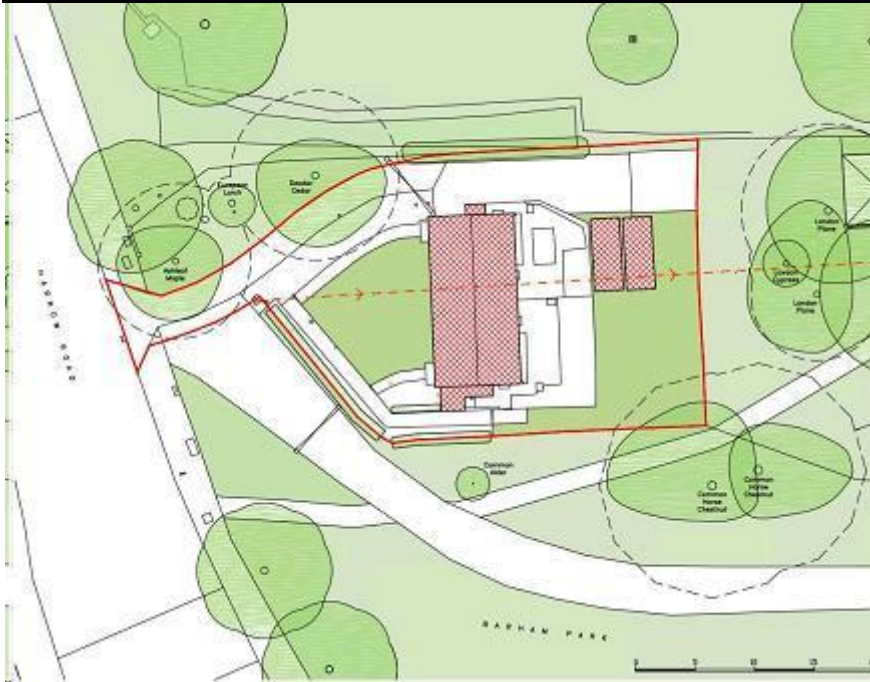


Brent

Planning Committee Map

Site address: 776 & 778, Harrow Road, Wembley, HA0 2HE

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This map is indicative only.

PROPOSAL IN DETAIL

Demolition of 2 existing 3-bedroom houses and construction of 4x three-storey 3-bedroom dwellinghouses, associated cycle and refuse storage, amenity space and boundary treatment

EXISTING

The application site comprises of a pair of semi-detached dwellinghouses located along the north-west corner of Barham Park, adjacent to the railway tracks for Network Rail service, in Sudbury. To the north is the embankment for the railway tracks, to the south and east is the public park, Barham Park and to the west are residential flats.

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: Representations were received from 33 objectors and a petition containing 160 signatures in response to the consultation. A number of issues were raised including impact on the principle of development within the park, accuracy of the submission, impact on heritage assets, design and massing, trees, wildlife and ecology, flood risk, restrictive covenant of the land, highway safety concerns, vibration and noise. These The objections are summarised in more detail below and discussed in the report.

Principle of Development: The Brent Local Plan and London Plan recognise the role of small sites in the delivery of the new homes that are needed in the borough and the site has a PTAL of 5 and is Priority Area for housing. The general principle of residential development is supported in this location, contributing towards the Council's housing targets. The site is currently in residential use and contains 2 houses. It is outside of the London Plan open space designation and therefore the redevelopment for residential purposes accords with London Plan policies. The area shown for Barham Park within the policies map associated with the Sudbury Town Neighbourhood Plan includes the two houses, and policies LGS1 (Local Green Space), LGS2 (Barham Park) and BP1 (Barham Park) are therefore relevant. These policies set out that development which is not ancillary to the use of the land for recreational purposes will be resisted, and that any proposals for the re-use or redevelopment of park buildings for residential use will not be supported. However, the development relates to the development of existing houses and their gardens that are already within Use Class C3 and therefore does not result in the loss of any land that falls within the park use. Furthermore, the buildings are houses and not "park buildings". The demolition of the existing dwellings is considered acceptable as the buildings are not listed (although they do sit within the wider grounds of Barham Park which is locally listed) or located within a conservation area. The proposal to re-provide new family sized homes within the curtilage of the existing residential properties is be considered to acceptable on the site given that the established use of the land is currently residential in nature and does not form part of the park or open space.

Highway impacts: The proposed homes would be within an area with a high Public Transport Accessibility Level (PTAL) of 5 for public transport. No parking spaces would be provided and the homes would be "parking permit restricted" and as such are not likely to result in overspill parking on the surrounding streets. The new homes would be provided with secure and covered cycle parking and refuse storage facilities.

Residential amenity: The proposal would not result in a significant impact on the residential amenities of neighbouring occupiers in terms of noise and disturbance, daylight and sunlight or overlooking as the site does not have any immediate adjoining residential neighbours.

Design and appearance: The proposal is considered to represent a good standard of design within the site and would not result in harmful impact on the character and appearance of the local area or openness or

historical significance of the park.

Trees, landscaping and ecology: Landscaping and seven new trees has been provided with a practical layout along the frontage and a rear garden areas. The proposal would have a score of 0.65 exceeding the Urban Greening Factor target of 0.4 per London Plan and Local Plan policies. The proposal will not result in any tree loss and the Council's tree officer is satisfied with the proposals and recommended a condition in relation to Tree Protection Plans and Arboricultural report. An ecology impact assessment has been submitted as part of this application as well with recommendations that have been conditioned as part of this application.

Flood Risk: The site does lies within fluvial Flood Zone 1 (low risk of flooding), however the site is designated as a Flood zone 3a for local surface water. The applicant has provided a Flood Risk Assessment with number of measures to be included ensuring that the development would be resistant and resilient to flooding. Moreover, the surface water runoff into public water sewer would occur at a rate of 5 l/s by using hydro-brake (or similar approved) fitted towards the end of the drainage run. An attenuation storage is shown within the rear garden of the site as well. The submitted FRA also notes the provision of a 65% betterment on the existing runoff rate for the 1 in 100-year design event. This will contribute to a net reduction in surface water entering London's sewer systems when compared with existing conditions as well.

RELEVANT SITE HISTORY

14/2078 - Demolition of 2 semi-detached dwellinghouses and erection of 4 new dwellinghouses, 2 two storeys (2 x 3 bed) and 2 three storeys high (2 x 5bed) with converted loft space, provision for car parking, bin stores and hard and soft landscaping to the front and associated amenity space and fencing – **Refused – 15/10/2021**

Reasons:

1. The proposed development, by reason of the design, scale and proximity with the boundaries of the site with Barham Park together with the proportion of hard landscaping with the frontage of the site, constitutes a development which has a poor and over-bearing relationship with the park and is therefore detrimental to the setting of the adjoining public open space. The development is therefore contrary to policies BE2, BE7, and BE9 of Brent's Unitary Development Plan, policy CP17 and CP18 of Brent's Core Strategy, 2010, and guidance contained within Brent's Supplementary Planning Guidance 17 on Design Guide for New Development.

2. The submission fails to demonstrate that the proposed development, including demolition of the existing building and the construction of the new building, will not have an impact on the root protection zone of mature trees located within the adjoining Barham Park and is likely to have impact on the trees that are close to the eastern and southern boundaries of the application site. As such, the proposal is likely to have a detrimental impact on the quality and quantity of trees within Barham Park and is contrary to Policy CP18 of Brent's Core Strategy 2010, and Supplementary Planning Guidance 17 "Design Guide for New Development".

3. The proposal would result in the provision of substandard forms of accommodation by reason of the poor light and outlook for habitable room windows within units 1 and 2 and the absence of useable private amenity space provision for proposed Unit 1, and the inadequate provision and poor quality of outdoor amenity space for proposed units 2, 3 and 4 which would be detrimental to the enjoyment and amenities of future occupiers. The proposal is therefore contrary to policies BE6, BE7 and H12, of Brent's Unitary Development Plan 2004 and the advice of Supplementary Planning Guidance 17: "Design Guide for New Development".

4. The submission fails to demonstrate that internal levels of noise and vibration for the proposed units will be acceptable (having regard to the standards described in BS8233:2014 and BS6472:2008) and as such, does not demonstrate that the proposal will result in a good standard of residential accommodation for future residents. The proposal is contrary with Policy EP2 of Brent's Unitary Development Plan 2004.

16/1209: Demolition of existing side extensions and erection of 2 storey side and rear extensions, 4 rear

dormer windows, 4 rooflights and conversion of the existing 2 dwellinghouses into 3 x 3bed dwellinghouses and 1 x 2bed dwellinghouse to also includes insertion of new windows and doors, car and cycle parking space, bin stores, landscaping and amenity space - Granted, 25/01/2017.

17/5067 - Demolition of semi-detached 3 bedroom houses and erection of three 3 bedroom and one 2 bedroom two storey dwelling houses including hard and soft landscaping, associated parking spaces, refuse and cycle storage (revised description) – **Granted, 06/03/2018.**

(based on the planning history it would appear that the above consents have not been implemented and have now expired).

19/0788 - Demolition of two semi-detached dwelling houses and construction of four 4-storey houses (3 x 4 bedroom and 1 x 5 bedroom) with associated car parking spaces, cycle/refuse storage and landscaping – **Refused**

Reasons:

1. *The proposed development would incorporate an inappropriate height and associated bulk and massing that would appear prominent and have a negative impact on the open nature of the park setting. The overall layout of the development fails to provide an appropriate relationship onto Harrow Road frontage and would provide poor and unattractive environment for the residents of the proposed residential units. Overall the development would fail to comply with National Planning Policy Framework 2019, Policy 7.3 of the London Plan, DMP1 of the Development Management Policies 2016 and Supplementary Planning Document 1 – Brent Design Guide 2018.*

2. *The proposal by reason of the access pathway to the front doors of the new dwellinghouses in proximity to the ground floor habitable room windows with insufficient defensible space, would result in loss of privacy and noise and disturbance to the detriment of the amenities of the proposed occupiers of the new dwellinghouses. This is contrary to policy DMP1 of Brent's Development Management Policies 2019 and SPD1 "Brent's Design Guide" 2018.*

20/1909 - Demolition of two semi-detached dwellinghouses and erection of 5 dwellinghouses with associated parking, landscaping and gardens – **Withdrawn, 30/09/2020.**

21/1106 - Demolition of dwellinghouses and erection of a four storey residential building comprising 9 self-contained flats with roof top terrace and associated access, parking and landscaping – **Withdrawn, 19/05/2021.**

CONSULTATIONS

73 properties within the vicinity of the site were notified by letter of this proposal for a 21 day period on 03/01/2023 together with the Sudbury Town Residents' Association. 126 properties were re-consulted on 18th of April 2023. A site notice was also erected on a lamp post in front of the site on 11/01/2023 and 24/04/2023 .

A petition was also submitted with 160 signatures on the grounds that the proposal is an over development in the local public park and the proposal should uphold the long standing Brent Council policy of protecting Parks and public places at all cost.

33 Objections were received raising the issues as discussed below:

Nature of Objection	Officer response
There is no reference to the adjoining mobile telephone operators being consulted (Virgin Media)	Consultation letters were not sent to Virgin Media, but it should be noted that all statutory consultation requirements have been met.
<p><u>Application form inaccuracy:</u></p> <p style="text-align: center;">Page 70</p>	<ul style="list-style-type: none"> The application form confirms that notice

<ul style="list-style-type: none"> • The Title deed number is incorrect within the application form which is the Barham Trust's freehold title number to the whole of the Park (excluding the applicant's land). As such notices should be given to all the tenants of the buildings at 660 Harrow Road, etc, tenants of the Trust, and certainly as far as the tenant of the Barham Community Library. Moreover, no notice was served on Trustees of the Barham Trust. • The application form refers to 776 Harrow Road, yet the proposal is for 776 and 778 Harrow road. • 	<p>has been served to Brent Council as the other party who has a legal interest in the land within the red edge site location plan submitted as part of this application where the development would take place.</p> <ul style="list-style-type: none"> • The application drawings including the red edge site plan show the extent of the application site and public consultation undertaken by the Council has referred to both 776 and 778 Harrow Road accordingly.
<p><u>Hardstanding:</u></p> <p>Hardstanding on site will be extended and inevitable parking will increase and the council doesn't have resources to monitor this. Referring to the "fire tender" area which will be a further area of hard standing attracting parking. The grassed area of the Park should remain intact, any extension/expansion of the access road and hardstanding would not be welcomed and would add to run off/potential flooding as well as Root Protection Areas. Moreover, reference to turning circle as part of fire tender is not indicated on the plans adding further to hardstanding area.</p>	<p>The hard standing of fire tender access (shown in blue line) has not been extended as part of this application. There are also no changes to the side gated access roads or landscaping within the park confirmed on the drawing number 1463-100 rev C. Moreover, turning circles facility would be required for situations, where without this provision a fire appliance would need to reverse more than 20m. This is not the case in this situation as the dwellings are within 45 metres from fire appliance location marked on the fire statement. It should be noted that the existing front soft landscaping on site is about 90 sqm and the proposal would improve to this to approx.154 sqm. The existing site as a whole has approx. 258 sqm of soft landscaping and the proposal would increase this to 311.3 sqm which is an improvement. The hardstanding proposed within the site would also be permeable paving to assist with the surface water discharge.</p>
<p>The boundary of the proposal needs to be scaled and drawn up to the exact area in both ownerships (Barham Trust/Zenastar). There are concerns with the red edge around the access road on whether this land is expected to be acquired as part of the application. The residents and beneficiaries of the Barham Trust are entitled to be made aware of any extra rights/land the applicant needs if planning is granted.</p>	<p>The site location plan includes the access road from Harrow Road owned by Brent Council which a notice has been served accordingly. The existing houses benefit from a right of way to Harrow Road and the proposed houses would look to use this access.</p>
<p>In view of the status of the development site as a public open space and part of a park, site of wildlife importance and nature conservation area of local importance, the Council fails to pay regard to extensively demonstrated opposition by local residents and actively promoting development in Barham Park.</p>	<p>The existing house are already in residential use (Use Class C3) and the proposal does not look to redevelop the park itself. Planning applications must be considered having regard to planning policy and guidance. All objections are considered, but the number of objections (whether high or low) does not dictate the outcome of a planning application.</p>
<p>The proposal is contrary to Para. 203 of NPPF. In this case, there are no public benefits from the proposed development. There would be four homes instead of two, but all of the new homes would be for private market rent. The only benefit</p>	<p>This is discussed within the report paragraph 5-16 The proposal would provide additional family homes within a priority area for housing and within "small site" supported by London plan policy H2 and contribute to Brent's Housing Supply. There is no</p>

would be to the developer, and the harm would be to the heritage asset, to the public who use Barham Park and other numerous aspects discussed within the objection summaries.

requirement for the provision of affordable housing for proposals for fewer than 5 new homes, but the provision of private homes also meets an identified need in the borough.

The narrative of the development is being badged as a screen against the railway line. In any event, the park doesn't need screening of its surroundings. The railway line in fact forms part of the heritage setting of the Park and legacy of Titus Barham, and his father Sir George Barham before him. The railway line on the embankment forms part of the framing of Barham Park, and are not an intrusion.

The proposal is considered to represent good design and an improvement over the appearance of the existing homes and has an appropriate relationship with the park. The design of the proposed homes and their relationship with the park are discussed below.

Section 5.3 of D&A statement states '*... Present a more communal and appropriate face to the park than is achieved by the existing semi-detached houses and their immediate context.*' Apart from the fact that the existing boundary markers are unattractive and not entirely sympathetic to the park, and neglected which the applicant is responsible for their provision & maintenance, what possible evidence is there that the proposed building has a "communal and appropriate face to the park" at all - never mind that such a "face" is more "communal and appropriate" than the "face" of the low rise cottages and their "immediate context"?

Tree impact:

- The Arboricultural assessment actually recommends felling a couple of these trees T2 and T8, despite their value as wildlife resources and that they are park trees and not the place of the applicant to mandate the fate of park trees. The fact that also their alleged poor state was not recognised in the 2020 survey by Brent officers.
- The existing rear gardens of the two cottages are used as commercial premises and storage, mainly by the siting of two storage containers. These containers and commercial movement have undoubtedly damaged the trees around the entrance to the site and this application would further damage them.
- To allow a construction next to these trees with their estimated capacity for growth might mean that in the future a claim for subsidence/heave is wilful irresponsibility. Council is already risk averse when it comes to insurance claims for tree damage, and fells trees on complaints by households in future. The trees along the northern border of the park are an extremely valuable wildlife resource, and along a valuable wildlife corridor formed by the railway line; to risk

Please refer to paragraphs 59 -63 within the report below. Should be noted that no trees would be removed as part of the proposal.

It should be noted that 7 trees are also proposed to be planted as part of the development.

<p>their loss would be the grossest of irresponsible actions.</p>	
<p>Appropriateness of the development to the public open space/Barham Park and the history of the park keepers' cottage should be taken into account. The existing cottages are low rise and nestle in amongst the trees. The buildings are the subject of the very strict covenants preventing further development. The site owner has made efforts through the planning system, since acquisition to lift them, despite push back from local residents, users of the Park - the beneficiaries of the Barham Trust.</p>	<p>Restrictive Covenants of a land are not a planning matter and a granted planning permission does not override any restrictive covenants. They are not mutually exclusive and are entirely independent of one another and separate permission/agreement should still be obtained from the parties involved.</p>
<p><u>Inappropriate development in a heritage setting:</u></p> <ul style="list-style-type: none"> • It is not justified in law or planning practice to split "bits" of a heritage asset up into more and less heritage valuable areas. Para.2.4 of heritage statement is to detach 'the western part of the park' from the rest of Barham Park, in assessing its significance. Barham Park is a coherent whole, a setting, the subject of a charitable bequest and is used by residents for recreation without any recognition of better or worse areas from a "heritage "point of view. The statement is miss-leading on certain aspects such the argument that this section became part of the park in 20th century. • The Historic Environment Place-making Strategy is not even mentioned in the Heritage consultants' report, and it should be dealt with. This adds to the failure to comply with a minimum requirement to comply with NPPF 194. Why Statement of Significance and the Greater London Historic Environment Record was not requested from the applicant contrary to NPPF paragraph 194. The council's heritage officer comments are also very brief. • The design includes untreated timber cladding, it is nothing like the heritage buildings it intends to mimic and would actually be an ugly and intrusive "blot on the landscape", totally out of character with the park. The proposal is contrary to the London Plan heritage policy HC1 (part C) and Para. 197 of NPPF as it would detract from the significance of the Barham Park heritage asset and would not make a positive contribution to local character. It fails those two tests and should be refused. 	<p>Please refer to paragraph 19-27 within the main report.</p>
<p>The site has been deliberately neglected with changes to allow for vehicular entrance and parking since 2012 contrary to NPPF 196 and containers</p>	<p>The council must assess the application, site context and documents that have been submitted at this stage only related to planning terms.</p>

stored within the rear garden which the council should have taken action and against the land covenant.

The orientation of the building shows three levels with windows overlooking the park which would be an invasion of privacy for park users and unacceptable.

Please refer to paragraph 35. The park is a public space which is already overlooked by a number of windows (albeit from the opposite side of Harrow Road). The inclusion of windows overlooking public spaces is considered to improve natural surveillance, security and safety.

Design:

- The overall design and gabling to “reflect” some of the original Barham Park buildings is too far distant from this development site for any credible linking in the minds of either residents passing along Harrow Road at this point, or of users of the Park. The buildings will just look odd and out of context and a new urban block intruding into the park. The graphic representations look like a very dark block frontage, with large, dark framed windows. Very modern, doubtless progressive for a new Mock Tudor housing estate and “incongruous” in Barham Park.
- The view may be impaired from the bulk of the development. The proposal would have high largely blank faces towards the park.
- The 7/8 and/or 6 storey buildings across the Harrow Road, divided by the busy major thoroughfare are part of an urban landscape but the urban landscape must not come into the bounds of the park and are not linked for justification of the proposed mass and height.
- The proposal 19 metres x 9.5 metres x 11.85 metres of brick and timber clad building with prominent design gables on an increased footprint is certainly of greater “mass” than the tree groups to its east, and North.

Please refer to paragraphs 28-34. The proposal was reviewed by Council’s Urban Designer and heritage officer and found the proposal acceptable. There is a condition attached to the application for the materials as well ensure their good quality.

Noise, light and vibration:

- Nuisance issues which may arise from recreation issues in the Park /funfairs and trees nearby . Not only by overlooking but also the very real risk that residents of the blocks will complain of noise and other nuisance from the park. The windows will be lit up after dark creating an unwelcoming and very visible reminder that there are houses in the park compared to the existing cottages that blend into their park background.
- Noise and vibration levels incident on the future development have been predicted based on extensive environmental noise and vibration monitoring conducted at a comparable proxy site as well as DEFRA

There is no evidence to suggest that the reasonable use of the new homes would cause undue nuisance or complaints users of the park users or vice versa. It is also noted that the site already contains two houses.

Please also refer to paragraph 47-50 within the main report. Moreover, conditions are secured to ensure that mitigation measures in terms of noise and vibrations are in place as part of the development.

In terms of lighting please refer to paragraph 80 of the main report. There is also a condition attached to the application for lighting schemes that are bat friendly adhering to best practice.

<p>published noise maps - contrast this with the strictures from NR and Chiltern. Why isn't the report specific to the site? The properties are also by a very noisy road, with a bus stop including at night time to add to the issues. The acoustic report does not seem to pay full regard to the environmental facts.</p> <ul style="list-style-type: none"> • The applicant proposes a timber frame building with wooden upper stories despite the advice accompanying reports that it is recognised as 'allowing noise egress' instead relying on windows with limited openings. • Light and noise emanating from the houses. The housing may well generate its own noise, including at night, a disturbance to wildlife in this area of local nature conservation. Light intrusion to both the park frontages but most importantly the wildlife corridor along the tree belt below the railway embankment 	
<p>This building will block the view of the Cedar of Lebanon and the other specimen trees at the north-western corner of the Park from the south of the Park and east, and create a large artificial interruption to the views of this important area of local green space flowing naturally, as it always has, with uninterrupted aspect towards the railway line.</p>	<p>The site is in residential use and contains two houses. The development is larger than the existing houses and would continue to be visible from the park (as are the existing houses), but is not considered to result in a detrimental impact to the setting of the park or unduly affect views to nature.</p>
<p>Proposed private green space and bushes surrounding the buildings but the exact nature of this space is not clear and it is not clear if the species proposed and the way they are situated would enhance biodiversity and improve green space in Barham.</p>	<p>This is discussed within remarks section below under paragraphs 41-46. A landscaping condition is attached to this application for further details on the vegetation and native planting to be proposed taking into account the recommendations within the Ecology report.</p>
<p>This large intrusive building will slice a corner away from the park, blocking the use of the tree line at the northern end, breaking the tree margin along the boundaries and completely changing the character and extending the Sudbury "town centre" south beyond the railway line and into the park – moving the built environment into an important and historic piece of local green space, interfering with the aesthetics and original design of the piece of parkland . This would be contrary to LGS1 and LGS2 and BP1 of Sudbury Town Neighbourhood Plan (2015) of</p>	<p>Please refer to paragraphs 10-14 within the remarks below.</p>
<p><u>Flood and surface water:</u></p> <ul style="list-style-type: none"> • There is flooding risk on site and recent works have been carried out by Thames Water as well as other works funded by the Barham Trust and managed by the Council. The proposal includes attenuation tanks for run off from the building – but not dealing with the increased flooding risk from this 	<p>The Flood Risk Report confirms that there would be a betterment on site in terms of flooding and displace surface water discharge concerns on site with improvements. Thames Water was also consulted as part of this application which raised not objection subject to piling conditions. Please refer to paragraph 66-72 for further remarks.</p> <p>The FRA notes the provision of a 65% betterment on</p>

large building and additional hard surfacing in the area of the application site (displaced surface water run-off).

- The Trustees had plans in 2021 to carry out drainage works to the field and obtained consent of the Charity Commission to carry out works and expend up to £90,000. This was at a similar time to the actual carrying out of works by Thames Water to their surface water sewer along the northern boundary of the park. The TW work was done; the Trustees have not yet carried their works out. The foul water sewers shown on the plan run straight underneath the two existing houses.
- The drainage tank is said to be privately owned and who will own the system and be responsible for the inspections and maintenance and pay associated costs?
- Insurance/mortgages for properties: Whilst this may not be a planning matter in the strictest sense it does suggest that the intensity of development proposed whilst normally acceptable on such sites is not here because of the high to moderate risk of flooding not just to the site but to the surrounding degraded parkland.

the existing runoff rate for the 1 in 100-year design event. This will contribute to a net reduction in surface water entering London's sewer systems when compared with existing conditions as well.

The local planning authority must consider the development that is proposed, and the general maintenance of the tank cannot be considered when determining this planning application.

Ecological consideration:

- Ecological assessment took place in the daytime in October and previously February. As must be known to the ecologist, surveys in neither of these months will provide any bat activity, even if any part of the inspection took place as a monitoring at dusk or dawn.
- Pipistrelle bats fly in Barham Park. The authors of the survey recommended a larger survey including night-time observation for bats be undertaken unless that happens it cannot be known for certain this important legally protected species being protected by Barham Park and the risk to them of such a development.
- From a practical perspective, the development clearly shows light from the side and rear of the new development but demolition will, of course eradicate the potential roost.
- Ecological assessments being undertaken, commented on since at least 2013 – 10 years, has never monitored these cottages for bat activity at all. Most importantly, there must be proper dusk and dawn emergence surveys undertaken during the period April to September to ascertain the true position, and ensure that the presence of bats in the existing buildings is checked. The Council

Please refer to paragraphs 74-781.

<p>must not countenance the potential to disturb bats in a manner prohibited by legislation, and potentially involving the developer in criminal liability. The houses are buildings of a type, and era and within a wooded environment along a railway verge corridor with a strong potential for bat roosts and bat foraging corridors.</p> <ul style="list-style-type: none"> • 	
<p>The comments by Network Rail as to flooding are not insignificant and in particular the important safety aspect of not undermining the embankment. The reports indicate the slope of the site towards the railway line. The applicant's design raise the floor around 12 inches and ramps the entrance.</p>	<p>Please refer to paragraph 82-84 within the main report. Conditions are attached as per Network Rail consultation with this application.</p>
<p><u>Highway safety and parking:</u></p> <ul style="list-style-type: none"> • From the drawings there seems to be an intention to extend the bell mouth but with no detail and – as above – this land is not owned by the applicants, and the land itself is subject to the trust which, if it is going to dispose, will need the consent of the Charity Commission. The land is part of the Trust's permanent endowment, and sales have to be in pursuance of objects of the charity. • The existing cottages have a much more modest refuse collection requirement. So there will be an increase in vehicular access to the site including collection of waste requiring HGV access to the site, and reversing in or out of the site across a bus lane and heavily used road. • It is a largely blind corner coming from Sudbury Town. Delivery vehicles or cars (as we must envisage that cars will attempt access and parking and the area created for the fire tender will “invite” this) trying to get in and out of the proposed development have to access Harrow Road at a very unusual angle, turning more than 90 degrees in order to get onto the road. This causes issues with traffic flow for cars and cyclists, in an area of Harrow Road which is already heavily congested and with poor sight lines and with several heavily used junctions to the immediate south of the site. • The footway near this bus stop is currently far too narrow for these purposes, forcing users to sit around the green space near it .Pedestrians passing through those waiting at the stop face a challenge in trying to get through and fight for space. • The current low usage of the site means these problems are currently very modest 	<p>The front access road to the site has not been changed or extended as part of this application.</p> <p>Please refer to paragraph 51-55 within the remarks below.</p>

<p>but they will not remain so with 4 3 bedroomed houses.</p> <ul style="list-style-type: none"> • Just because there are no car parking spaces in the development does not mean that 4 3 bedroomed properties will not add to parking problems in the area. 	
<p>According to Network Rail's comments on this planning application of April 2023, the land could be contaminated.</p>	<p>Please refer to paragraphs 57 of the remarks below.</p>
<p>The sustainability report within the design and access statement is poor. Carbon cost & whole carbon cost are not mentioned in the sustainability section. Biodiversity is not mentioned in the applicant's design and access statement. What is the back up if the air source heat pump fails? Should these pumps be situated on the roof in terms of health & safety for potential owners. Also costs of scaffolding needed on the 3 storey house to access the equipment.</p>	<p>London Plan policy S12 requires the consideration of whole life cycle carbon for applications referable to the Mayor of London (150+ new homes, 30+ m tall etc). This is not required for a scheme which looks to provide 4 new homes.</p> <p>Air source heat pumps are promoted by planning policy and through wider low carbon initiatives. They are not considered to be inherently unreliable.</p> <p>The sustainability measures are discussed in the sustainability section below para 85.</p> <p>The biodiversity is assessed within the Ecology report and recommendations have been conditioned with the application.</p>

Internal consultation

Local Lead Flood Officer - no objections raised subject to smart water butts details

Environmental Health - no objections subject to conditions being secured in relation to contaminated land, demolition/construction method statement and internal noise levels as well as any plants to be installed

Transport Team - no objections raised. subject to car free development

Principle Heritage officer and Design officer - no objections raised.

Tree Officer: no objections raised subject to Tree Protection Plan (TPP, at para. 5.5 BS 5837) and an Arboricultural Method Statement (AMS, at para. 6.1 BS 5837)

External Consultation:

Chiltern Railways: no objection raised subject to suitable noise proofing and glazing to be in place per internal noise condition attached.

Network Rail : no objection subject to conditions attached such as risk assessment, scaffolds, piling, crane details, excavations, details of surface water and foul water drainage directed away from the railway be submitted. Informative have also been added per Network Rail comments such as Network Rail's Asset Protection requirements.

Thames Water: no objection raised subject to piling method statement to prevent damage to sewerage infrastructure

Natural England: no comments received

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 comprises of the

London Plan 2021
Brent Local Plan 2019-2041
Sudbury Neighbourhood Plan 2015

Key policies include:

London Plan 2021

GG2: Making the best use of land
GG4: Delivering the homes Londoners need
D3 Optimising site capacity through the design-led approach
D4 Delivering good design
D6 Housing quality and standards
D7 Accessible housing
D12 – Fire Safety
H1 - Increasing housing supply
H2 – Small sites
HC1 Heritage conservation and growth
G5 Urban greening
G6 – Biodiversity and access to nature
G7 Trees and woodlands
SI 1 Improving air quality
SI5: Water infrastructure
SI 13 Sustainable drainage
T1: Strategic approach to transport
T4 Assessing and mitigating transport impacts
T5 Cycling
T6 Car parking
T6.1 Residential parking
T7 Deliveries, servicing and construction

Local Plan 2019-2041 -

DMP1 – Development Management General Policy
BD1 – Leading the way in good design
BH1 – Increasing Housing Supply in Brent
BH2 – Priority Areas for Additional Housing Provision within Brent
BH4 – Small Sites and Small Housing Developments in Brent
BH5 - Affordable Housing

BH6 - Housing Size Mix
BH13 – Residential Amenity Space
BHC1 – Brent's Heritage Assets
BGI1 – Green and Blue Infrastructure in Brent
BGI2 – Trees and Woodland
BSUI2 – Air Quality
BSUI3 – Managing Flood Risk
BSUI4 - On-Site Water Management and surface water Attenuation
BT1 – Sustainable Travel Choice
BT2 – Parking and Car Free Development
BT3 – Freight and Servicing
BT4 Forming an Access on to a Road

Sudbury Neighbourhood Plan 2015

LGS1: Local Green Space (LGS2 Barham Park)

BP1: Barham Park

The following are also relevant material considerations:

National Planning Policy Framework 2021

Brent Waste Planning Guide 2013

Brent's Design Guide – Supplementary Planning Document 1 2018

Draft Residential Amenity Space & Place Quality – SPD – 2023

Draft Sustainable Environment & Development – SPD – 2023

DETAILED CONSIDERATIONS

Proposal in Detail

1. The application is seeking planning permission to demolish the existing two x 3-bedroom houses and to construct 4 x 3-bedroom houses with studies. The development would result in a row of terraced properties with the front elevation facing Harrow Road and rear gardens located along the western portion of the site. The new dwellings would have the appearance of 2.5 stories with a series gabled roof features included to each elevation. Private gardens would include a green buffer with cycle and bin storage located along the front portions of the dwellings. A green buffer would be introduced surrounding the site and areas adjacent to the park.
2. Amendments were provided during the course of the application to re-arrange the landscaping to the front of the properties and updated roof plan was provided demonstrating the PV panels. Such amendments were not considered to result in material changes to the scheme and therefore re-consultation was not carried out.

Planning History Background

3. Application 17/5067 granted permission for the demolition of the existing dwellings and reconstruction of 4 terraces properties. This consent has now expired and is no longer a material consideration. It should be noted that since this application was determined, the development plan has been replaced. The London Plan 2011 has been revoked and is now replaced with London Plan 2021, and at a local level both Brent's Core Strategy 2010 and Brent's Development Management Policies 2016 have been revoked and replaced with Brent's Local Plan 2019-2041. The Sudbury Town Neighbourhood Plan was adopted in July 2015 and still forms part of the development plan.
4. Application 19/0788 was seeking permission to redevelop the site by introducing four terrace properties that would be four stories in height primarily located along the southern portion of site. The application was refused based on the height, bulk and mass of the scheme and the negative impact this would have on the open nature of the park setting. The overall layout failed to provide an appropriate relationship onto Harrow Road frontage resulting in an unattractive relationship. The relationship between the access pathway and the proposed units was considered a poor relationship resulting in a poor standard of accommodation occupiers.

Principle

General Principle of Use

5. Brent's Housing targets have significantly increased through the adoption of the London Plan 2021, with the target increasing to 2,325 dwellings per annum for the period 2019/20-2028/29 with Policy H1 of the London Plan recognising the increasing demand for delivery of new homes across London. Local Plan policy BH1 reflects this target.
6. Policy D3 of London Plan 2021 requires developments to make the best use of land by following a design-led approach that optimises the capacity of the site, with development that is the most appropriate form and land use for the site, with the policy recognising that small sites make a significant contribution towards increasing housing supply within London.
7. This policy position is set out in further detail within policy H2 of London Plan which states that boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to amongst other considerations significantly increase the contribution of small sites to meeting London's housing needs.
8. In response to the strategic policy position above, within Brent's Local Plan, the Council has set out its own policy on small housing sites under policy BH4. This policy relates to small housing sites (below 0.25 hectares or 25 dwellings in size) and recognises that such sites can assist in delivering a net addition of self-contained dwellings through the more intensive and efficient use of sites. Such proposals will be considered where consistent with other policies in the development plan and within priority locations (i.e. PTAL 3-6, intensification corridors, or a town centre boundary). Outside of priority locations greater weight will be placed on the existing character of the area, access to public transport and a variety of social infrastructure easily accessible on foot when determining the intensity of development appropriate.
9. The site contains a PTAL rating of 5 and therefore a priority area for new homes. The site is located within a sustainable location in close proximity to Sudbury Town Centre and local transport links.
10. Barham Park is designated as an open space under policy G4 of the London Plan. However, the Policies Map shows that the houses and their gardens do not fall within the area designated as public open space aside from a small element along the southern and western boundary and part of the existing access between Harrow Road and the houses. Policy G4 of the London Plan highlights that development proposals should not result in the loss of protected open space. DMP1 of the Local Plan 2019-2041 highlights the importance of retaining open space.
11. The Sudbury Town Neighbourhood Plan designated Barham Park including the land within the application site as a Local Green Space under Policy LGS1, with LGS2 relating to Barham Park. This policy highlights that the Local Green Spaces will be given long term protection and proposals for development which is not ancillary to the use of the land for recreational purposes will be resisted. The Local Green Space

designation for Barham Park includes the houses and the majority of their curtilages as being within the designated space. It is set out within Neighbourhood Plan policy BP1 (Barham Park) that any proposals for the re-use or redevelopment of park buildings for residential use (Use Class C3) will not be supported.

12. The site contains an established Use Class C3 residential use and therefore does not include a change of use of any land. As such, while Policy G4 is relevant to small elements of the site (along the southern and western edge and part of the site access as discussed above), the proposal is not considered to result in the loss of any open space. The proposal is considered to accord with policy G4.
13. Neighbourhood Plan Policies LGS1, LGS2 and BP1 are relevant to the proposal as the site is within the area defined as Local Green Space by the plan. However, the proposal does not result in the loss of any Local Green Space. The site contains a house for which the authorised use is as dwellings within Use Class C3 and as such, the proposal is not considered to result in the redevelopment of park buildings. The proposal is considered to accord with policies LGS1, LGS2 and BP1. Nevertheless, if one contended that Policy BP1 relates to all buildings within the area designated Local Green Space as opposed to all buildings within the park itself, it is noted that the fall-back position for the applicant would be the continued use of the houses and their curtilages for their current lawful use, for purposes within Use Class C3. In this instance the proposed redevelopment of the site would continue to be acceptable having regard to the existing use of the site.
14. The location of the land owned by the applicant has been queried by some objectors, particularly around the entrance / access to the site. Concern has been raised with these objections about parts of the park potentially being acquired to serve the proposed development. The applicant has confirmed that the houses and their gardens fall within their ownership. The access is an existing right-of-way which serves the development. No changes are shown to this access, with the changes that are proposed being within the curtilage of the existing houses.
15. The demolition of the existing dwellings is considered acceptable as the buildings are not listed (although they do sit within the wider grounds of Barham Park which is locally listed) or located within a conservation area, and the loss of the existing family sized houses would be mitigated by the provision of new family sized homes.
16. Overall, it is considered that the principle of development is acceptable, with the residential use of the site (within Use Class C3) being existing and established, and the proposed development would provide a greater number of family sized homes within the Borough within a priority location for housing.

Housing Mix

17. Policy BH6 of the Local Plan highlights the need for 3 bedroom accommodation within the Borough, setting out a target per individual sites of 1 in new 4 new homes to be family sized. The proposal would also result in the demolition of two family sized homes and the provision of at least 2 family sized homes would therefore be required to ensure that there is no net loss of family sized housing. This proposal would result in the provision of 4 x three-bedroom homes which complies with Policy BH6 and BH10.
18. Policy BH5 requires developments of between 5-9 dwellings to make a financial contribution for the provision of affordable housing off-site. In this case, as only four homes are proposed, an off site contribution is not required by this policy.

Relationship with Barham Park - Locally Listed Non - Designated Asset

19. Barham Park is designated as a Locally Listed heritage asset (non-designated). Other heritage assets include the statutory listed garden features and locally listed cottages within the wider Barham Park grounds. The Old Court complex of buildings at Barham Park comprises the original Crab's House, and additions, which were made to it up to the early 20th century. The group of buildings facing Harrow Road are mainly Victorian, constructed in a mixture of London Stock brick with red brick dressings. The central block (set back) was original main entrance to Crab's House. The group of cottages known as Old Court has origins from the 18th century and was the home of the Crab family. The estate was acquired by George Barham the founder of the Express Dairies (that had a Royal Warrant to supply milk to Queen Victoria) in

20. Paragraph 189 of the NPPF recognises that heritage assets are an irreplaceable resource and seeks to conserve them in a manner appropriate to their significance. It is appropriate to consider the desirability of new development making a positive contribution to the local character and distinctiveness. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
21. Policy HC1 of the London Plan development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. Policy BHC1 states that proposals affecting heritage assets should consider the wider historic context and provide a detailed analysis and justification of the potential impact (including incremental and cumulative) of the development on the heritage asset and its context. Policy BP7 'South West' requires proposals to positively deliver the place vision through character, heritage and design by conserving and enhancing heritage assets including the gardens of Barham Park.
22. The application was accompanied by a Heritage Statement concluded that the existing houses have no heritage value, as shown by a previous permission for their demolition and replacement. Further to this the report outlined that the proposed design has been developed following a careful assessment of the heritage significance and character of the area, in particular drawing design cues from historic buildings within the park area. The materials and orientation are intended to allow the building to form an association with the park rather than be seen as bland urban development encroaching into the park. The findings also concluded that the scale of the proposed building is not considered to be too large in the context of this site where it will be seen in association with buildings of seven to eight storeys, tall mature trees, and will have a backdrop of the railway embankment.
23. The Heritage Officer was satisfied with the Heritage Statement submitted with the application as the document describes the significance of the heritage asset(s) while understanding the potential impact of the proposal in line with the NPPF 194. The Officer is satisfied with the overall design approach based on the half-timbering present in the existing locally listed buildings and also concluded that the new build would not harm the significance or setting of the park given the location.
24. The western part of the park was outside the original 'Sudbury Lodge' grounds and only became part of the park in the 20th century and is not the most significant part of the park. The proposed development, although more visible in relation to this area, will not harm the importance of the public open space nor impact upon the ability to experience the area of the original historic landscape park.
25. Additional views were requested during the course of the application as requested by the Heritage Officer. Views from within the heart of the park show that the development will be mainly masked by trees and in any case, its overall scale and design would not be seen as out of keeping. In terms of the setting of the locally and listed buildings, they are set within a very secluded area where they are screened from view from the wider area of the park.
26. Heritage Officer highlighted that the document submitted should have included a Statement of Significance and the Greater London Historic Environment Record consulted however after further discussions the officer agreed that's these requirements are not needed.
27. The Council can be content that the proposal would preserve the character and setting of the park of local special architectural or historic interest.

Design, Character and Impact on Street Scene

28. The NPPF emphasises that good design involves responding to local character and history and reflecting the identity of local surroundings and materials, while not discouraging appropriate innovation, and Policy DMP1 requires the scale, type and design of development to complement the locality. Policy BD1 of the Local Plan stipulates that innovative contemporary design will be supported where it respects and

complements historic character but is also fit for the future.

29. The proposal would see the introduction of a row of terraced properties that would have the appearance of 3 storeys with gabled roof additions on each elevation. The design team have taken some design cues from buildings within Barham Park and its built heritage highlights the cluster of buildings around the Community Library, formerly Crab's House, as defining the parks architectural character. These buildings are distinguished by their half-timbered facades and varied gable ends.
30. The site is positioned north west of the park and the Barham Park estate re-development is situated further to the west. The areas further north west and south west comprise of a mixture of commercial and residential properties along Harrow Road. A railway line is positioned directly to the north of the site which serves national rail links.
31. The proposal would see the introduction of a row of terraced properties that would have the appearance of 3 storeys with gabled roof additions on each elevation. The design team have obtained design initiatives from buildings within Barham Park and its built heritage highlights the cluster of buildings around the Community Library, formerly Crab's House, as defining the parks architectural character. These buildings are distinguished by their half-timbered facades and varied gable ends.
32. The proposed height of the development is considered suitable at site and would not appear prominent or out of context. The application has been accompanied by a number of views while considering the surrounding context. The roof profile here is acceptable and suitably reinterprets the prevailing language of the surrounding area. The facades are well-composed with a simple design approach that would not appear out of context when viewed from the nearby streets. SPD1 highlights the importance for development to ensure animated facades towards public routes and spaces while avoiding blank walls. The proposed orientation and layout would ensure the main frontages facing Harrow Road providing good activity and value when perceived from Harrow Road at street level. The proposal would incorporate a significant amount of planting along the edges and the front of the dwellings further enhancing the appearance of the development and this would be betterment when considering the existing situation on site, further adding great value to the street scene and setting of the park.
33. SPD1 highlights the importance of the use of durable and attractive materials is essential in order to create development that is appealing, robust and sustainable and fits in with local character. The Design and Access Statement outlines that the materials proposed would comprise of brown multi stock brickwork with untreated timber cladding. The doors would include timber matchboard while the windows would comprise of ppc aluminium framed windows. The principle of the materials is considered acceptable, however given the relationship with the neighbouring non-heritage asset i.e. the park, details of the materials have been conditioned.
34. The Urban Design Officer was satisfied with the materials and general design approach. The officer requested detailed bay studies and these were provided during the course of the application. The proposed materials are considered acceptable in principle and draws on the surrounding context. Overall, the buildings would be of a high-quality design and contain a traditional and elements of a contemporary design that would benefit from positive architectural features. However, further details including samples of the external materials are recommended to be secured as a condition.

Impact on Residential Amenity

35. The site does not have any immediate adjoining residential neighbours. The nearest residential properties are located on the opposite side of Harrow Road (the flats within Williams Way) and are a significant distance from the proposed dwellings. The properties to the north on Elton Avenue are separated by the railway line and are also a significant distance away. As such, there is no requirement to apply 30/45 degree lines as set out within SPD1 or 18m separation distance as these constraints would not be applicable in this instance. Overall the development would not harmful from a residential amenity perspective given the surrounding context of the site.

Standard of Accommodation

36. Policy D6 of London Plan sets out standards for housing quality. It requires new homes to be of high quality design and provide adequately sized rooms with comfortable and functional layouts. Policy D6 requires new housing developments to maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings.
37. Policy D6 of London Plan sets out minimum floorspace requirements. It also requires single bedrooms to have a floor area of at least 7.5sqm and be at least 2.15m wide. A double or twin bedroom must have a floor area of at least 11.5sqm, with at least one of the double bedrooms at 2.75m wide, and the remaining double bedrooms at 2.55m wide. Policy D6 further highlights that minimum floor to ceiling height must be 2.5m for at least 75 per cent of the Gross Internal Area of each dwelling.
38. The drawings show the provision of 4 x 3-bedroom 5 person homes situated over three floors with a study also situated on the second floor. As the homes are situated over three floors, the minimum floorspace required in accordance with London Plan policy would be 99 sqm. The proposed end-of-terrace properties would have a floorspace of approximately 143 sqm and the two mid-terrace dwellings would have a floorspace of approximately 151 sqm, both exceeding the London Plan minimum standards. It is noted that the top floor of each dwelling contains a study which could be used as an additional bedroom, resulting in the provision of 4 x 4-bedroom 6-person homes. These would still meet the London Plan floorspace standard of 112sqm. The internal configuration of each unit would allow for good levels of outlook and access to light, with all homes being dual aspect. The elevations show that the new homes would achieve an internal floor height of at least 2.5m for 75% of the internal floorspace. Sufficient storage is also provided in line with London Plan requirements.

Accessible homes

39. Policy D7 of the London Plan states that to provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children all dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.
40. Each of the proposed homes would have level access from street level. They would all be designed in line with M4(2) as set out within policy D7 of London Plan.

Amenity Space

41. Policy BH13 establishes that all new dwellings are required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. This will normally be expected to be 50sqm for family housing (homes with 3 or more bedrooms) located at ground floor level and 20sqm in all other cases.
42. The BH13 requirement for external private amenity space is for it to be of a "sufficient size and type".
43. This may be achieved even when the "normal expectation" of 20sqm or 50sqm 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". Proximity and accessibility to nearby public open space may also be considered when evaluated whether the amenity space within a development is "sufficient", even where a shortfall exists in private and/or communal space.
44. With regard to quality of the space, the supporting text to policy BH13 specifies that private amenity should be accessible from a main living room without level changes and planned within a building to take a maximum advantage of daylight and sunlight, whilst Brent SPD1 specifies that the minimum depth and width of the space should be 1.5 m.
45. London Plan policy D6 specifies that where there is no higher local standard, a minimum of 5sqm of private amenity space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant. The minimum depth and 1.5 m is reconfirmed in the policy. Whilst Brent's local standard is more stringent, as discussed above, there is also an expectation that the core requirements of

D6 would be met alongside achievement of Brent's BH13 policy.

46. Each end dwelling would have access to a rear garden that measures 50sqm however the middle units would fall marginally below 50sqm with a rear garden of 45sqm each. However each unit would have access to a front garden and the site is within very close proximity to the entrance of Barham Park. Therefore the external amenity space for the homes would be of a sufficient size and type, in accordance with policy BH13.

Noise and Vibration

47. Given the relationship with the railway directly north of the site an Acoustics Assessment Report was submitted with the application. The report has provided findings of an assessment of the likely significant effects of noise and vibration as a result of the proposed development. The assessment considers both the impact of the existing noise and vibration climate on the future development to determine the suitability of the site for the proposed usage, and the potential noise impact of the new development on the existing environment.
48. The report highlights that the proposal will have external walls with timber infills has the potential to allow noise ingress through the wall construction to be greater than through the windows, especially at low frequencies. The external wall build-up above ground floor level should be required to achieve a minimum R_w of 50 dB in order to mitigate noise break-in. This will necessitate the inclusion of some mass layers within the construction, for example cement particle board and double-layered internal linings. This will need to be developed at the design stage.
49. The report concluded that design of the building will need to incorporate good acoustic design measures in the form of robust external building fabric specifications and an appropriate ventilation strategy in order to minimise the adverse effects of noise on future occupants. -Areas of the façades affected by the highest noise levels will required R_w 40 dB glazing and $D_{n,e,w}$ 40 dB trickle vents in order to achieve suitable internal conditions. Other areas will require lower specifications. Vibration levels are predicted to be within acceptable standards both in terms of tactile vibration and re-radiated noise as a result of ground-borne vibration from road and rail sources.
50. The Environmental Health Noise Team have reviewed the report and confirmed that the mitigation measures would be acceptable and that a condition is secured to ensure that the mitigation measures are in place.

Transport Considerations

51. The site lies within Controlled Parking Zone "SA", operational between 10am-3pm on weekdays. A bus stop and clearway are located immediately north of the site, with a bus lane in operation between 7am-7pm Mondays to Saturdays along the site frontage. Otherwise, on-street parking and loading along Harrow Road are prohibited between 8am-6.30pm Mondays to Saturdays. The site contains a PTAL rating of 5 (Very Good).
52. The proposals include the provision of 4 cycle lockers, each of which would be of a sufficient size for them to each accommodate 2 cycles. This complies with the minimum number of cycle parking spaces required. The Design and Access Statement also confirms that the spaces will be in secure undercover lockable compounds, thus meeting security requirements.
53. Bin stores have been proposed along the site frontage and within 20m of the collection point from Harrow Road, which is acceptable.
54. With regard to pedestrian access, separate footpaths are proposed to each pair of houses. Servicing will take place from the carriageway of Harrow Road, as per the existing houses. Any increase in servicing activity would not be significant enough to cause concern compared to the existing homes.
55. The Transport Officer raised no objections to the proposed development and requested a car free condition to be included to any consent.

Environmental Health Considerations

56. The Environmental Health Officer requested an Air Quality Neutral Assessment, however given the scale and nature of the development which is “car free” and includes the use of Air Source Heat Pumps, this is not considered to be necessary. A condition has been included requesting a Construction Method Statement given that the development is within an Air Quality Management Area. Demolition and construction therefore has the potential to contribute to background air pollution levels and cause nuisance to neighbours.
57. The proposed site for redevelopment has been identified as previously contaminated and therefore a full assessment of land contamination should be undertaken. These reports are to be secured through condition.

Asbestos

58. Given the age of the buildings to be demolished it is possible that asbestos may be present. The applicant has been reminded through the use of an informative of their duties under the Control of Asbestos Regulations and must ensure that a qualified asbestos contractor is employed to remove all asbestos and asbestos-containing materials and arrange for the appropriate disposal of such materials.

Tree Considerations

59. Policy BGI2 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.
60. A Tree Report has been provided with the application revealing that there 10 trees recorded within or adjacent to the site - 6 individual category ‘B’ grade trees, 2 individual trees which have been identified as category ‘C’ grade trees, 2 individual ‘U’ grade trees. The report confirms that no trees are proposed to be removed to facilitate the development although two category U trees (T2 and T8) should be removed irrespective of development due to their decline. Both of these trees lie outside of the application site.
61. The proposal is accompanied by a Tree Protection Plan that includes a Construction Exclusion Zone (CEZ) both within the south eastern corner of the site in relation to trees T5/T6 that sit within the park and within the northern western end of the site in relation to trees T1 to T4. The Council's tree officer has confirmed that they have no concerns with the protective fencing proposed to ensure the RPA's of T5 and T6 to the rear are protected. Whilst trees T1 to T4 also sit outside the application site, the Council's tree officer has advised that the trees to the front of the site are those most likely to be negatively impacted by the proposed development. The removal of the existing hardstanding and installation of new hardstanding, cycle storage and bin stores would be proposed within the Root Protection Area (RPA) of these trees. In response the applicant arboricultural consultant has pointed out that the proposed site plan confirms that there is no vehicle access proposed within the RPA of the T4. The part tarmac/part concrete surface to the existing vehicle access that currently passes over the RPA to T4 would be removed and the surface mostly landscaped a lawn as part of the front garden to no.4, or would otherwise be paved to provide pedestrian access to nos. 3 and 4. Such paving would be laid on sand blinding and would require no digging at all other than that required to remove the existing tarmac and concrete finishes. The paths so formed will have grassed edges and would not therefore require footings for kerbs or any other form of edging. The consultant also points out that these works would enhance the environment of T4 as a far greater area of the RPA will have access to natural precipitation and air.
62. The Council's tree officer has also confirmed that they do not have any concerns with the raising of the canopies for T1 and T4 to a height of 5m.
63. The Council's tree officer has confirmed that they are happy with these principles as set out above but requested a condition be secured in relation to a Tree Protection Plan and Arboricultural Method Statement.

Fire Safety Considerations

64. Policy D12a of the London Plan highlights the importance for all development proposal achieving the highest standards of fire safety. The application has been accompanied by a Fire Safety Strategy

Statement which reveals the proposal has been designed as a series of four stand-alone dwellings with all fire safety measures to comply with Building Regulations Approved Document B1, 2019 incorporated. The report provides detailed discussions regarding evacuation assembly points, fire safety measures, minimising fire spread, means of escape, evacuation strategy and fire-fighting access. The addition of wood externally was questioned with the agent who confirmed that the construction details that the team have confirm the use of cavity barriers and non-combustible insulation within the external envelope at 1st and 2nd floor levels and the overall construction will comply with the relevant building regulations.

65. Overall, it is considered that the submitted information is sufficient to cover the considerations set out within policy D12a of London Plan 2021. It should also be noted that the development would also be subject to consideration under the building regulations where fire safety would be evaluated in further detail.

Flooding and Drainage Considerations

66. Policy BSUI3 of Brent's Local Plan that highlights the need for proposal that require a flood risk assessment to demonstrate that the development will be resistant and resilient to all relevant sources of flooding including surface water. Policy BSUI4 highlights that substantial weight will be afforded to the target for mains water consumption of 105 litres or less per person per day and to the achievement of greenfield runoff rates for surface water. Where greenfield run-off rates cannot be achieved this should be clearly justified by the applicant.
67. The site is within a Flood Zone 1 however the site is designated as a Floodzone 3a for local surface water. A Flood Risk Assessment was submitted with the application highlighting that the site currently benefits from an existing drainage network. The existing dwellings have a number of down water pipes, which accommodate rainfall generated from the roof surfaces. It is understood by the consultant that the site surface water drainage network discharges into this public surface water sewer system. The document reveals that a public drainage network is present to the west of the site, which may under certain conditions pose a flood risk through surcharge of the sewers. The West London SFRA does not identify there to be any historic sewer flood incidents in the proximity of the site. The Flood risk assessment has demonstrated that a number of measures would be included to ensure that the development would be resistant and resilient to flooding through raised finished floor level by 300mm, evacuation plan in the event of a flood and flood resilient materials used
68. The surface water from the existing site is disposed to this public surface water sewer. It is therefore proposed that this connectivity will be retained and runoff from the site will be discharged to this public surface water sewer. The surface water runoff from the site into the public surface water sewer will occur at a rate of 5 l/s. This restriction will be achieved using a hydro-brake (or similar approved) fitted towards the end of the drainage run.
69. The report recommends that an appropriately located and sized areas of attenuation storage would be required to restrict the post-development runoff rates to these rates. This would be achieved using a gravel sub-base located beneath an area of permeable block paving and an attenuation tank. The permeable block paving would allow rainfall that falls onto the surface to infiltrate into the underlying gravel sub-base. Roof areas from proposed cycle stores will also be directed into the sub-base. The surface water drainage strategy would ensure that the exceedance flows are directed into the drainage system (permeable paving) and thus shall not encroach onto third party land.
70. More detailed design works, would be necessary once planning permission has been granted and these details have been requested via a condition. The Principal Engineer raised no objections to the proposed development and requested a condition for smart water butts to be included.
71. Thames Water were consulted during the course of the application raising no objection. A Piling Method Statement was requested via a planning condition.
72. A condition would be secured to target mains water consumption of 105 litres or less per person per day in line with policy BSUI4.

Urban Greening Factor

73. Policy G5 of The London Plan and Policy BH4 of the Local Plan require developments to contribute to Urban Greening and a target Urban Greening Factor (UGF) of 0.4 is recommended. The application has provided calculations demonstrating that a score of 0.65 would be achieved on site. Further details of the UGF are recommended to be conditioned to any forthcoming consent.

Ecological Considerations

74. The proposal lies within SNIC Grade 2 Barham Park with the railway line to the north being a designated SNIC Grade 1 Chiltern Line and a wildlife corridor, which all have ecological value. Policy G6 of London Plan highlights that where harm to a SINIC is unavoidable, and where the benefits of the development proposal clearly outweigh the impacts on biodiversity, the following mitigation hierarchy should be applied to minimise development impacts:
- 1) avoid damaging the significant ecological features of the site
 - 2) minimise the overall spatial impact and mitigate it by improving the quality or management of the rest of the site
 - 3) deliver off-site compensation of better biodiversity value.
75. It goes onto to state that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. This should be informed by the best available ecological information and addressed from the start of the development process.
76. The above position is reinforced within policy BGI1 of Brent's Local Plan which highlights that all developments should achieve a net gain in biodiversity and avoid any detrimental impact on the geodiversity of an area;
77. An Ecological Impact Assessment has been submitted with the application to demonstrate that the proposal would not have a material impact on ecology and nature, including an assessment of impact on protected species and any mitigation measures that are required and proposed.
78. An Ecology Assessment was submitted with the application which highlights that the two properties have some external bat roosting potential as suitable features are present such as scattered crevices behind roof tiles and ridge tiles as well as lead flashing, although the potential would still be classified as low. It highlighted that no bird nests were found within the development footprint at this site during the survey visit. Although there was the potential for the occasional hidden bird nest to be present in the vegetation present. Likewise, the trees outside the application site provide nesting bird structure. Hedgehogs are known to be present in the wider area. Therefore, the report recommends that hedgehogs are not impacted during the proposed development related works. This should include no uncovered hole during the works and the restoration of any valuable habitat lost by new habitat creation. The report also concluded that the habitat value within the site was low with hedging and grass.
79. The report did not highlight any evidence of badgers, reptiles or great crested newt potential within the application site.
80. As part of the recommendations, the report concluded that a standard follow-up bat emergence survey is undertaken at the application site. The future lighting scheme must be bat friendly and adhere to best practice on this aspect. There must be no UV elements to the new lighting and no metal halide or fluorescent sources used. The proposal should install 3-4 bat boxes at the site boundaries. New bird nesting boxes should be installed as widely spaced apart as possible. The exact number of boxes would need to be appropriate for the size of the application site as nest boxes should not be located close together. But between 1-2 boxes would be suitable. Invertebrate nesting boxes will also be provided in the new landscape scheme. Native and wildlife friendly planting is also recommended together with the protection of the trees outside of the application site.
81. It is recommended that the above recommendations are secured through a condition attached to the consent.

Relationship with Railway

82. Chiltern Rails were consulted during the course of the application raising no objection to the proposed development and was satisfied with the contents of the acoustic assessment report to help mitigate potential impacts.
83. Network Rail were consulted during the course of the application raising no objections to the proposed development, subject to a number of measures being conditioned to any forthcoming consent as the proposal would include works within 10m of the railway boundary and an interface with the railway boundary therefore undertaking the with the agreement and supervision of Network Rail is required. This is to ensure that the works on site, and as a permanent arrangement, do not impact upon the safe operation and integrity of the existing operational railway.
84. As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The BAPA will be in addition to any planning consent which is within the informative notes of this application that no works are to commence until agreed with Network Rail on the BAPA.

Sustainability

85. Local Plan Policy BSUI4 applies substantial weight to the target for mains water consumption of 105 litres or less per person per day, and a condition has been recommended to require this to be achieved. Proposals for sustainability and energy have been set out within the Design and Access statement, including proposed fabric targets for thermal performance which go beyond building regulation requirements together with the use of Air Source Heat Pumps (ASHP) and the provision of photovoltaic (PV) panels. These measures are strongly supported. It is noted that the ASHP units are located on the roof of one of the houses, with a hatch indicated from one home but not all of the homes. Is it possible that this may prove impractical in terms of any future maintenance and further details of the ASHP and PV panels is recommended to be secured through condition. ASHPs also generate noise and a condition has also been recommended to ensure that this does not significantly impact the amenity of sensitive receptors.

Equality

86. 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).

Summary

87. The proposal is considered to accord with the development plan, and having regard to all material planning considerations. The proposal would deliver the provision of four family sized homes, contributing towards the Council's housing targets.
88. Planning permission is therefore recommended to be granted subject to conditions.



DECISION NOTICE – APPROVAL

Application No: 22/4128

To: Mr Gilbertson
Mackenzie Wheeler Architects
Mackenzie Wheeler
11 - 13 Batemans Row
London
EC2A 3HH

I refer to your application dated **08/12/2022** proposing the following:

Demolition of 2 existing dwellings and construction of 4x new three storey dwellinghouses, associated cycle and refuse storage, amenity space and boundary treatment

and accompanied by plans or documents listed here:
Please refer to condition 2

at **776 & 778, Harrow Road, Wembley, HA0 2HE**

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: 02/06/2023

Signature:

Gerry Ansell
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 material accordance with the:-

National Planning Policy Framework 2021

London Plan 2021

Local Plan 2019-2041

Sudbury Town Neighbourhood Plan 2015

- 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):

Drawing Numbers:

1463-001 Rev. B

1463-002 Rev. A

1463-100 Rev. E

1463-101 Rev. G

1463-102 Rev. G

1463-103 Rev. E

1463-104 Rev. B

1463-120 Rev. E

1463-121 Rev. E

1463-122 Rev. D

1463-123 Rev. D

1463/130

BP/2/3

BP/5

Supporting Documents

Preliminary Ecological Assessment prepared by ASW Ecology Ltd - ASW/ZPL/111/26/2022
Fire Statement

Arboricultural Impact Assessment prepared by Connick Tree Care - 194974

Flood Risk Assessment conducted by Zenastar Properties Limited - 184351A Rev D

Acoustics Assessment Report Planning Stage prepared by RBA Acoustics - 10764.RP01.AAR.1

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

- 3 No extensions or buildings shall be constructed within the curtilage of the dwellinghouses subject of this application, notwithstanding the provisions of Classes A, B, D, E & F of Part 1 Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015, as (amended), (or

any order revoking and re-enacting that Order with or without modification) unless a formal planning application is first submitted to and approved by the Local Planning Authority.

Reason: o prevent an over development of the site and undue loss of amenity to adjoining occupiers.

- 4 The 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.

- 5 The works shall be carried out in accordance with the approved Flood Risk Assessment Drainage Strategy (Flood Risk Assessment conducted by Zenastar Properties Limited - 184351A Rev D) prior to occupation of the development unless an alternative strategy is submitted to and approved in writing by the Local Planning Authority and thereafter implemented in full. The SuDS measures shall thereafter be maintained in accordance with the tasks and frequencies set out within the Maintenance section of the Drainage Strategy unless an alternative maintenance regime is submitted to and approved in writing by the local planning authority and the maintenance thereafter implemented in accordance with that strategy.

Reason: To ensure that risks from flooding are effectively mitigated.

- 6 The measures and recommendations set out in the Preliminary Ecological Assessment prepared by ASW Ecology Ltd - ASW/ZPL/111/26/2022 shall be implemented in full throughout the construction of the development.

Reason: In order to ensure that any potential effects on protected species are adequately mitigated.

- 7 Occupiers of the development hereby approved, shall not be entitled to a Residents Parking Permit or Visitors Parking Permit to allow the parking of a motor car within the existing or any future Controlled Parking Zone (CPZ) operating in the locality within which the development is situated unless the occupier is entitled; to be a holder of a Disabled Persons Badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970. On, or after, practical completion but prior to any occupation of the development, hereby approved, written notification shall be submitted to the Local Highways Authority confirming the completion of the development and that the above restriction will be imposed on all future occupiers of the development.

Reason: In order to ensure that the development does not result in an increased demand for parking.

- 8 The development hereby approved shall not be occupied unless the cycle storage and refuse stores have been completed in full accordance with the approved drawings and the facilities shall thereafter be made available to residents of the development and shall not be used other than for purposes ancillary to the dwellinghouses hereby approved.

Reason: To ensure a satisfactory standard of accommodation.

- 9 The development hereby approved shall not be occupied unless the external amenity spaces have

been completed in full accordance with the approved drawings and those spaces shall thereafter be made available to residents of the development and shall not be used other than for purposes ancillary to the dwellinghouses hereby approved.

Reason: To ensure a satisfactory standard of accommodation.

- 10 Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority outlining measures that will be taken to control dust, noise and other environmental impacts of the development. The development shall thereafter be carried out in accordance with the approved details.

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: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 11 Prior to development commencing, a Construction Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out how the construction process will be managed so as to protect the existing ecology of the site and off-site receptors, in accordance with the recommendations of the approved Preliminary Ecological Assessment. All recommendations within the approved CEMP shall be carried out throughout the construction of the development.

Reason: In order to ensure that the development results in no net loss to biodiversity and impact upon wildlife.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 12 Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of retained trees in accordance with BS5837: 2012 including a Tree Protection Plan (TPP, at para. 5.5 BS 5837) and an Arboricultural Method Statement (AMS, at para. 6.1 BS 5837) shall be submitted to and approved in writing by the local planning authority.

Specific issues to be dealt with in the TPP and AMS

- a. Location and installation of services/utilities/drainage
- b. Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c. Details of construction within the RPA that may impact on the retained trees
- d. A full specification for the installation of boundary treatment works
- e. A full specification for the construction of any roads, parking areas and driveways to be constructed using a no-dig specification including the extent. Details shall include relevant sections through them.
- f. Detailed levels and cross sections to show that the raised levels or surfacing, where the installation of no-dig surfacing within the RPA is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h. A specification for scaffolding and ground protection within tree protection zones.
- i. Tree protection during construction indicated on a TPP and construction activities in this area clearly identified as prohibited in this area.
- j. Details of site access, temporary parking, on site welfare facilities, loading, unloading and

- storage of equipment, materials, fuels and waste as well as concrete mixing and use of fires.
- k. Boundary treatments within the RPA
- l. Methodology and detailed assessment of root pruning
- m. Arboricultural supervision and inspection by a suitably qualified tree specialist.
- n. Reporting of inspection and supervision.
- o. Methods to improve the rooting environment for retained trees and landscaping
- p. Veteran and ancient tree protection and management.

The development thereafter shall be implemented in strict accordance with the approved details.

Reason: To protect and enhance the appearance and character of site and locality, in accordance with DMP1 and BGI 2.

Pre-commencement reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction.

- 13 Prior to the commencement of the development a method statement and risk assessment must be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the lifetime of the development.

Reason:: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 14 Prior to the commencement of the development details of any scaffolding works within 10m of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason:: In the interests of protecting the railway and its boundary from over-sailing scaffolding.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 15 Prior to the commencement of the development a crane lift methodology shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason:: To ensure that the crane works can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 16 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.

- 17 No vibro-impact works shall take place on site until a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason:: To prevent any piling works and vibration from de-stabilising or impacting the railway.

- 18 Prior to the commencement of the development (excluding demolition works) full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason:: To protect the adjacent railway and its boundary.

- 19 Following the demolition of the buildings and prior to the commencement of building works, a site investigation shall be carried out by competent persons to determine the nature and extent of any soil contamination present. The investigation shall be carried out in accordance with the principles of BS 10175:2011. A report shall be submitted to the Local Planning Authority, 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. The written report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works (excluding demolition).

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

- 20 Prior to the commencement of the development (but excluding demolition, site preparation and the laying of foundations), details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details.

Reason::To protect the adjacent railway from the risk of flooding, soil slippage and pollution.

- 21 Details of materials for all external work shall be submitted to and approved in writing by the Local Planning Authority prior to commencement (but excluding demolition, site preparation and the laying of foundations), including samples of key materials to be made available on-site or in an agreed location. The work shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- 22 Prior to commencement of development hereby approved (but excluding demolition, site preparation and the laying of foundations), details of smart water butts providing attenuation in a flash rainfall event preventing any surcharge in the system shall be submitted to and approved in

writing to the Local Planning Authority. The development shall be built in accordance with the approved details and therefore retained throughout the lifetime of the development.

Reason: To ensure a surface water run off is managed appropriately.

23 Details of the hard and soft landscaping within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development (excluding any demolition, site clearance and the laying of foundations), Such details shall include:

- I. A scaled plan showing vegetation to be retained and trees and plants to be planted
- II. A schedule detailing sizes and numbers of all proposed trees and use of native and/or wildlife attracting species as per the recommendations made within the Ecological Impact Assessment
- III. Sufficient specification to ensure successful establishment and survival of new planting
- IV. Details of all proposed hardstanding
- V. Details of garden wall, fences or other form of boundary treatment to be provided within the site (including details of external materials and heights)
- VI. Details of a suitable trespass proof fence adjacent to the boundary with the railway line (including details of external materials and heights) in consultation with Network Rail
- VII. Details of appropriate vehicle safety protection measures along the boundary with the railway in consultation with Network Rail
- VIII. Details of wildlife enhancements within the site as per the recommendation sets out within Ecological Impact Assessment, including the use of insect nest boxes/ dead wood piles, nest boxes for bird species and bat boxes in areas of minimal light spill
- IX. Details to maximise the urban green factor (UGF) for the site in line with policy BH4 of Brent's Local Plan 2019-2041, including the requirement to submit a UGF Masterplan and score in line with the London Plan Open Space Categorisation
- X. Details of cycle storage through the provision of secure, weatherproof cycle storage facility, which shall include capacity for a minimum of 2- long-stay spaces per storage facility
- XI. Details of any external lighting and overspill diagram in relation to the park and railway line in terms of wildlife and pedestrian
- XII. Details of refuse store facilities
- XIII. A schedule of landscape maintenance for a period of 5 years. which shall include details of the arrangements for its implementation and sufficient specification to ensure successful establishment and survival of new planting.

The hard and soft landscape works shall be carried out in full accordance with the approved details prior to the use of the dwellings hereby approved, unless alternative timescales have been submitted to and approved to be agreed in writing by the Local Planning Authority and the works shall thereafter be carried out in accordance with the approved timescales .

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any new trees(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in a accordance with the approved details (unless the Local Planning authority gives its written consent to any variation).

Reason To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality, and to protect

the adjoining railway in accordance with policies DMP1 and BGI 2

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

Time	Area	Maximum noise level
Daytime Noise 07:00 – 23:00	Living rooms and bedrooms	35 dB LAeq (16hr)
Night time noise 23:00 – 07:00	Bedrooms	30 dB LAeq (8hr) 45 dB LAmax

A test shall be carried out prior to the first occupation of the development hereby approved to show that the required noise levels have been met and the results submitted to and approved in writing by the Local Planning Authority.

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

- 25 Any soil contamination remediation measures required by the Local Planning Authority shall be carried out in full. 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 site 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

- 26 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.

Prior to first occupation or use of the development, 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 and maintained in accordance with the approved details

Reason: To protect acceptable local noise levels, in accordance with Brent Policy DMP1.

- 27 The energy and sustainability measures set out with the Design and Access Statement shall be implemented in full. Further details of the Air Source Heat Pumps and PV panels shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works (excluding demolition, site clearance and any below ground works), including the location of the units and access arrangements for future maintenance. The Air Source Heat Pumps and PV panels shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a suitably sustainable development.

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.

- 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 Communities and Local Government website www.communities.gov.uk
- 3 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 Given the age of the buildings to be demolished it is possible that asbestos may be present. The applicant should be reminded of their duties under the Control of Asbestos Regulations and must ensure that a qualified asbestos contractor is employed to remove all asbestos and asbestos-containing materials and arrange for the appropriate disposal of such materials.
- 5 The submission/approval of the Fire Safety Statement does not replace the need for building regulation approval in relation to fire safety, nor does it convey or imply any approval under those regulations.
- 6 Construction/refurbishment and demolition works and ancillary operations which are audible at the site boundary shall be carried only between the hours of:

Monday to Fridays 08:00 to 18:00

Saturday 08:00 to 13:00

At no time on Sundays or Bank Holidays
- 7 The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail's Asset Protection team and agree the BAPA before any works commence on site. Network Rail recommends that the applicant ensures that the BAPA is in place and that Network Rail has reviewed and agreed the documents as part of the discharge of any conditions.

The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent. The Early engagement with Network Rail is strongly recommended.

All new enquiries will need to be submitted via the Asset Protection and Optimisation - Customer Portal

Link to ASPRO ACE Portal (

<https://erjy-odcsvbcs-11211655-1568-cacctnetworkrail.builder.ocp.oraclecloud.com/ic/builder/rt/CustomerPortal/live/webApps/dcs/>)

Any person wishing to inspect the above papers should contact Mahya Fatemi, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 2292

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DECISION NOTICE – APPROVAL

Application No: 22/4128

To: Mr Wheeler
Mackenzie Wheeler Architects
Mackenzie Wheeler
11 - 13 Batemans Row
London
EC2A 3HH

I refer to your application dated **08/12/2022** proposing the following:

Demolition of 2 existing dwellings and construction of 4x new three storey dwellinghouses, associated cycle and refuse storage, amenity space and boundary treatment

and accompanied by plans or documents listed here:
Please refer to condition 2

at **776 & 778, Harrow Road, Wembley, HA0 2HE**

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: 13/06/2023

Signature:



Gerry Ansell
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

SCHEDULE 'A'

Appeals to the Secretary of State

The applicant may appeal to the Secretary of State if he or she is aggrieved by the decision of the local planning authority in respect of:

- (1) Refusal of a planning, Permission in Principle, Technical Details Consent, listed building consent or conservation area consent application, including refusal to vary or discharge conditions.
- (2) The conditions attached to a planning, Technical Details Consent, listed building consent or conservation area consent application.
- (3) Refusal, partial refusal or deemed refusal of a lawful development certificate.

The time period to do this will vary depending on the application type or development type. An appeal must be made within the following time periods of the decision date:

- (1) An advertisement application must be made within 8 weeks
- (2) A full application, removal or variation of condition for a householder* development must be made within 12 weeks. (See below for definition of householder)
- (3) All other application types or development types must be made within 6 months

However, different timescales apply where the development is also the subject of an enforcement notice. If an enforcement notice has been served within two years of an application being submitted or is served before the time period for determining the application has expired, the time limit to appeal is 28 days from date of refusal or the date of determination. If an enforcement notice is served after the application's decision date or date for determination, the time limit is 28 days from the enforcement notice served date, unless this would extend the period beyond the usual time limit for cases not involving an enforcement notice.

- The Secretary of State can allow a longer period for giving notice of an appeal but he/she will not normally be prepared to use this power unless there are special circumstances which excuse the delay. Appeals must be made on a form obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.gov.uk/government/organisations/planning-inspectorate.
- The Secretary of State need not consider an appeal if it seems to him/her that the local planning authority would not have been able to have granted planning permission for the development or would not have been able to have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him/her.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim he can neither put the land to a reasonably beneficial use in its existing state, nor render the land capable of a reasonably beneficial use, either carrying out any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land, in accordance with the provisions of Part V1 of the Town and Country Planning Act 1990.

*For the purposes of an appeal, a householder development is development in the boundary of, or to an existing dwellinghouse for purposes incidental to the enjoyment of the dwellinghouse, that does not involve change of use or a change to the number of dwellings. Please note, this does not include development in the boundary of, or to an existing flat or maisonette. This includes "prior approval" applications for larger household extensions.

Planning and Development
Brent Civic Centre, Engineers Way, Wembley, Middlesex, HA9 0FJ
Telephone: 020 8937 5210

For information on making an appeal, visit: www.planningportal.co.uk/planning/appeals or www.gov.uk/government/organisations/planning-inspectorate

SUMMARY OF REASONS FOR APPROVAL

- 1 The proposed development is in material accordance with the:-
National Planning Policy Framework 2021
London Plan 2021
Local Plan 2019-2041
Sudbury Town Neighbourhood Plan 2015

CONDITIONS

- 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):

Drawing Numbers:

1463-001 Rev. B
1463-002 Rev. A
1463-100 Rev. E
1463-101 Rev. G
1463-102 Rev. H
1463-103 Rev. E
1463-104 Rev. B
1463-120 Rev. E
1463-121 Rev. E
1463-122 Rev. D
1463-123 Rev. D
1463/130
BP/2/3
BP/5

Supporting Documents

Preliminary Ecological Assessment prepared by ASW Ecology Ltd - ASW/ZPL/111/26/2022

Fire Statement

Arboricultural Impact Assessment prepared by Connick Tree Care - 194974

Flood Risk Assessment conducted by Zenastar Properties Limited - 184351A Rev D

Acoustics Assessment Report Planning Stage prepared by RBA Acoustics - 10764.RP01.AAR.1

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

- 3 No extensions or buildings shall be constructed within the curtilage of the dwellinghouses subject of this application, notwithstanding the provisions of Classes A, B, D, E & F of Part 1 Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015, as (amended), (or

any order revoking and re-enacting that Order with or without modification) unless a formal planning application is first submitted to and approved by the Local Planning Authority.

Reason: To prevent an over development of the site and undue loss of amenity to adjoining occupiers.

- 4 The 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.

- 5 The works shall be carried out in accordance with the approved Flood Risk Assessment Drainage Strategy (Flood Risk Assessment conducted by Zenastar Properties Limited - 184351A Rev D) prior to occupation of the development unless an alternative strategy is submitted to and approved in writing by the Local Planning Authority and thereafter implemented in full. The SuDS measures shall thereafter be maintained in accordance with the tasks and frequencies set out within the Maintenance section of the Drainage Strategy unless an alternative maintenance regime is submitted to and approved in writing by the local planning authority and the maintenance thereafter implemented in accordance with that strategy.

Reason: To ensure that risks from flooding are effectively mitigated.

- 6 The measures and recommendations set out in the Preliminary Ecological Assessment prepared by ASW Ecology Ltd - ASW/ZPL/111/26/2022 shall be implemented in full throughout the construction of the development.

Reason: In order to ensure that any potential effects on protected species are adequately mitigated.

- 7 Occupiers of the development hereby approved, shall not be entitled to a Residents Parking Permit or Visitors Parking Permit to allow the parking of a motor car within the existing or any future Controlled Parking Zone (CPZ) operating in the locality within which the development is situated unless the occupier is entitled; to be a holder of a Disabled Persons Badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970. On, or after, practical completion but prior to any occupation of the development, hereby approved, written notification shall be submitted to the Local Highways Authority confirming the completion of the development and that the above restriction will be imposed on all future occupiers of the development.

Reason: In order to ensure that the development does not result in an increased demand for parking.

- 8 The development hereby approved shall not be occupied unless the cycle storage and refuse stores have been completed in full accordance with the approved drawings and the facilities shall thereafter be made available to residents of the development and shall not be used other than for purposes ancillary to the dwellinghouses hereby approved.

Reason: To ensure a satisfactory standard of accommodation.

- 9 The development hereby approved shall not be occupied unless the external amenity spaces have

been completed in full accordance with the approved drawings and those spaces shall thereafter be made available to residents of the development and shall not be used other than for purposes ancillary to the dwellinghouses hereby approved.

Reason: To ensure a satisfactory standard of accommodation.

- 10 Prior to the commencement of the development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority outlining measures that will be taken to control dust, noise and other environmental impacts of the development. The development shall thereafter be carried out in accordance with the approved details.

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: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 11 Prior to development commencing, a Construction Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out how the construction process will be managed so as to protect the existing ecology of the site and off-site receptors, in accordance with the recommendations of the approved Preliminary Ecological Assessment. All recommendations within the approved CEMP shall be carried out throughout the construction of the development.

Reason: In order to ensure that the development results in no net loss to biodiversity and impact upon wildlife.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 12 Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of retained trees in accordance with BS5837: 2012 including a Tree Protection Plan (TPP, at para. 5.5 BS 5837) and an Arboricultural Method Statement (AMS, at para. 6.1 BS 5837) shall be submitted to and approved in writing by the local planning authority.

Specific issues to be dealt with in the TPP and AMS

- a. Location and installation of services/utilities/drainage
- b. Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c. Details of construction within the RPA that may impact on the retained trees
- d. A full specification for the installation of boundary treatment works
- e. A full specification for the construction of any roads, parking areas and driveways to be constructed using a no-dig specification including the extent. Details shall include relevant sections through them.
- f. Detailed levels and cross sections to show that the raised levels or surfacing, where the installation of no-dig surfacing within the RPA is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h. A specification for scaffolding and ground protection within tree protection zones.
- i. Tree protection during construction indicated on a TPP and construction activities in this area clearly identified as prohibited in this area.
- j. Details of site access, temporary parking, on site welfare facilities, loading, unloading and

- storage of equipment, materials, fuels and waste as well as concrete mixing and use of fires.
- k. Boundary treatments within the RPA
- l. Methodology and detailed assessment of root pruning
- m. Arboricultural supervision and inspection by a suitably qualified tree specialist.
- n. Reporting of inspection and supervision.
- o. Methods to improve the rooting environment for retained trees and landscaping
- p. Veteran and ancient tree protection and management.

The development thereafter shall be implemented in strict accordance with the approved details.

Reason: To protect and enhance the appearance and character of the site and locality, in accordance with DMP1 and BGI 2.

Pre-commencement reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction.

- 13 Prior to the commencement of the development a method statement and risk assessment must be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the lifetime of the development.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 14 Prior to the commencement of the development details of any scaffolding works within 10m of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason: In the interests of protecting the railway and its boundary from over-sailing scaffolding.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 15 Prior to the commencement of the development a crane lift methodology shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason: To ensure that the crane works can be carried out without adversely affecting the safety, operational needs or integrity of the railway.

Reason for pre-commencement condition: Impacts arising from the construction process occur as soon as development commences and adequate controls need to be in place from this time.

- 16 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.

- 17 No vibro-impact works shall take place on site until a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason: To prevent any piling works and vibration from de-stabilising or impacting the railway.

- 18 Prior to the commencement of the development (excluding demolition works) full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details throughout the construction of the development.

Reason: To protect the adjacent railway and its boundary.

- 19 Following the demolition of the buildings and prior to the commencement of building works, a site investigation shall be carried out by competent persons to determine the nature and extent of any soil contamination present. The investigation shall be carried out in accordance with the principles of BS 10175:2011. A report shall be submitted to the Local Planning Authority, 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. The written report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works (excluding demolition).

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

- 20 Prior to the commencement of the development (but excluding demolition, site preparation and the laying of foundations), details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted to and approved in writing by the Local Planning Authority in consultation with Network Rail, and thereafter implemented in accordance with the approved details.

Reason: To protect the adjacent railway from the risk of flooding, soil slippage and pollution.

- 21 Details of materials for all external work shall be submitted to and approved in writing by the Local Planning Authority prior to commencement (but excluding demolition, site preparation and the laying of foundations), including samples of key materials to be made available on-site or in an agreed location. The work shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- 22 Prior to commencement of development hereby approved (but excluding demolition, site preparation and the laying of foundations), details of smart water butts providing attenuation in a flash rainfall event preventing any surcharge in the system shall be submitted to and approved in writing to the Local Planning Authority. The development shall be built in accordance with the

approved details and therefore retained throughout the lifetime of the development.

Reason: To ensure a surface water run off is managed appropriately.

23 Details of the hard and soft landscaping within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development (excluding any demolition, site clearance and the laying of foundations), Such details shall include:

- I. A scaled plan showing vegetation to be retained and trees and plants to be planted
- II. A schedule detailing sizes and numbers of all proposed trees and use of native and/or wildlife attracting species as per the recommendations made within the Ecological Impact Assessment
- III. Sufficient specification to ensure successful establishment and survival of new planting
- IV. Details of all proposed hardstanding
- V. Details of garden wall, fences or other form of boundary treatment to be provided within the site (including details of external materials and heights)
- VI. Details of a suitable trespass proof fence adjacent to the boundary with the railway line (including details of external materials and heights) in consultation with Network Rail
- VII. Details of appropriate vehicle safety protection measures along the boundary with the railway in consultation with Network Rail
- VIII. Details of wildlife enhancements within the site as per the recommendation sets out within Ecological Impact Assessment, including the use of insect nest boxes/ dead wood piles, nest boxes for bird species and bat boxes in areas of minimal light spill
- IX. Details to maximise the urban green factor (UGF) for the site in line with policy BH4 of Brent's Local Plan 2019-2041, including the requirement to submit a UGF Masterplan
- X. Details of cycle storage through the provision of four secure, weatherproof cycle storage facility, which shall each have capacity for a minimum of 2- long-stay spaces
- XI. Details of any external lighting and overspill diagram in relation to the park and railway line in terms of wildlife and pedestrian
- XII. Details of refuse store facilities
- XIII. A schedule of landscape maintenance for a period of 5 years. which shall include details of the arrangements for its implementation and sufficient specification to ensure successful establishment and survival of new planting.

The hard and soft landscape works shall be carried out in full accordance with the approved details prior to the use of the dwellings hereby approved, unless alternative timescales have been submitted to and approved to be agreed in writing by the Local Planning Authority and the works shall thereafter be carried out in accordance with the approved timescales .

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any new trees(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning authority gives its written consent to any variation).

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality, and to protect the adjoining railway in accordance with policies DMP1 and BGI 2

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

Time	Area	Maximum noise level
Daytime Noise 07:00 – 23:00	Living rooms and bedrooms	35 dB LAeq (16hr)
Night time noise 23:00 – 07:00	Bedrooms	30 dB LAeq (8hr) 45 dB LAmax

A test shall be carried out prior to the first occupation of the development hereby approved to show that the required noise levels have been met and the results submitted to and approved in writing by the Local Planning Authority.

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

- 25 Any soil contamination remediation measures required by the Local Planning Authority shall be carried out in full. 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 site 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

- 26 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.

Prior to first occupation or use of the development, 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 and maintained in accordance with the approved details

Reason: To protect acceptable local noise levels, in accordance with Brent Policy DMP1.

- 27 The energy and sustainability measures set out with the Design and Access Statement shall be implemented in full. Further details of the Air Source Heat Pumps and PV panels shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works (excluding demolition, site clearance and any below ground works), including the location of the units and access arrangements for future maintenance. The Air Source Heat Pumps and PV panels shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a suitably sustainable development.

- 28 Prior to first occupation of the development hereby approved, details of measures to prevent vehicle parking within the curtilage of the dwellinghouses shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall thereafter be implemented in accordance with the approved measures and retained and maintained in accordance with those measures throughout the lifetime of the development.

Reason: To ensure a suitably sustainable development in terms of a car free development and in the interests of the amenities of users of Barham Park.

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.
- 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 Communities and Local Government website www.communities.gov.uk
- 3 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 Given the age of the buildings to be demolished it is possible that asbestos may be present. The applicant should be reminded of their duties under the Control of Asbestos Regulations and must ensure that a qualified asbestos contractor is employed to remove all asbestos and asbestos-containing materials and arrange for the appropriate disposal of such materials.
- 5 The submission/approval of the Fire Safety Statement does not replace the need for building regulation approval in relation to fire safety, nor does it convey or imply any approval under those regulations.
- 6 Construction/refurbishment and demolition works and ancillary operations which are audible at the site boundary shall be carried only between the hours of:

Monday to Fridays 08:00 to 18:00

Saturday 08:00 to 13:00

At no time on Sundays or Bank Holidays
- 7 The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail's Asset Protection team and agree the BAPA before any works commence on site. Network Rail recommends that the applicant ensures that the BAPA is in place and that Network Rail has reviewed and agreed the documents as part of the discharge of any conditions.

The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent. The Early engagement with Network Rail is strongly recommended.

All new enquiries will need to be submitted via the Asset Protection and Optimisation - Customer Portal
Link to ASPRO ACE Portal (
<https://erjy-odcsvbcs-11211655-1568-cacctnetworkrail.builder.ocp.oraclecloud.com/ic/builder/rt/CustomerPortal/live/webApps/dcs/>)

- 8 This grant of planning consent does not take precedence over any restrictive covenants or rights of way or access which may be applicable to the land within the application site.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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PROTOCOL ON CALL-IN

1. INTRODUCTION

- 1.1 The basic premise of call-in is that it is a failsafe mechanism enabling non executive Councillors to make the Cabinet, Cabinet Committee, Cabinet Member or an officer making a key decision, re-consider a particular decision if it is of major concern or in Members' eyes profoundly flawed.
- 1.2 The statutory guidance on call-in states that there needs to be an appropriate balance between effectively holding the executive to account, being able to question decisions prior to them being implemented and allowing effective, efficient decision making. It also balances the need to make the process accessible and the need to ensure that call-in procedures are not abused or used to delay or slow down the decision making process.
- 1.3 As call-in can inevitably result in a delay to the implementation of decisions it should not be used for party political purposes to seek to further discuss a decision that some members do not agree with. Equally, the rights of non executive members to call-in a decision and exercise their right to question the decision, the decision maker and consider alternative options needs to be respected.
- 1.4 This protocol is designed to provide a locally agreed framework within which call-in can operate, a clear set of criteria against which an otherwise valid call-in request can be judged and a format for the effective conduct of the meeting considering the call in.

2. WHAT IS A CALL-IN?

- 2.1 A decision made by the council's Cabinet or a Cabinet committee, or a key decision by an officer, can be called in for review before it is implemented. Decisions can be called in by five non-executive members representing more than one political group or by the Scrutiny Committee. If a Cabinet decision is called-in, that decision cannot normally be implemented until it has been considered by a scrutiny committee. An urgency procedure is in place in Standing Orders for any decision that cannot afford to be delayed.
- 2.2 The Scrutiny Committee is required to meet within 15 working days of the date on which a call-in is accepted as valid. The Committee may decide to refer the matter back to the Cabinet or other decision maker, along with the reasons why the Committee thinks it should be reconsidered. The Cabinet or other decision maker will then decide whether to implement the original decision or review the decision based on the views of the Scrutiny Committee. Alternatively the Committee can decide that the matter should not be referred back to the Cabinet or other decision maker in which case the original decision will be implemented.

3. THE CALL-IN PROCESS

- 3.1 A call in request must be submitted in accordance with the requirements of Standing Order 14 within 5 days of the relevant decision being made or in the case of a key decision made by officers within 5 days of the date on which the record of the decision is made publicly available in accordance with the Access to Information Rules. When submitting the call in request members must either complete the call-in form available [LINK] or include in their written request all the information required by the form. In particular this includes:
 - an explanation as to why they are calling in the decision and if they are calling in all or part of the decision(s).

- an outline of the suggested alternative course of action.
- 3.2 When a call-in request is submitted to the Deputy Director of Democratic Services which meets the requirements of Standing Order 14(b)((i) – iv) the Deputy Director of Democratic Services will refer it to the Chief Executive, who, in consultation with the Deputy Director Democratic Services (the council’s designated Scrutiny Officer) and the Corporate Director of Law & Governance, will decide whether or not an otherwise valid call-in conforms with the following requirements of this protocol. The call-in request will be assessed against the following criteria:
- Is the call-in process being used as a means of gaining information / understanding or discussing general concerns with Members and officers? If this could be achieved through the general overview and scrutiny process or by talking to the relevant officer or lead member informally the call-in will not be valid,
 - Does the call-in duplicate a recent call-in on the same issue? If the call-in duplicates another call-in made within the previous 6 months it will not be valid,
 - Have the reasons for calling in the decision already been discussed by the Scrutiny Committee? If the reasons for calling in the decision have been discussed by the Scrutiny Committee prior to the decision being made the call-in will not be valid,
 - Call-in of a decision of the Cabinet referring a matter to Full Council for consideration will not be valid,
 - Call in of operational management decisions taken by officers will not be valid
 - If the call in request is considered by the Chief Executive to be frivolous, vexatious or clearly outside the call-in provisions it may be deemed invalid.

Prior to deciding the validity the Corporate Director of Law & Governance and the Deputy Director Democratic Services may seek clarification from the members concerned.

4. THE CONDUCT OF THE CALL-IN MEETING

- 4.1 Scrutiny Committees are official committees of the council and meet in public.
- 4.2 The purpose of a call-in meeting is for non-executive members to examine and consider the decision made by the Cabinet, Cabinet Committee, or officers (in respect of key decisions) and for members of the committee to make suggestions and recommendations they consider appropriate to the decision maker. The Scrutiny Committee meeting provides an opportunity for members to seek clarification of the methodology used in enabling a decision to be made, as well as explore work undertaken by officers culminating in the matter coming before the decision maker .
- 4.3 The relevant Cabinet Portfolio Holder and Chief Officer (or his/her representative) will be invited to attend the scrutiny committee meeting to explain the reasons for the decision, respond to the issues raised in the call-in request and answer questions at the meeting.
- 4.4 It is the chair of the scrutiny committee’s responsibility to manage the meeting effectively by applying standing orders, maintaining good discipline and fostering a culture of respect. All contributions to the meeting should go through the chair and the chair should ensure that no purely personal disagreements or comments are allowed to continue.
- 4.5 To ensure that the meeting is effective the procedure at the meeting (subject to the Chair’s discretion) shall be as follows:

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- (a) The chair will ask a representative of the members who called in the decision to set out the reasons for the call in for up to 5 minutes. In the event that different members have identified different reasons the chair may in their discretion as more than one member to speak in which case the available time shall be shared equally between the members.
- (b) The chair will consider whether to permit any member of the public who has made a request to address the meeting to do so, the rules relating to members of the public addressing a meeting as set out in Standing Orders apply. Members of the public can be allowed to speak for 2 minutes. If a number of requests to speak have been received then the chair should seek to limit the number of contributions to avoid hearing the same points repeated and should seek advice from the Deputy Director Democratic Services about how this should be managed.
- (c) All of the members of the public who it has been agreed will address the meeting will be heard prior to the lead member and any relevant officers being asked to respond to the issues raised by the call-in.
- (d) The lead member shall then be invited to respond to the issues raised in the call in.
- (e) The chair will then invite members of the committee to question the lead member and officers and discuss the issues. Members who are not members of the committee but wish to ask a question can be invited to do so.
- (f) Having considered the call-in invite members of the committee are required to come to one of the following conclusions:
- That the matter should be referred back to the decision maker for reconsideration with reasons for its request and what the committee wants the decision maker to do.
 - That it does not object to the decision and the decision can be implemented.

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