

LOCATION: B And Q
Broadway Retail Park
Cricklewood Lane
London
NW2 1ES

REFERENCE: 20/3564/OUT Validated: 19.08.2020

WARD: Childs Hill Expiry: 18.11.2020

APPLICANT: Montreaux Cricklewood Development Ltd

PROPOSAL: Outline planning application (including means of access with all other matters reserved) for the demolition of existing buildings and the comprehensive phased redevelopment of the site for a mix of uses including up to 1049 residential units (Use Class C3), and up to 1200 sqm of flexible commercial and community floorspace (Use Classes A3/B1/D1 and D2) in buildings ranging from 3 to 18 storeys along with car and cycle parking landscaping and associated works (this application is accompanied by an Environmental Statement) (REVISED PLANS RECEIVED - AMENDED DESCRIPTION - REDUCTION IN MAXIMUM HEIGHT FROM 19 TO 18 STOREYS. REVISIONS TO BUILDING HEIGHTS AND REDUCTION IN RESIDENTIAL UNIT NUMBERS FROM 1050 TO 1049).

PREFACE

The application was received in the summer of 2020. An initial consultation was undertaken in September 2020 with the following description of development:

- *Outline planning application (including means of access with all other matters reserved) for the demolition of existing buildings and the comprehensive phased redevelopment of the site for a mix of uses including up to 1100 residential units (Use Class C3), and up to 1200 sqm of flexible commercial and community floorspace (Use Classes A3/B1/D1 and D2) in buildings ranging from 3 to 25 storeys along with car and cycle parking landscaping and associated works (this application is accompanied by an Environmental Statement)*

A second consultation was undertaken in May 2021 to allow for the consideration of additional supporting documentation in the form of a Urban Design Study with the following description:

- *Outline planning application (including means of access with all other matters reserved) for the demolition of existing buildings and the comprehensive phased redevelopment of the site for a mix of uses including up to 1100 residential units (Use Class C3), and up to 1200 sqm of flexible commercial and community floorspace (Use Classes A3/B1/D1 and D2) in buildings ranging from 3 to 25 storeys along with car and cycle parking landscaping and associated works (this application is accompanied by an Environmental Statement) (ADDITIONAL INFORMATION RECEIVED - URBAN DESIGN STUDY).*

Subsequent to consultations outlined above, the application was amended to reduce the height of the tallest building from 25 to 19 storeys, with the number of residential units from 1100 to 1050. A third consultation was undertaken in July 2021 on the basis of the revised description of development outlined above. A report was submitted for inclusion on the July 2021 Strategic Planning Committee however the case was withdrawn from the agenda prior to the meeting.

RECOMMENDATION

Recommendation 1

The application being one of strategic importance to London it must be referred to the Mayor of London. As such any resolution by the committee will be subject to no direction to call in or refuse the application being received from the Mayor of London.

Recommendation 2

That the applicant and any other person having a requisite interest be invited to enter by way of an agreement into a planning obligation under Section 106 of the Town and Country Planning Act 1990 and any other legislation which is considered necessary for the purposes of seeking to secure the following, subject to any changes as considered necessary by the Service Director, Planning and Building Control:

- Legal Professional Costs Recovery

The Council's legal and professional costs of preparing the Agreement and any other enabling arrangements will be covered by the applicant

- Enforceability

All obligations listed to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority.

- Indexation

All financial contributions to be subject to indexation.

- Residential Travel Plan (RTP)

- Full RTP to be submitted for approval prior to occupation of all 3 phases that meets the TFL TP guidance criteria.
- TRICS compliant monitoring within 4 months of 1st occupation and then in years 1, 3 and 5 and then every other year until 5 years after 1st occupation of the final unit.
- RTP to be updated and resubmitted for approval within 2 months of each period of monitoring
- RTP and Site-wide TP Champion in place at least 3 months prior to occupation and for the lifespan of the RTP until the RTP Review 5 years after 1st occupation of the final unit approved.
- £300 per unit RTP Incentive Fund for residents to select 2 out of 3 travel incentives – bike voucher, Oyster card, car club membership/use (up to maximum of **£330,000**)
- RTP monitoring fee at least **£20,000** depending on timescale of phasing and therefore the lifespan of the RTP.
- Car club – 2 spaces to be provided with a mechanism to add further vehicles if usage is recorded at 75% or above

- Commercial Travel Plan

- Commercial Travel Plan Statement to be submitted prior to occupation of all 3 phases that meets the TFL TP guidance
- TRICS compliant monitoring within 4 months of 1st occupation and then in years 1, 3 and 5 and then every other year until 5 years after 1st occupation of the final commercial unit.
- CTP to be updated and resubmitted for approval within 2 months of each period of monitoring
- CTP to be overseen by the Site-wide TP Champion with a CTP Champion to be in place within each commercial unit
- CTP monitoring fee **£20,000**

- Employment and Enterprise

The applicant would be expected to enter into a Local Employment Agreement with the Council in order to provide an appropriate number of employment outcomes for local residents. The number of outcomes (apprenticeships, work experiences, end use jobs etc) would be associated with the value of the development and would be based upon the formula set out within Appendix B (Calculating Resident Outputs for Development Schemes) of the Barnet Delivering Skills, Employment, Enterprise and Training SPD. The scheme value would generate the following outcomes:

- Progression into employment (under 6 months) – 30
- Progression into employment (over 6 months) – 19
- Apprenticeships – 50
- Work experience (16+) – 65
- School / College / University site visits -590
- School / College workshops – 325
- Local Labour target – 20%

Any outcomes not delivered would be subject to a financial contribution agreed with the Council. The sum of this contribution shall not exceed £350,000. The outcomes listed are subject to reduction to correspond with a revised construction cost figure and subject to viability considerations.

- Affordable Housing

A minimum of 35% (by hab room) to be provided with a tenure split of 70% intermediate and 30% London Affordable Rent.

An affordable housing delivery schedule to be submitted for agreement,

Early stage review mechanism to be secured to be triggered if scheme not implemented within agreed timescale..

Nomination rights to be granted to LBB for all affordable rented accommodation.

- Carbon Offset Contribution

A carbon offset contribution may be sought in accordance with the Mayor of London's Zero Carbon target for new developments if the development fails to achieve the necessary carbon reductions. The formula for calculation of the

contribution is as follows: *(CO2 emitted from the development (tonnes) per year) minus (CO2 target emissions (tonnes) per year) x £1800.*

- Transport/Highways, Public Realm and ATZ

A scheme for the improvement of the footway between the site and Cricklewood Station shall be submitted to the LPA. Provision shall also be made for a new pedestrian crossing point on Cricklewood Lane with the location and details to be agreed with the LPA / TFL and implemented under Section 278.

A scheme of improvement for the underside of the railway bridge on Cricklewood Lane shall be submitted for approval. The scheme shall include provision for improved lighting and/or public art and the applicant shall engage with Network Rail as asset owner in formulating the strategy.

The applicant shall ensure that a potential future connection to the west of Cricklewood Station is not precluded and shall safeguard an area of land adjacent to the station.

The existing vehicular access point on Cricklewood Lane shall be removed and the footway reinstated under Section 278.

A wayfinding strategy from the site to Cricklewood Station shall be agreed with the LPA.

A contribution of £42,000 to be secured towards the costs of a CPZ review on local streets and to contribute towards costs of consultation and implementation if necessary. A contribution of £2500 towards the amendment of Traffic Management Order (TMO) to ensure that the new occupants are prevented from purchasing parking permits in local CPZs.

A £15k contribution towards a feasibility study for school stay safe measures at Childs Hill School.

- Community Use

One unit of the flexible use floorspace shall be ringfenced for occupation as a healthcare use. The applicant will be expected to engage with the NHS to facilitate the occupation of the space. A strategy for the occupation of the space shall be

submitted to an approved in writing by the LPA and should include details of the specifications of the space as well as the proposed lease terms (which shall be at a reasonable market rate, to be evidenced within the strategy).

- Community Engagement Group

The applicant shall create a community engagement group to oversee the curation, management and operation of the public activities including the events program within the public square / Cricklewood Green. The applicant shall engage with the Council in the creation of this group and the Council shall nominate a representative to form part of the group.

- Cricklewood Green

A scheme of public realm improvement shall be submitted to the LPA and subsequently implemented in accordance with the approved strategy. The scheme shall be subject to consultation with the Community Engagement Group.

- Monitoring Contribution

2% of the sum of the total financial contributions.

Recommendation 3

That subject to Recommendation 1 and upon completion of the agreement specified in Recommendation 2, the Service Director Planning and Building Control to approve the planning application reference 20/3564/OUT under delegated powers, subject to the conditions set out within Appendix 2 of this report.

That the Committee also grants delegated authority to the Service Director Planning and Building Control to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in their absence the Vice-Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee).

MATERIAL CONSIDERATIONS

Relevant Planning Policy

Introduction

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is The London Plan and the development plan documents in the Barnet Local Plan. These statutory development plans are the main policy basis for the consideration of this planning application.

Barnet's Local Plan is made up of a suite of documents, including the Core Strategy and Development Management Policies development plan documents. The Core Strategy and Development Management Policies documents were both adopted by the Council in September 2012.

A number of other planning documents, including national planning guidance and supplementary planning guidance and documents are also material to the determination of this application.

More detail on the policy framework relevant to the determination of this development and an appraisal of the proposal against the development plan policies of most relevance to the application is set out in subsequent sections of this report dealing with specific policy and topic areas. This is not repeated here.

The London Plan

The London Plan (2021) published 2nd March 2021 sets out the Mayor's overarching strategic planning framework from 2019 up to 2041. This document replaced the London Plan 2016.

Barnet Local Plan

The development plan documents in the Barnet Local Plan constitute the development plan in terms of local planning policy for the purposes of the Planning and Compulsory Purchase Act (2004). The relevant documents comprise the Core Strategy and Development Management Policies documents, which were both adopted in September 2012.

New Local Plan

Barnet's Local Plan -Reg 19 Preferred Approach was approved for consultation on 6th January 2020. The Reg 19 document sets out the Council's preferred policy

approach together with draft development proposals for 67 sites. It is Barnet's emerging Local Plan.

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

National Planning Guidance:

National planning policies are set out in the National Planning Policy Framework (NPPF) (2019).

The NPPF is a key part of reforms to make the planning system less complex and more accessible. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The document includes a 'presumption in favour of sustainable development'. This is taken to mean approving applications which are considered to accord with the development plan.

The Community Infrastructure Levy Regulations 2010:

Planning obligations need to meet the requirements of the Community Infrastructure Levy Regulations 2010 (as amended) to be lawful. Were permission to be granted, obligations would be attached to mitigate the impact of development which are set out in Section 10 of this report.

Environmental Impact Assessment Regulations 2017

The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (hereafter referred to as 'the EIA Regulations') requires that for certain planning applications, an Environmental Impact Assessment (EIA) must be undertaken.

The term EIA is used to describe the procedure that must be followed for certain projects before they can be granted planning consent. The procedure is designed to draw together an assessment of the likely environmental effects (alongside economic and social factors) resulting from a proposed development. These are reported in a document called an Environmental Statement (ES).

Section 13 of the EIA Regulations allows applicants to request from the local planning authority a written statement, ascertaining their opinion as to the scope of information to be provided in the ES. Whilst not a statutory requirement of the EIA process, requesting a Scoping Opinion clarifies the content and methodology of the EIA between the local planning authority and the applicant.

A formal Scoping Request was made by the applicant's agents Icen Project and a Scoping Opinion was adopted by the Council in February 2019. The Scoping Opinion agreed the following scope for the ES, and the ES has been submitted in accordance with the agreed scope:

- Chapter 8: Air Quality;
- Chapter 9: Archaeology;
- Chapter 10: Climate Change;
- Chapter 11: Daylight, Sunlight & Overshadowing;
- Chapter 12: Ground Conditions and Contamination;
- Chapter 13: Noise & Vibration;
- Chapter 14: Socio-economics and Health;
- Chapter 15: Traffic and Transport; and
- Chapter 16: Wind Microclimate.

The following non-technical chapters are also provided as part of ES Volume I:

- Chapter 1: Introduction;
- Chapter 2: Planning Policy Context;
- Chapter 3: Existing Site and Surroundings;
- Chapter 4: Alternatives and Design Evolution;
- Chapter 5: The Proposed Development;
- Chapter 6: Demolition and Construction;
- Chapter 7: EIA Methodology;
- Chapter 17: Effect Interactions;
- Chapter 18: Summary of Mitigation; and
- Chapter 19: Residual Effects and Conclusions.

Following amendments to the application, a Statement of Conformity has been submitted in support of the revised scheme. The SoC gives consideration to whether the proposed changes would alter the conclusions of the Environmental Impact Assessment (EIA) undertaken in relation to the Proposed Development as presented in the July 2020 ES.

The SoC concludes that the reduction in heights and residential units presented by the proposed changes are not expected to alter the findings of the July 2020 ES which would be considered to be a worst-case in comparison, and are not expected to introduce any materially new or additional environmental effects.

1.0 Site Description

- 1.1 The application site comprises a site of approximately 2.78 hectares within Cricklewood, immediately to the west of Cricklewood Station and to the north of Cricklewood Road. The site was previously occupied by retail uses, the largest of which was a B&Q retail store accommodated within a large warehouse style building. Aside from the buildings which accommodating the retail uses, the rest of the site is largely made up of hardstanding providing a large expanse of ground level parking.
- 1.2 Immediately to the south of the site is an area of green space which buffers the site from Cricklewood Road; Cricklewood Green. This area of greenspace is identified as an Asset of Community Value (ACV).
- 1.3 Immediately to the west of the site is a series of commercial buildings adjacent to Cricklewood Lane and further to the north, a Bingo complex with associated car park.
- 1.4 To the north of the site is a builders merchants and associated hardstanding. Also to the north and north-west of the site is the Railway Terraces estate which is a designated Conservation Area. Kara Way playground is located to the north-west of the site which provides a children's play area for the local community.
- 1.5 Immediately to the east of the site is Cricklewood Station and the associated railway infrastructure. Given the proximity to the station and to nearby bus routes, the site has a Public Transport Accessibility Level (PTAL) of 4-5.
- 1.6 The site is located in the Brent Cross Cricklewood Growth Area and is designated within the Cricklewood and Brent Cross Opportunity Area as designated within the London Plan. The site is also located within the Brent Cross Cricklewood Regeneration Area as designated within the Barnet Local Plan.
- 1.7 There are no statutory designated heritage assets on the Site, however as well as the designated Railway Terraces Conservation Area, there are three Grade II listed structures located within a 500 metres radius of the Site. These include the

Milestone Sited Outside Number 3 and 4 Gratton Terrace, three Lamp Standards in front of the Crown Public House and the Crown Public House itself.

2.0 Proposed Development

2.1 Outline planning consent (with all matters reserved apart from access) is sought for the comprehensive redevelopment of the B&Q Cricklewood site. The description of development is as follows:

Outline planning application (including means of access with all other matters reserved) for the demolition of existing buildings and the comprehensive phased redevelopment of the site for a mix of uses including up to 1049 residential units (Use Class C3), and up to 1200 sqm of flexible commercial and community floorspace (Use Classes A3/B1/D1 and D2) in buildings ranging from 3 to 18 storeys along with car and cycle parking landscaping and associated works.

2.2 Development is proposed across 4 development parcels, labelled A-D. Block A would rise to a maximum of 18 storeys, Block B to a maximum of 12 storeys, Block C to a maximum of 18 storeys and Block D to a maximum of 16 storeys. Each of the blocks would incorporate some ground floor parking (110 spaces in total) with a podium deck above providing communal amenity spaces.

2.3 The development would include a large expanse of public realm running centrally north to south through the site with new town square being located adjoining Cricklewood Green. Cricklewood Green would be the subject of comprehensive landscape improvements to make the space more usable.

2.4 Vehicular access to the site would be from Depot Approach, a private road to the north west of the site. The existing vehicular access from Cricklewood Lane would be stopped up.

3.0 Relevant Planning History

3.1 The following applications relate directly to the application site:

- 19/6632/ESC - Environmental Impact Assessment Scoping Opinion. Formal Scoping. Opinion issued: 19.02.2020
- 17/6211/ADV - Non illuminated and illuminated fascia signs. Approved: 31.01.2018.
- F/03051/10 - Retention of a mezzanine floor measuring 301 sq m for the purposes of storage ancillary to the existing retail units. Approved: 06.10.2010.

- C00640BD/01 - Erection of 2m high perimeter fencing and landscaping works. Approved: 24.12.2001.
- C00640AY/00 - Externally illuminated signs and pole sign. Refused: 17.05.2000.
- C00640AX/99 - Demolition of rear extension and rebuilding, new garden centre, sprinkler tank and pump house, and conversion of retail unit to B & Q Warehouse. Approved: 07.02.2000.

3.2 In addition to the aforementioned planning applications, the planning history of the surrounding sites and area is relevant to the consideration of the current application.

3.3 1-13 Cricklewood (18/6353/FUL) – Residential-led redevelopment of the site to include demolition of existing buildings and erection of three blocks ranging from 6 to 9 storeys with flexible retail (Class A1-A4 & D1) at ground and basement level and 145 residential units (Class C3) on upper floors, with associated parking, servicing arrangements, amenity space, public realm improvements and all necessary ancillary and enabling works. This application has a resolution to approve granted by committee in November 2019 however is awaiting signing of the S106 Agreement.

3.4 194 -196 Cricklewood Broadway (17/0233/FUL) – Redevelopment of site to provide a 6-storey building comprising 3,457sqm of Class A1 use (food store) at ground floor level and 96no. self-13 contained flats (Class C3) at first to fifth floor levels including basement car parking, cycle parking, refuse stores and a single storey car parking deck. This application was approved in January 2018 and is currently commencing on site.

3.5 In addition to the above, it should be noted that the application site is located within the Brent Cross Cricklewood Regeneration Area which has extensive planning history associated with the comprehensive Brent Cross redevelopment scheme.

4.0 Consultations

4.1 As part of the original consultation exercise, 2362 letters were sent to neighbouring occupiers. At the time of the report being written 2211 objections, 48 letters of support and 12 representations subsequently being received. These responses were received over four consultation exercises with one undertaken in August 2020, one undertaken in May 2021 following submission of additional information in the form of an Urban Design Study, one undertaken in July 2021 following the application being amended to reduce the maximum height from 25 to 19 storeys, and a final consultation being undertaken in August 2021 following the amendments to the scheme which informed the current proposals.

Summary of Neighbour Objections

4.2 The material planning considerations contained within the objections received from neighbouring residents can be summarised as follows. In the interests of brevity, objections have been summarised and categorised. It should be noted that all objections, received across the three consultations have been taken into account given that the substance of the objections remain largely applicable, even with the reduced scheme. The substance of each objection is addressed within the main body of the report.

- The development is excessive in height;
- The development is excessive in scale and massing;
- The scheme represents overdevelopment of the site;
- The density of the development is excessive;
- The development is discordant, alien, incongruous within the surrounding context;
- The development would put unacceptable additional strain on local infrastructure such as GP's and schools;
- The development would result in harm to views in and out and the setting of the Railway Terraces CA;
- The development would result in additional congestion on the local road network;
- The development would result a loss of daylight/sunlight and outlook to neighbouring properties;
- The scheme would result in harm to the setting of nearby listed buildings;
- The applicant does not have any legal right to create a new access from Depot Approach and there is no realistic prospect of the landowner granting landowner consent;
- There is excessive building footprint;
- The development would put additional strain on Cricklewood Station;
- The development would put additional strain on local buses;
- The scheme would not deliver genuinely affordable homes;
- The housing mix is not suited for the local community;
- The development would result in the loss of an excessive number of trees;
- The amendments to the scheme have not addressed any of the main issues.

4.3 In addition to the 2069 objections from neighbouring residents, objections were also received from the following:

- Mike Freer MP
- Cllr Anne Clarke AM (Ward Member for Cricklewood and London Assembly Member)
- Cllr Peter Zinkin (Ward Member for Cricklewood)
- Andrew Dismore AM (former London Assembly Member)

Responses from External Consultees

4.4 The responses received from external consultees can be summarised as follows:

Consultee	Response
Greater London Authority	<p data-bbox="858 318 1193 349"><u>Principle of Development</u></p> <p data-bbox="858 394 1382 582">The development of this well-connected, under-utilised site within an opportunity area and town centre location for residential-led uses is strongly supported.</p> <p data-bbox="858 627 1123 658"><u>Affordable Housing:</u></p> <p data-bbox="858 703 1374 1164">The 35% affordable housing offer (by habitable room), is welcomed; however, the tenure of 30% affordable rent and 70% intermediate does not meet the Council’s specified tenure mix; affordable rent units at 65% of market rent and all of the Build to Rent Discount Market Rent units at 80% of market rents do not meet affordability requirements. Assessment of the Financial Viability Assessment is ongoing.</p> <p data-bbox="858 1209 1382 1240"><u>Urban design and Historic Environment:</u></p> <p data-bbox="858 1285 1385 1590">The proposals would be a step-change in scale when viewed from the prevailing Victorian/Edwardian surrounding streets; however, the heights proposed are broadly in line with planning policy in this highly accessible town centre and Opportunity Area location.</p> <p data-bbox="858 1635 1382 2020">The visual, functional, environmental, and cumulative impacts have been rigorously assessed and are acceptable. The size of the site provides an exceptional opportunity for high-density housing delivery, with tall buildings that do not unacceptably impact the surroundings. The illustrative scheme demonstrates that an appropriate design quality could be</p>

	<p>achieved, with no harm to the significance of heritage assets; however, this is subject to amendment of the Development Heights Parameter Plan, which does not give sufficient control over building heights.</p> <p>Example floor plans should also be provided and an outline fire statement.</p> <p><u>Transport:</u></p> <p>The site is highly accessible with very good public transport access, and will result in a significant reduction in vehicle trips, which will benefit the adjoining road network. The proposal is supported; however further information is required on bus service impacts; active travel zone assessment; cycle parking; walking/cycling and public realm improvements; and step-free access to Cricklewood Station. Planning conditions and obligations are required. Climate change and environment: Further information is required on energy, the circular economy, water-related matters, and urban greening.</p>
London Borough of Camden	<p><u>Land Use</u></p> <p>Concern is raised regarding the small proportion of commercial floorspace being proposed, especially the lack of a mix of uses which is proposed across the blocks with block C and D having no commercial offering which is considered to be contrary to chapters 2 and 6 of the National Planning Policy Framework 2019. 1,100 residential units are proposed with a small proportion of community infrastructure being proposed to support the development.</p>

The planning statement draws on the creation of a 'civic heart' yet there is no community space offering which could support this. The commercial offer is 1,500sqm of all use classes (A1-A3, D1 and D2). Whilst the document states that it is unlikely that one use could occupy all of the commercial space, this is a possibility and therefore the lack of commercial floorspace is of a concern, especially due to the range of retail services which the existing site offers to the local community. This is further challenged through the lack of community infrastructure that the development is proposing.

Camden is concerned at the loss of the retail provision and lack of community space being proposed. This in turn would put further pressure on the community facilities in Camden and would fail to deliver a mixed and balanced sustainable development.

Of particular concern is the current pressure on GP services within the area. Within the submitted document ES Volume one Chapter 14, it states: '14.4.31- At the eight practices there are 22.3 FTE GPs in total. The average number of patients per FTE GP across the practices (2,177) far exceeds the target ratio of 1,800 patients per FTE GP and therefore has no capacity for additional residents.' It is stated that one of the key objectives of the development is to "Provide a new civic space and community facilities, reflecting and building on Cricklewood local residents' civic aspirations and pride." (Page 30 of Design and Access Statement).

This is not achieved nor considered to be included within the current

application and this is of considerable concern to Camden due to the pressure the development could put on Camden's health services.

Design and Bulk

Concern is raised regarding the bulk of block A. It is considered that it sits proud of block C and harms the visual links through the scheme which the development is trying to achieve. Due to the height of the proposed buildings, relief needs to be provided at the ground floor level across the site, and currently this is not achieved. By reducing the bulk of Block A and lining it up with Block C, further connection through the site could be achieved and a further enhanced area of public open space delivered as demonstrated within an early sketch on page 34 of the DAS. This would break up the bulk and provide some meaningful open space which would reduce the pressure on open space in Camden.

Concern is raised regarding the proposed maximum building heights to allow for varying maximum amounts of plant, lift overruns, stair access to roof and building management units. This should all be contained within the building envelope and total maximum height. Through incorporating such additions within the design of the building, this would reduce a cluttered skyline and associated paraphernalia which would otherwise harm longer views of the proposal when viewed from Camden.

Affordable Housing

Camden would want to see the policy-compliant amount of Affordable

Housing on site, which should be split between Social Rent and some Intermediate Housing affordable to working families (eg: key workers). On mixed tenure schemes, Camden would expect to see a larger number of homes for social rent, along with a smaller proportion of intermediate housing units.

In order to create mixed, balanced communities, a mix of sizes should be provided, including 1, 2, 3 and 4 bed homes, with a policy-compliant proportion to be family sized units. There are 105 three bedroom units with no 4 bed units. Consideration should also be given to child density. A policy-compliant percentage of wheelchair housing across the whole site should be provided.

Proportions to be split between Fully Accessible (M4(3)(2)(b) and Adaptable (M4(3)(2)(a) wheelchair homes. Currently it is not considered that the proposed housing mix would deliver a mixed and balanced community. TransportThe Transport Assessment states that the development will be secured as a car-free development via a S106 agreement. This would mean future residents would be unable to obtain residents parking permits to park on the public highway in the vicinity of the site. This is welcomed by Camden as it will encourage future residents to use active and sustainable means of transport.

The development proposes to provide residents disabled parking for 3% of the proposed 1100 flats, with the ability to provide additional parking for a further 7% of flats. This is in line with the (intend to publish) London Plan.

Eight operational and four disabled parking bays are proposed for the nonresidential uses, which is welcomed.

The Transport Assessment estimates that a total of 70 vehicles movements (40 Heavy Goods Vehicles and 30 Light Goods Vehicles) per day will occur from Jan 2023 to Dec 2024. This represents the peak vehicle movements of 4th the construction programme. Further details should be secured within a Construction Logistics Plan (CLP) if planning permission is granted. The CLP should be reviewed and approved prior to implementation. The TLRN should be used for construction vehicle movements, and local roads used only to access the site from the TLRN.

Amenity

Whilst the proposal is for an overly large development which would have an impact on the townscape, it is not considered that the development would harm the amenity of Camden residents in terms of daylight, sunlight, outlook or privacy.

On the basis of the submitted information, the development is considered unacceptable due to the bulk of block A, the affordable housing provision, and the loss of retail floorspace and lack of community provision, therefore failing to provide a sustainable and appropriately designed development.

This would harm the local economy, vitality and viability of the local community, existing health services, and character and appearance of the surrounding townscape, which would be contrary to policies C1, C2, C3, D1,

	E1, E2, G1, H4, H6, H7, H8, TC1, TC4 and TC5 of the Camden Local Plan 2017. It is requested that the application is refused unless the above concerns can be adequately addressed.
London Borough of Brent	The London Borough of Brent, the Local Planning Authority, have considered the proposal and have NO OBJECTION.
Metropolitan Police Service	I do not object to this proposal but due to the reported issues affecting the ward and potential issues as highlighted, I would respectfully request that a planning condition is attached to any approval, whereby each development must achieve Secured By Design accreditation, prior to occupation.
Natural England	Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
Thames Water	<p>Thames Water would advise that with regard to SURFACE WATER network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.</p> <p>Thames Water are currently working with the developer of application 20/3564/OUT to identify and deliver the off-site FOUL WATER infrastructure needs to serve the development. Thames Water have identified that some capacity exists within the foul water network to serve 500 dwellings but beyond that, upgrades to the waste water network will be required. Works</p>

	<p>are ongoing to understand this in more detail and as such Thames Water feel it would be prudent for an appropriately worded planning condition to be attached to any approval to ensure development doesn't outpace the delivery of essential infrastructure.</p> <p>Following initial investigations, Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of this development proposal. Thames Water have contacted the developer in an attempt to agree a position on water networks but have been unable to do so in the time available and as such Thames Water would request that a condition be added to any planning permission.</p>
<p>Railway Terraces Community Association</p>	<p>The Railway Terraces Residents' Association objects strongly to this proposed development and we request Barnet's planning committee reject this application in its present form. Our main concerns are the height and density of the buildings, the total disregard for the present street scene and the increased stress on the local infrastructure.</p> <p>We live in a Conservation Area. Very high tower blocks ranging from 15 to 25 storeys will be visible and overbearing and will destroy the important uninterrupted views in and out of the terraces, referred to in the 'Railway Terraces Conservation Area Character Appraisal' document (reviewed in 2016 para 4.2 Views and Vistas). These tower blocks will be seen across the open space of the allotments (also in the conservation area) and over the roofs of our homes to Cricklewood and beyond. The Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72 states 'special attention shall</p>

be paid to the desirability of preserving or enhancing the character or appearance of the area.' The proposed development is extremely detrimental to the character and appearance of the Railway Terraces.

Furthermore, page 21 of Barnet's Tall Buildings Update 2019, states, 'Historic England and CABI guidance on tall buildings notes that the effect on the historic context should be considered to '...ensure that the proposal will preserve and/or enhance historic buildings, sites, landscapes and skylines' and goes on to note that the impact on views to and from historic buildings should be considered over a wide area....Figure 4 shows the locations of existing tall buildings in the context of the conservation areas in Barnet. This highlights that most tall buildings are located some distance away from the conservation areas.' Why then are these massive tower blocks being put right next to the Railway Terraces Conservation Area?

The cottages are built on a near north south axis following the railway. It follows that we have approximately half a day of sunlight on either side of our homes. The side of the cottages opposite the development and which faces east, will be in the development's shadow and suffer a 20% loss of sunlight which is significant when that side of your home has sunlight for only half a day. Montreaux has dismissed this as negligible. We are also concerned about the loss of light to Kara Way Playground so important for the health of local children.

There are no very tall buildings in Cricklewood. Barnet planning committee reduced the storeys on the Co-op site to 9 storeys and Brent has reduced the buildings on the Matalan

site to 7 storeys. Page 31 of 'Barnet's Tall Buildings Update 2019', states that 6 to 14 storeys is appropriate for buildings in Cricklewood. We would argue that since the site is on a hill, the buildings should be no higher than 6 storeys. The architecture in Cricklewood is predominantly Victorian and Edwardian, 2 to 4 storeys high. The proposed plans do not fit with local architecture and will destroy the street scene.

Cricklewood is one of the most densely populated areas in Barnet. 1,100 housing units will equate to some 3,000 or more new residents. This will put enormous pressure on local services, which are already stretched such as GP surgeries, transport, leisure facilities and local parks. The site is linked to the A5 by Depot Approach. All vehicular access to and from the site (deliveries, services, visitors) will be via Depot Approach which runs alongside Kara Way playground, increasing pollution to the playground and increasing pollution and congestion on the A5, already one of the most polluted and congested roads in London.

The description of Cricklewood Station, as a convenient 'transport hub', is misleading. It is the only rail station in Cricklewood and serves only the City and South East London. We do not have an underground and links to the West End, West and North London are by bus and are already slow due to congestion.

Many of our residents attended the public consultation and spent a great deal of time studying and discussing the plans and diagrams with Montreaux representatives, who were told repeatedly that the buildings were too high and too dense for our area. Indeed

communications with other local residents associations, lead us to believe that most, if not all, Cricklewood residents, who attended the consultation agreed. Yet no significant changes have been made to the plans. Montreaux has not listened to local residents and we have no alternative but to conclude the consultation process a sham and a tick-box exercise, and, as such, we ask the Council to disregard it.

In conclusion, there is a strong community in Cricklewood, across borough dividing lines, and residents view the application as an attack on their community. We are disappointed and insulted. Disappointed in that we feel this is a missed opportunity to develop, for the enhancement of all Cricklewood, a site, which few would disagree, needs developed. Insulted, in that, we have been ignored. Also, had Montreaux and Barnet Councillors included local residents in their Pre-application Workshops 2 and 3 on 24th June 2019 and 16th August 2019, when height, massing and public realm issues were discussed, the present and extensive conflict may have been avoided.

ADDITIONAL REPRESENTATION

As Secretary of the Railway Terraces Residents' Association, I confirm that all previous objections to the above development made by our association still stand and should be taken into account. Our association also objects very strongly to the way in which this planning application has been dealt with both by the developer and the LPA. There has been a lack of clarity and transparency and documents what showing the latest block plans have not

been made publicly available on Barnet's planning portal. This is quite shocking.

It would appear from block plans inserted in an email from you that the block nearest the Terraces has been increased from 3 to 6 storeys. Why aren't these very important documents on the planning portal? Why are changes being made at the last minute?

Reducing the height of one of the buildings by one storey and increasing the building closest to the terraces by three storeys without ANY CONSULTATION is disgraceful. No doubt when Montreaux's representative speaks at the Strategic Planning Committee, he/she will announce yet another one or two storey reduction to convince the committee that they have listened and responded to local concerns about the height and density of the development. This is farce!

The message from the Railway Terraces and wider Cricklewood is very clear. No tower blocks in Cricklewood – nothing over 8 storeys. We are not 'nimbys' – we welcome housing on the site but this needs to be the right housing.

Barnet has a responsibility to protect the Railway Terraces Conservation area and should be seeking to enhance our conservation area, not destroy it. The view of the Terraces' roof and chimney pots will merge with the tall towers that will project above them so destroying the straight roof line that is an important characteristic of the whole of the Terraces. This special feature is referred to in the Conservation Area Character appraisal and the Heritage section of the report to the planning

	<p>committee. It will be lost forever at the southern end of the Terraces if this development goes ahead with buildings of such a great height.</p> <p>Please reject this application.</p>
--	--

4.5 Officers are content that the matters raised in the consultation responses above have been adequately addressed within the main body of the report. It should be noted that consultation letters were also sent to the parties listed below, with no responses being received:

- Network Rail - Infrastructure Protection
- London Fire Brigade
- British Telecom
- Twentieth Century Society
- UK Power Networks

Responses from Internal Consultees

4.6 The responses received from internal consultees can be summarised as follows:

Consultee	Response
Environmental Health	No objection subject to conditions and assessment of further information at reserved matters stage.
Transport and Highways	<p><u>Proposed Development</u></p> <p>It is understood that the development will be up to 1,050 new homes (35% affordable) and 1,200sqm of commercial / community use (Class A3 / B1 / D1 and D2). It is understood that the residential element shall provide 35% affordable housing. Vehicle access shall be from Depot Approach, a private access road, with the closure of the existing vehicle access onto Cricklewood Lane.</p> <p>The draft construction programme has been provided indicating the following:</p> <ul style="list-style-type: none"> • Phase 1: Block A shall be completed on March 2025 and Block B shall be completed on September 2024

- Phase 2: Block C shall be completed on December 2025
- Phase 3: Block D shall be completed on July 2026.

A detailed TA would need to be submitted to support each of the above Phases (secured by condition and provided as part of the reserved matters applications).

The closure of the existing vehicle access onto Cricklewood Lane will require a s278 Agreement and should include improvements to the pedestrian environment.

The proposed new landscaped routes through Cricklewood Green are expected to be secured by means of a legal agreement (s278/s106). Likely to be S106 as any works within the public highway will be covered in the S278 mentioned above.

The description of development proposes that the means of access is to be determined but layout is a reserved matter. Accordingly, the internal roads are illustrative only. The revised drawings of the two vehicle access points are noted (Dwg. No. SK305 Rev A and SK305 Rev A). Detail access design to be conditioned (reserved matters application).

It is noted that the layout is a reserved matter and full details will be provided as part of any reserved matters application. All vehicles should enter and exit the site in a forward direction with collections made in accordance with standard trolleying distances. A reversing movement of a large vehicle along the internal road and across a junction would be queried in terms of safety and operation. In any event, it

is noted that the internal layout is a reserved matter.

The need for a Manage Waste Strategy is noted.

A Delivery and Servicing Management Plan should be conditioned. This would include the dimensions of the largest vehicles permitted on site.

Parking

The TA states that as the layout is a reserved matter 'the total number of car and cycle parking spaces are not defined as part of this application.' We shall await the reserved matters applications for confirmation of numbers and design.

It is mentioned that there shall be a minimum of 1,846 long-stay and 28 short-stay cycle parking spaces for the residential use. At this stage, the non-residential uses are proposed to have 12 long-stay and 32 short-stay cycle parking spaces. The phased provision / design / location of long and short term cycle parking should be detailed as part of the reserved matters submissions.

Cycle parking provision should be provided in line with the London Plan (not Intend to Publish London Plan) and the London Cycle Design Standard guidance (via planning condition).

The TA mentions that the illustrative masterplan has been tested to demonstrate that it can accommodate 110 car parking spaces (suitable for disabled persons). Car parking should be provided in accordance with Barnet's Local Plan and the new London Plan and is a reserved matter

(noting that accessible spaces are also required for non-residential uses and therefore more spaces than the 110 currently proposed may be required).

In addition to the above, reduced levels of parking proposed would only be supported if there is to be improved accessibility measures, suitable overspill parking control / protection and the provision of sustainable transport measures.

Future residents of the development should not be eligible for on-street parking permits. Noted that S106 cannot legally be used for this purpose (may need to use S16 of the GLCGPA 1974).

More than just the 1 car club space should be provided. The principle of a Car Club will be secured by condition (or S106); the number of spaces will be determined at the reserved matters stage in consultation with LBB and potential commercial operators. The uptake of Car Club membership will be monitored as part of the Travel Plan; this will inform the number of spaces in successive phases. This facility should be provided on-site in a visible location.

It is suggested that car and cycle parking provision will be controlled and regulated by means of a Parking Design and Management Plan (PDMP). A PDMP would need to be conditioned.

There appears to be potential for overspill on-street parking on Depot Approach. As it is a private road, the TA suggests that the developer / owner will be able to implement private enforcements measures. The

suggested private parking enforcement measures on Depot Approach should be proposed and detailed further to support the lower levels of parking proposed. These measures will form part of the PDMP, secured by condition.

There are surrounding roads in vicinity of the site and within LBB boundaries that are not suitability protected by a CPZ. Therefore, there is concern that the proposed development with low on-site car parking provision would have potential for overspill parking onto the surrounding road network resulting a negative impact on the local amenity. Some roads such as Litchfield Road have no restrictions whilst others are protected from commuter parking with a weekday 1-hour restriction (Mon-Fri 10am-11am) which would not directly address residential overspill demand times. It is considered that the proposed development should help enable a review of the CPZ to address the above concerns.

The above issue has been discussed with the LB Barnet Parking Team who have confirmed that the surrounding area is under review and have noted that the control times may need to be revised to help manage parking stress as a result of the development. The LB Barnet Parking Team have requested a financial contribution of £42,000 towards a CPZ review / upgrade (secured via s106 agreement). The Parking Team have provided further justification below.

The environment committee approved the development of a programme to create new and review existing controlled parking zones in January of this year. We have identified that the

Cricklewood CPZ requires a review following an assessment of recent complaints, petitions, historical parking issues and forthcoming planned developments. Our programme will also take into account housing growth in the area, modal shift, new stations and the Ultra-Low Emission Zone.

Cricklewood CPZ area review - the zone was first introduced in July 2001 and this CPZ has had no wider review since that time. There was a small extension to the zone in May 2016, although there was no review of the surrounding area. The review will be an opportunity to ask residents and businesses if the CPZ is working well and if any amendments will help with their parking needs.

The vast majority of the CPZ operates Mon - Fri 10am - 11am, however there are a number of roads within the zone that has a mix of operational times. We will look to align the operational times and days where possible as this provides an opportunity to declutter the CPZ by removing unnecessary signage.

There are a number of roads in proximity to the development that do not have controls and we will consult residents and business to ascertain if there is support to extend the CPZ. As a result of this redevelopment, other adjoining CPZs may require reviews in the future.

Some of the keys drivers in terms of complaints is that the area experiences high parking occupancy due to the proximity to local shops. We have identified that there are weekend parking issues due to lack of controls.

	<ul style="list-style-type: none">• In terms of transport issues, we have Cricklewood Station which is a trip attractor, limiting parking opportunities outside of the controlled times.• And we have a new rail station, 'Brent Cross West' planned to open in 2022. It is expected that two million passengers will use the station in the first year. <p>There is lots of development taking place in the area, such as the Brent Cross redevelopment. And this area likely requires a review due to associated commuter parking and construction site workers.</p> <ul style="list-style-type: none">• Some of the other developments in the Cricklewood area are the Beacon Bingo, Broadway Retail Park and Granville Road Estate. So the area in all is expected to see significant housing growth for the next 2-3 years• In this area we have 7 Primary and 1 prep school, and as we all know schools are the cause of some of the parking traffic congestion issues during school pick up and drop off. <p>And some of the shopping areas is that we have the Brent Cross and the new Brent Cross Town nearby and Finchley Road & Cricklewood Lane.</p> <p>Due to all of the reasons above and as previously expressed, a CPZ contribution, from this proposed development, towards the review and/or implementation of CPZ infrastructure is sought as follows:</p> <ul style="list-style-type: none">• Scheme design = 8k• Informal consultation = 8k• TROs - stat consultation = 8K• Implementation (infrastructure, signs, lines & stats) = 18K <p>Total = 42k</p>
--	--

Transport Implementation Strategy

The Framework Travel Plan (FTP), Delivery and Servicing Plan (DSP) and Construction Logistics Plan (CLP) should be secured by a planning condition. A Construction Worker Travel Plan (CWTP) should also be conditioned.

As stated in the FTP, individual TPs will be prepared for the residential and commercial elements of the development, based on the principles set out in the submitted FTP. These will be secured by appropriate condition.

Trip Generation

Technical Note 5 suggests that the forecast residential vehicle trips for the proposed development shall be 35 and 24 two-way trips in the AM and PM peak hour periods respectively (with a daily total of 265 vehicle trips). This compares with the original Transport Assessment that forecasted 118 and 85 two-way vehicle trips in the AM and PM peak hour respectively (with a daily total of 898 vehicle trips). The new assessment now suggests forecasted vehicle trips that are approximately 30% of the original forecasts.

The methodology set out within Technical Note 5 is not a standard process. It is not clear why the combined 'Residential M - Mixed private / Affordable housing' land use was not selected as per the proposed development, but instead private and affordable were calculated individually. The reason given for calculating residential vehicle trip rates per parking space are noted. However, this is not standard practice when using the TRICS database. It is advised that 'trip

rate calculations per parking space are only available for land uses where it can be considered with good confidence that the vast majority of parking takes place on-site and where it is also considered most relevant.’ The TRICS trip rate parameters for residential land consist of site area, dwellings, housing density and bedrooms. It is also noted that the standard TRICS methodology uses weighted averages for the standard parameters and that the calculations undertaken within Technical Note 5 do not.

However, the LB Barnet Transport team have undertaken an initial assessment for comparison purposes and have concluded that the forecast vehicle trips are acceptable.

The proposed development is anticipated to generate 40 and 42 two-way vehicle trips during the weekday AM and PM peak hour periods respectively. This compares with the existing site that generates 144 and 194 two-way vehicle trips during the weekday AM and PM peak hour periods respectively. Therefore, it is anticipated that there shall be an overall net reduction in traffic as a result of the proposed development of 104 and 152 two-way vehicles trips during the weekday AM and PM peak hour periods. The proposed development is anticipated to result in a significant net reduction in peak hour traffic when compared to the existing retail park. It is also anticipated that there shall be a reduction in traffic using the Depot Approach / Cricklewood Broadway (A5) and the Cricklewood Broadway (A5) / Cricklewood Lane junctions.

	<p>The reserved matters applications would need to detail the cumulative impact assessment relevant to each of the respective Phases.</p>
<p>Trees and Arboriculture</p>	<p>The quality of the site is very low in terms of tree cover and bio-diversity as the vast majority of the land is hard surfacing or buildings.</p> <p>There are trees on the site that merit retention G9, G10, T19 & T21 on the tree plan which is a row of London Plane trees along site the railway line. They provide vital screening to the railway lines. The trees will also provide screening from Cricklewood Station towards any development on the site. The proposal retains these trees.</p> <p>Similarly, the mixed group of trees at the Cricklewood Lane entrance provide significant tree amenity (T48 to T74). Only 7 trees of this group will be retained in the outline proposal, the extent of tree loss is unacceptable. The extent of building A must be re-adjusted to ensure all the established trees are retained.</p> <p>The remaining trees on the site are of little merit and new landscape will provide an acceptable level of replacement planting.</p> <p>No detailed landscaping plans have been submitted. However, the indicative landscape plans for the ground floor, podium and roof areas appear to be providing a reasonable level of green infrastructure for the development. The development must meet the Urban Greening factor target of 0.4 as required in the forthcoming London Plan.</p>

	<p>With buildings up to 25 stories the visual impact of the proposal on the street scene will be considerable. The proposed new. The applicants must look to Trees and Design Action Group's publication Trees in the Hardscape (www.tdag.org.uk) for suitable systems to establish of trees within the scheme.</p> <p>Cricklewood Green is the only public open space in the vicinity of the development with Gladstone Park and Clairmont Parks some distance away. Due to the slope and the design, currently it appears to be under used by local residents. There must be considerable enhancement to this space to create a pocket park that will service the residents and visitors to Cricklewood. The retention of the mature trees in this space is essential.</p> <p>No objection, subject to the alteration of block A to include all the established trees at the main entrance to the development.</p>
Heritage and Conservation	<p>Whilst there is no in-principle objection to the redevelopment of this site, it is clearly demonstrated within the applicant's own submissions, that in terms of the overall scale, density, massing, height, layout, and relationship to neighbouring buildings and the local area more generally, the proposal does not promote or reinforce local distinctiveness. It can clearly be considered that little thought has been given to the connections between people and places, the character of the surrounding vernacular and building typology in the local area and the integration of this gargantuan development into the existing built and historic environment.</p>

It is interesting to note, looking through the applicant's Built Heritage, Townscape and Visual Impact Assessment (HTVIA), that the proposed development is merely outlined with a blue line, rather than fully blocked out, which would be a fairer representation of the impact of the development in views. It is clearly evident, even in long distance views such as 1,3 and 4 for example, the sheer scale, height and mass of the proposed development is visually intrusive. But view 5 truly demonstrates the vast disparity and inappropriateness of scale, height and massing between the existing built environment of the locality and the proposal.

There are two designated heritage assets which are in close proximity to the site and which are situated within Barnet.

The Crown Public House:

This is a Grade II listed building, listed in 1981, situated on Cricklewood Broadway. The list description is as follows:

*The Crown Public House TQ 28 NW
7/11 20.11.81*

II

2. Dated 1900. Grand "Jacobean" public house of 2 storeys with 2 dormered storeys in mansard roof. Three storey wing to right 4 bays faced in sandstone. Rusticated attached columns and pilasters flank 4 entrance doors to main block and 2 doors to wing, first floor projection of 16 lights with single flanking 2 light windows. Two windows to wing. Two bay

decorative gabling at second floor with mullioned windows surmounted by blind archway. Second floor to wing battlemented with ornamental crest, pyramid roof and decorative finial.

The building is set back from the pavement with a large forecourt to its front. It is connected, by a rear extension, to the neighbouring Clayton Crown Hotel, which sits forward of the pub in the street. Due to the difference in architectural appearance of both buildings, the pub appears in the streetscene as a standalone structure. It is a prominent building within the townscape, viewed and experienced as it is with its iconic roofscape and a clear sky above and around it.

The applicant's HTVIA clearly shows that due to the vast height of the proposed main tower, this block would be clearly visible in views from the public realm looking north. Another smaller block would then be seen to "fill in" the existing space between the pub and its neighbour to the north.

It is clear therefore, that whilst no actual harm may be done to the heritage asset itself, its significance within the streetscape and Cricklewood town Centre would be diminished by the visual intrusiveness of the proposal.

The Cricklewood Railway Terraces Conservation Area:

The Railway Terraces, Cricklewood Conservation Area was designated by the Council in March 1998. Conservation Area status acknowledges the importance of an area, highlighting its real and potential attractiveness. It also means that the

Council's efforts in the area are geared to preserving and enhancing its special character and appearance. The majority of historic buildings are also locally listed, so are undesignated heritage assets which need consideration. The formal, regular street scape and building layout, together with the unusual relationship between buildings, private and public open space all help to give the area a distinctive, intimate but ordered feel. The area is characterised by small scale, dense development with regular building rhythms and designs.

Views into and out of the conservation area are important. It is interesting to note that the original character appraisal for the area recognises that harm has been caused with "views from the Conservation Area to intrusive features such as the mast to the north east across the railway line and the new industrial building on Kara Way and glimpsed views of the ends of Gratton Road from Edgware Road."

The fact that these developments are considered intrusive pales into insignificance in relation to the scale of intrusiveness that the proposed development will have on views, particularly looking south and east. It should be pointed out that the various views submitted by the applicant from within the conservation area are taken at ground level and fail to recognise the views that resident will have of the development from within their properties at first floor level. However, nowhere more so is the vast disparity in scale, height mass and bulk and its impact demonstrated more clearly between the locally listed buildings within the conservation area and the

proposed scheme than in view 14, taken from the allotments to the east.

It is quite clear in this view, despite the LPA's consistent message to the applicant that the blocks nearer the CA need to be more respectful in size and scale to the existing terraces, that whilst they do diminish in storey height the closer they come to the terraces, far greater significant reduction in storey height would need to happen in order for this to be achieved. Given that all the blocks are prominent in most views looking south this would need to be applied to all the mega tower blocks

The most recent appraisal states that "Chimneys are part of the historic streetscape, and an important visual feature because of their prominence as seen against the shallow pitch roofs, making a positive contribution to the conservation area. They usually have tall terracotta clay pots which are striking features against the skyline." These features are identified as positive characteristics within the conservation area. It is quite obvious that in views looking south towards the scheme, these positive features will disappear into the mass of the new development behind which adversely affects their significance in their contribution to the CA.

Conversely, the appraisal talks about inappropriate development. Certain development which borders the conservation area, such as the Cricklewood Timber warehouse on Kara Way, has failed to respect the character of the original buildings within the conservation area and careful consideration would need to be given to the scale, siting and design of

any new development and a high standard of design and materials will be expected.

As such it can be considered that the proposed development, in terms of its excessive scale, mass, bulk and height will have a detrimental impact and cause less than substantial harm to the setting of both of these designated heritage assets, aside what other interested 3rd parties may identify in regard to other heritage assets further afield.

Conclusion:

Policy DM01 states that: Protecting Barnet's Character and Amenity states that development proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. In order to protect character Policy DM01: Protecting Barnet's Character and Amenity requires development to demonstrate a good understanding of the local characteristics of an area. Proposals which are out of keeping with the character of an area will be refused.

Core Strategy Policy CS5 states that: Protecting and Enhancing Barnet's Character to Create High Quality Places highlights that development in Barnet should respect the local context and distinctive local character.

It is quite clear in terms of scale, mass, bulk and height that the proposed development does not concord with these policies.

Paragraph 196 of the NPPF states that where a development proposal will

	<p>lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Whilst officers may consider that the additional residential units and open space being provided creates public benefit, it should also be born in mind that there are also negative public impacts, often brought to the LPA's attention by objectors, such as the impact on existing local services and vehicular infrastructure, to name just a few, which need to be considered as weighing against the perceived public benefit of increased residential units.</p> <p>ADDITIONAL REPRESENTATION</p> <p>It is not considered that the reduction in height of the tallest block from 25 to 19 storeys overcomes any previous issues and objections raised in regard to heritage and therefore the comments below are as submitted previously.</p> <p>ADDITIONAL REPRESENTATION</p> <p>Objection to scheme is retained even with new amendments.</p>
Urban Design	<p><u>Design background</u></p> <p>We have engaged with the applicant on dedicated design workshops in 2019. The workshops covered the proposed masterplan on a plot by plot basis, landscape and overall masterplanning principles were discussed tested and scrutinised.</p> <p>We need to stress at this point that this exercise did not involve any architectural discussion nor is the submitted relevant with architectural</p>

expression, the outcome is a masterplan which encloses building envelopes, open spaces and road network.

Masterplan Concept

The current masterplan has been designed to respond to the site-specific attributes such as the conservation area, existing retail environments and the improvement of the existing B&Q site. The overarching vision is to create a high-quality living environment that is integrated into the wider context through a circulation network which is defined and overlooked by building frontages.

The proposed masterplan is based on a hierarchy of buildings and interconnected open spaces framed by varying scale height and density. There is no dominant architectural pattern here as the proposed consists of building envelopes as part of the masterplan. The perimeter of the development plots is designed to provide a positive pedestrian experience which will ensure future enjoyment of spaces by residents.

The masterplan demonstrates a seamless stitch with station facilities with a legible transition to residential areas. The focal point of a square associated with the Cricklewood Lane area is justified due to the footfall of the station and the need for public areas for people to enjoy while visiting.

Height, bulk, scale and massing

As mentioned above the proposed built form of the site comprises a series of building envelopes organised in a linear fashion. The bulk, scale and

massing of individual building envelopes varies to account for the proposed uses and the scale of the spaces that they frame or relate to. This provides variation in character, visual interest, identity, place and way-finding across the masterplan.

The tallest element proposed by the square is envisaged to mark the station, while the tallest residential elements are located on the Eastern part of the site overlooking the rail lines. This is an acceptable move.

The overall design approach is proposing to enrich the area by creating diverse places within the masterplan. In order to achieve legible environments that are familiar, comfortable and easy to navigate, we envisage that future architectural proposals can build on this overarching principle in order to deliver through architecture the envisaged environments of this particular masterplan.

Character

The overall character of the masterplan is defined through the layout of buildings and related open spaces. It is a varied environment that predominantly stays lower on the Northern edge to stitch to and respond to the Conservation area.

This language manifests differently on the different typologies of buildings, further highlighting individual character but with a familiar design language. This attempt is welcome as it could reinforce wayfinding, provide more robust edges where needed and differentiate between public and private spaces.

Visual impact and views

Under the Local Plan, the protection of existing amenity arrangements in any area is an important aspect of determining whether a proposal is acceptable or otherwise. The protection of existing residential amenity is required through good design in new developments which intern promotes quality environments. More specifically Policy DM01 states that proposals should seek to manage the impact of new developments to ensure that there is not an excessive loss of amenity in terms of daylight/sunlight, outlook and privacy for existing occupiers.

Separation distances internally and with regards to the neighbouring structures are taken in to account while designing, this is apparent by the proposed masterplan which specifically stresses the attention to separation distances of buildings. There is however increased sensitivity in terms of sunlight amenity, this however is an aspect highlighted by the masterplan for future designs to consider and mitigated.

The study on views and subsequent impact is very satisfactory as the design team managed to demonstrate minimum interruption to existing views, partly because of the manipulation of topography on site and partly because the proposed building envelopes are sensitive with regards to the existing urban fabric.

Layout and connectivity

The movement strategy creates optimum car flows without compromising the ability for

pedestrians and cyclists to move around in an attractive environment, without interruptions, with minimal exposure to noise and air pollution and with clear and frequent views to destinations. This is achieved by the clarity of routes proposed within the masterplan, these are primary routes, emergency routes and most importantly pedestrian only routes.

These new links reinforce the connectivity depending on which part of the masterplan the journey starts. Vehicular movement is not a dominant feature throughout and is designed for minimum interaction with pedestrians, allowing for people to activate the streets and resulting in more outdoor areas for future residents to enjoy and use in a positive way.

The use and encouragement of alternative mobility such as cycling, carpooling or plainly encouraging walking should be applied on site. The rise in population will mean a significant rise in demand for transport and infrastructure; this could put a strain on the local system if not supported by an alternative mobility strategy.

The improved connectivity and permeability of the site, which accords with the intent of London Plan and Barnet Core Strategy reconnects the site with its surrounding areas as well as improved access to adjacent public transport and the wider network.

Landscaping

The majority of the landscaping works such as open space and squares Will be presented in detail along with future

	<p>applications for the development of plots.</p> <ul style="list-style-type: none"> - Proposed Plaza - Residential garden areas (front and back) - Street planting - Car parking - Play space <p>The proposed masterplan incorporates a variety of open spaces which are sufficient to provide a much needed balance between grey and green infrastructure at this point in time. Finally the play provision is also incorporated within the masterplan proposal, ensuring that it is a major design element, not to be overlooked in future applications. The proposed landscaping details largely adhere to these requirements.</p> <p><u>Play space</u></p> <p>According to Housing SPG standard 1.2.2, the development is required to make appropriate play provisions in accordance with a GLA formula and calculation tool, whereby 10sqm of play space should be provided per child, with under-5 child play space provided on-site as a minimum, in accordance with the London Plan 'Shaping Neighbourhoods: Play & Informal Recreation SPG and 'Providing for Children and Young People's Play and Informal Recreation' SPG'.</p> <p>The proposed play space is therefore acceptable and we anticipate more detail on the designs when applications for the development of plots come forward.</p>
Flood Risk and Drainage	No objection in principle subject to conditions.

- 4.7 Officers are content that the matters raised in the consultation responses above have been adequately addressed within the main body of the report.

PLANNING ASSESSMENT

5.0 Principle of Development

- 5.1 The application site comprises a large retail use with a large expanse of surface level car parking. The application site has a PTAL of 4/5 and is located directly adjacent to Cricklewood Station. The site is located within the Brent Cross/ Cricklewood Opportunity Area and Brent Cross/ Cricklewood Regeneration Area. The site is located outside of Cricklewood Town Centre as designated within the Local Plan.

Retail and Commercial Use

- 5.2 The existing retail use has a gross internal floorspace of 7990 sqm, with the proposed development proposing a total of 1200 sqm of flexible use commercial floorspace. The development would therefore result in a loss of 6790 in retail floorspace.
- 5.3 Policy CS6 and DM11 of the Local Plan seek to protect and enhance Barnet's town centres through seeking to ensure that retail uses, and other appropriate town centre uses are located within the town centre. The application site lies on the edge of the designated town centre and as such there is no policy prerogative for protection of retail floorspace in this location and no in principle objection in this regard.
- 5.4 The development proposes 1200 sqm of flexible use commercial floorspace which would comprise of Use Classes A3, B1, D1, D2 under the previous Use Classes Order however which are all covered by the Class E under the new Use Classes Order (1st September 2020). The application was submitted prior to the 1st September change to the legislation and as such is assessed under the transitional arrangements which refer to the old use classes.
- 5.5 The quantum of commercial floorspace provided is considered to be appropriate for the development and will serve the needs of the development population which would also support the vitality of Cricklewood Green and the new public square. It is considered that this in turn would support the row of commercial units opposite within the designated Cricklewood Town Centre which represent Secondary Retail Frontage.

Residential Use

- 5.6 As noted above, the application site is located within the Brent Cross/ Cricklewood Opportunity Area and Brent Cross/ Cricklewood Regeneration Area. This site represents a highly sustainable, brownfield site. Given the location and designation of the site, there is strong policy support for the optimisation of the site for housing delivery.
- 5.7 The Opportunity Area is recognised as a 'significant strategic growth area' with the A5 Edgware Road identified as a key corridor of change for mainly residential-led mixed use development and improved public realm. Proposals in these locations should seek to optimise residential output and densities, providing necessary social and other infrastructure to sustain growth.
- 5.8 At London level, London Plan Policy GG2 'Making the best use of land' seeks to enable the development of brownfield land and sets out that sites which are well-connected by existing rail stations should be prioritised. Policy H1 also supports housing delivery on brownfield sites, especially those with PTAL ratings of 3-6 or those located within 800m of a station or town centre boundary.
- 5.9 At local level, Policy CS1 sets out Barnet's place shaping strategy, which plans to concentrate and consolidate housing and economic growth in well located areas, to create a quality environment that will have positive economic impacts on the deprived neighbourhoods that surround them. Housing and employment growth will be specifically promoted within the west side of the Borough including at Brent Cross – Cricklewood.
- 5.10 Alongside these strategic policies which seek to direct development to locations such as the application site, it is also pertinent to consider local and regional housing targets and the contribution that the development would make towards these targets.
- 5.11 The NPPF at paragraph 73 requires that strategic policies should include a trajectory to show housing delivery over the plan period. Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
- 5.12 For decision-taking purposes, an authority will need to be able to demonstrate a 5 year housing land supply when dealing with applications and appeals. This can be

done using the latest available evidence such as through the Authority Monitoring Report (AMR). Barnet maintains a 15-year Housing Trajectory. The Trajectory is published with the Authorities Monitoring Report on an annual basis and is part of the evidence base for the emerging Local Plan.

- 5.13 The emerging Local Plan, has identified the site as being capable of delivering 1007 homes and this is set out within the Draft Local Plan (Reg 19) Publication consultation document (Annex 1, Page 288 - Site 8). The proposed development proposes 1050 homes which represents an uplift of only 4% over and above the 1007 designated in the Reg 19 document. As will be set out fully in subsequent sections of this report, this marginal uplift allows for the development to deliver a 35% level of affordable housing. It is clear that the proposed level of affordable housing is broadly in line with the Reg 19 allocation.
- 5.14 The application proposes 1050 residential units which would clearly make a substantial contribution towards the boroughs housing targets and it is clear that 1007 of these homes form an important part of the Council's projected housing trajectory as set out above. Commensurate with this contribution, the housing delivery should thus be given significant weight in the wider planning balance exercise.

Community Use

- 5.15 As noted previously, the development would comprise of 1200 sqm of flexible use commercial space. The fundamental purpose of the flexible nature of the floorspace is to seek to maximise the likelihood of occupation and to ensure the vitality and vibrancy of the space. Community use (Use Class D2) is one of those uses that is included within the range of flexible uses.
- 5.16 It is noted that many of the objections received to the application, include objections to the impact of the new development on community infrastructure in the local area, including healthcare. It is noted that on the adjoining site at 1-13 Cricklewood Lane, a recently approved development secured the reprovision of the NHS facility that is currently on site.
- 5.17 In order to augment the reprovision of the facility on the adjoining site, the S106 for the current application would ensure that an element of the flexible use floorspace would be ringfenced for occupation as a healthcare use. The S106 would require engagement with the LPA and NHS and the submission of a strategy for the occupation of the space including details of the specifications of the space as well as the lease terms.

Conclusion

- 5.18 The principle of the redevelopment of the site for a residential-led, mixed use development is supported by local and regional strategic policies. The site is brownfield site in a highly sustainable location. The provision of 1050 residential units would make a substantial contribution towards the boroughs housing targets and is broadly in line with the site allocation set out within the Council's Reg 19 Local Plan. The level of non-residential uses is considered to be appropriate for the site's location on the edge of the town centre. For these reasons, the principle of development is considered to be acceptable.

6.0 Residential Density

- 6.1 The London Plan 2021 was formally adopted in March 2021 and moves away from the density matrix that was included within the previous plan. The 2021 Plan takes a less prescriptive approach and Policy D3 states *inter alia* that the density of a development should result from a design-led approach to determine the capacity of the site with particular consideration should be given to the site context, its connectivity and accessibility by walking and cycling, and existing and planned public transport (including PTAL) and the capacity of surrounding infrastructure.
- 6.2 The site has an area of 2.78 hectares with 1049 residential units proposed, giving a residential density of approximately 377 dwellings per hectare. London Plan Policy D3 seeks to ensure that well located, sustainable sites are optimised in terms of housing delivery and states that "higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling". In this case, the site enjoys a highly sustainable location immediately adjacent to Cricklewood Station and several bus routes and as such officers consider that, in principle, the site is suitable for high density development.
- 6.3 The key assessment criteria for Policy D3 and the key consideration in this case is how the housing density manifests itself visually and the policy seeks to ensure that each scheme is subject to a design-led approach. In this case, the site has been the subject of a design-led approach and the layout, density and heights have been calibrated so as to best optimise both the delivery of houses and public open space. These matters are addressed in detail in subsequent sections of this report.

7.0 Residential Standards and Living Quality

- 7.1 A high quality built environment, including high quality housing in support of the needs of occupiers and the community is part of the ‘sustainable development’ imperative of the NPPF. It is also a relevant consideration in Barnet Core Strategy Policies CSNPPF, CS1, CS4, and CS5 Development Management DPD policies DM01, DM02 and DM03 as well as the Barnet Sustainable Design and Construction SPD, Residential Design Guidance SPD.

Dwelling Mix

- 7.2 Policy DM08 of the Local Plan states that new residential development should provide an appropriate mix of dwellings.
- 7.3 The development proposes 1049 residential units which would be of a mixture of studios, 1 beds 2 beds and 3 beds. The current application is outline in nature and as such, the final mix of units would be agreed at Reserved Matters stage.
- 7.4 Whilst final mix would be agreed at reserved matters stage, based on the indicative details provided with the application, it is considered that the scheme has the potential to deliver a good mix of units with a good number of larger family sized accommodation.
- 7.5 It should be noted that part of the housing component will be Build to Rent (BTR) housing. The NPPF defines BTR as purpose-built housing that is typically 100% rented. It can form part of a wider multi-tenure development comprising either flats or houses but should be on the same site and/or contiguous with the main development. BTR schemes usually offer longer tenancy agreements of three years or more and will typically be professionally managed stock in single ownership and management control. BTR homes are designed and built specifically for renting with the sector offering longer tenancies, excellent on-site amenities, and good access to transport.
- 7.6 Officers recognise that BTR housing is an integral part of ensuring that demand for rented accommodation is met and in ensuring a suitable mix of tenures, appropriate for housing trends. The principle of BTR housing as part of the wider housing offer is therefore considered to be acceptable.

Residential Space Standards

- 7.7 Table 3.3 in the London Plan provides a minimum gross internal floor area for different sizes of dwelling. This is set out in the table below, which shows the areas relevant to the units proposed within the development:

- 7.8 The application is submitted in outline form with matters of layout reserved. Indicative details submitted show that each of the residential units could achieve the requisite minimum standards and a full assessment would be undertaken at Reserved Matters stage to ensure that this was the case with the detailed proposals.

Wheelchair Housing

- 7.9 Barnet Local Plan policy DM03 requires development proposals to meet the highest standards of accessible and inclusive design, whilst Policy DM02 sets out further specific considerations. All units should have 10% wheelchair home compliance, as per London Plan policy 3.8.
- 7.10 The applicant's Planning Statement sets out that 10% of the residential units would be provided as wheelchair adaptable in line with aforementioned policy context and in accordance with Part M4(3) of the Building Regulations. This is considered to be acceptable and a condition is attached which would ensure that this is secured as part of Reserved Matters applications.

Amenity Space

- 7.11 Barnet's Sustainable Design and Construction SPD Table 2.3 sets the minimum standards for outdoor amenity space provision in new residential developments. For both houses and flats, kitchens over 13sqm are counted as a habitable room and habitable rooms over 20sqm are counted as two habitable rooms for the purposes of calculating amenity space requirements. The minimum requirements are set out in the table below:

Outdoor Amenity Space Requirements	Development Scale
For Flats: 5m ² of space per habitable room	Minor, major and large scale
For Houses: 40m ² of space for up to four habitable rooms 55m ² of space for up to five habitable rooms 70m ² of space for up to six habitable rooms 85m ² of space for up to seven or more habitable rooms	Minor, major and large scale
Development proposals will not normally be permitted if it compromises the minimum outdoor amenity space standards.	Householder

- 7.12 The parameters set out propose a mix of private and communal amenity areas. All units will have access to private amenity space in the form of private balconies either recessed or projecting but all achieving the requisite space standard. All residents will also benefit from access to areas of shared communal amenity space along with areas of landscaped public open space retained within the development (public open space is assessed in further detail in a subsequent section of this report). Further detail of the private amenity spaces would be secured at reserved matters stage.

Children's Play Space

- 7.13 London Plan Policy S4 requires development proposals to make provisions for play and informal recreation based on the expected child population generated by the scheme. The Mayor's Play and Recreation SPG and London Plan Policy S4 refer to a playspace calculator, updated in October 2019 which sets out how much playspace a development should be provided by a development based on the number of children. Based on the indicative housing mix, the calculator sets out that the development should provide 3438 sqm of playspace.
- 7.14 The submitted outline scheme outlines that a total of 3614 sqm of playspace would be provided which represents over 100% of the requirement. The target for each age group is also met and exceeded in each case. The playspace would be located throughout the site with doorstep play provided within the communal amenity areas and playspace for the older age groups located within the public space. Notably, a large area of playspace would be located opposite the existing Kara Way playspace which would compliment its use and provide benefit through scale. Landscaping and layout are reserved matters so full details of the playspace provision would be secured at reserved matters stage.

Daylight/Sunlight and Overshadowing

- 7.15 As an outline application, the final layout of the development is a reserved matter however the parameters sought set a building envelope which is necessary in order for the ES testing, Accordingly, the parameters sought must be assessed at outline and it is appropriate that daylight/sunlight impact is assessed at this stage.
- 7.16 In order to demonstrate the daylight/sunlight levels to future housing units, the applicant has submitted an 'Internal Daylight and Sunlight Assessment' by GIA Surveyors. In terms of methodology, the assessment used the following:
- Daylight potential assessments on the elevations (Vertical Sky Component);

- Sunlight potential assessments on the elevations within 90° of due south (Probable Sunlight Hours both annually and for the winter months); and
- Overshadowing assessments for the public/communal areas of outdoor amenity (Sun Hours on Ground).

7.17 As an outline application with layout reserved, there are no floorplans included within the assessment and no empirical data on number of units affected and levels of VSC are represented through a colour scale on a 3D model. On all of the Blocks, the daylight assessment shows that the north elevations and courtyard elevations would have lower levels of VSC whilst the remaining elevations would have a good level as demonstrated by the colour scale. Overall, it is considered that the assessment shows a good potential for daylighting of the scheme. On the elevations where the lower VSC levels are identified, these will be unlikely to come forward with single aspect units given their location which would help to ensure that any harm is minimised.

7.18 In terms of sunlight, as with daylight, the ASPH results are shown through a colour scale on a 3D model. The results show good levels across the majority of the elevations with some exceptions on north facing and courtyard elevations. Again, these will be unlikely to come forward with single aspect units given their location which would help to ensure that any harm is minimised. Overall, it is considered that the scheme would deliver a good level of sunlight.

7.19 In terms of overshadowing, BRE guidance recommends that there should be at least 2 hours sun on ground when assessed on 21st March for winter sun and 21st June for summer sun. The GIA document shows the results of the overshadowing assessment and shows that on 21st March the vast majority of the ground floor open space would have the requisite level of sun on ground. The only exception to that is the area between Block A and Block C which would have less than the 2 hours along with some isolated areas around Block B. Similarly, the 21st June results show that the vast majority of the ground floor open space would have the requisite level of sun on ground. Again, the area between Block A and Block C and the isolated areas around Block B would have lower levels of sun on ground. Overall, it is considered that the development would ensure that the ground floor open spaces would retain a good level of sunlight.

7.20 The amended application reduces the height of Block A from 25 to 19 storeys which would improve upon the daylight and sunlight results demonstrated within the GIA report and the conclusions drawn remain consistent with the previous 25 storey scheme.

8.0 Open Space

- 8.1 The application site is located on the edge of Cricklewood Town Centre which suffers from a lack of open space. Most open spaces are more than 1km from the Site leaving Cricklewood town centre without meaningful open green space within walking distance with the exception of Cricklewood Green, to the front of the site, and this is reflected in the status of the space as an Asset of Community Value.
- 8.2 The development proposes a central area of public realm which would run north to south through the site. This would link two larger areas of public realm at the northern and southern ends of the site. The area to the north of the site would be directly opposite the Kara Way playground and as such would create a larger, enhanced public area which would benefit from increased scale. Similarly, to the south of the site, a new town square would be created adjacent to Cricklewood Green which would enhance the usability and the function of the existing green space. Flexible use commercial and community uses would be located around the town square which would support the vitality and vibrancy of the town square and green.
- 8.3 Cricklewood Green itself is located outside of the red line boundary of the site however comprehensive landscape improvements to the space would be secured as part of the S106. This would include improved access and terracing of the slope to make the space more usable. Full details of the works and the layout and landscaping of the overall public realm would be secured at reserved matters stage.

9.0 Affordable Housing

- 9.1 The Barnet Core Strategy (Policy CS4) seeks a borough wide target of 40% affordable homes on sites capable of accommodating ten or more dwellings. Policy H4 of the London plan states that the strategic target is for 50 per cent of all new homes delivered across London to be genuinely affordable. Policy H5 of the London Plan sets out a threshold approach to applications and states that a minimum of 35 per cent affordable housing should be provided on site. Schemes can benefit from the fast track route (whereby no financial viability appraisal is required) if a minimum of 35% affordable housing is provided which meets the boroughs prescribed tenure split as well as other criteria. In this case, the application is supported by a financial viability appraisal and is subject to the viability tested route.
- 9.2 A financial viability assessment was submitted in support of the application, undertaken by Montagu Evans. The Council subsequently instructed BNP Paribas to undertake a review of the document.

- 9.3 The initial affordable housing proposals envisaged a provision of 35% affordable housing with a tenure split of 70% intermediate and 30% low cost rent. The intermediate tenure would be a split of Shared Ownership and Discounted Market Rent (for the BTR units) whilst the low cost rented component would consist of Affordable Rent.
- 9.4 In assessing the initial affordable housing proposals, it was noted that this tenure split did not accord with the Council's target tenure mix of 60% rented and 40% intermediate. As a result of the deviation from the target tenure mix, officers requested that sensitivity testing also be undertaken to test alternative viability scenarios in order to ascertain if it was viable to provide a tenure mix closer to the Council's target mix. The submitted FVA therefore assessed the following:
- 30% low cost rent, 70% intermediate (the application proposals);
 - 50% low cost rent, 50% intermediate;
 - 60% low cost rent, 40% intermediate (Policy CS4 target).
- 9.5 The ME report has concluded that the scheme with 35% affordable housing generates a significant deficit against the viability benchmark with both a policy compliant tenure split and with a 50/50 split. Both of these conclusions were found to be reasonable by BNPP as the Council's appointed advisors.
- 9.6 The ME report also concluded that a scheme with 35% affordable housing and a 70% intermediate and 30% affordable rent split would result in a significant deficit against the viability benchmark. However on reviewing the ME report, it was the view of BNPP that modest amendments to ME's appraisal would increase the scheme surplus significantly and it was therefore recommended that the applicant's affordable housing tenure mix could be improved to be closer aligned with the LPA's requirements.
- 9.7 The aforementioned affordable housing scenario was predicated on Affordable Rent levels of 65% of market value. A revised affordable housing offer comprising 70% intermediate and 30% London Affordable Rent with the LAR homes representing lower monthly rent than the AR home previously modelled. The review of the revised appraisal from BNPP, adopting the lower LAR rents, as noted in ME's updated submission indicated that the change in rent levels, and the agreed position with respect to other inputs indicated that the revised scheme appraisal generates a marginal deficit against the agreed viability benchmark.

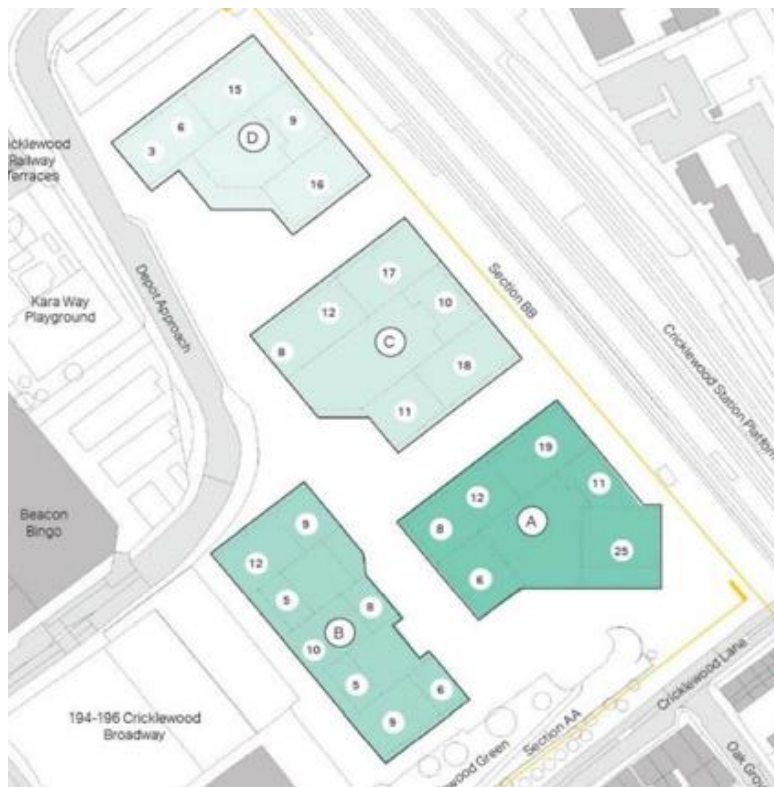
9.8 On this basis, it is clear that an affordable housing provision of 35% with a tenure split of 70% intermediate and 30% LAR is reasonable, is fully justified by the viability evidence and is supported by the Council’s appointed advisors. Given that this is an outline application with multiple phases, it is considered appropriate that an early stage review mechanism is secured in line with GLA policy.

9.9 The provision of 35% affordable housing, including over 100 LAR homes for which there is a pressing need in the borough is a significant benefit of the scheme and should be afforded significant commensurate weight in the wider planning balance exercise.

9.0 Tall Buildings, Design, Appearance and Visual Impact

Tall Buildings

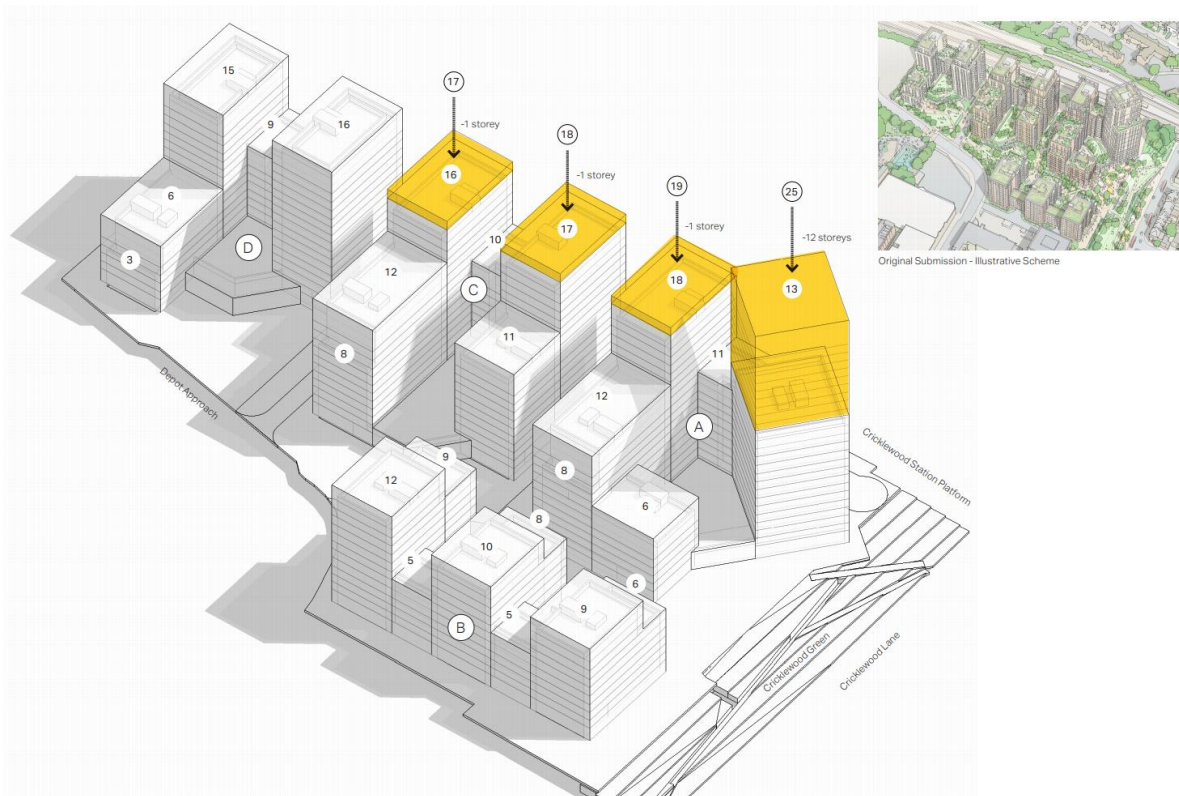
9.1 The outline consent seeks permission for development across four development parcels, A, B, C and D. Within each of these parcels would be a number of buildings of varying heights. A storey height plan of the current scheme is set out alongside that of the original scheme for comparison and to highlight the reductions. It should be noted that in the interim between the original and current scheme, the 25-storey element of Block A was reduced to 19 storeys. Also included is a visual showing the height reductions that have informed the current scheme.



Original Scheme



Current Scheme (indicative)



Height Reductions

- 9.2 As is clear above, the majority of the buildings would constitute a tall building for the purposes of assessment, with the Barnet Local Plan defining a tall building as one which is 8 storeys or above. The height of the proposed buildings therefore necessarily dictates that a tall buildings assessment of the application must be undertaken.
- 9.3 Draft London Plan Policy D9 (Tall Buildings) states that tall buildings should only be developed in locations that are identified in Development Plans. The impact of buildings in long, mid range and immediate views should be addressed and the environmental impact of tall buildings should also be tested with regard to wind, daylight and sunlight, noise and cumulative impacts.
- 9.4 Paragraph 3.8.1 to this policy further states that whilst high density does not need to imply high rise, tall buildings can form part of a plan-led approach to facilitating regeneration opportunities and managing future growth, contributing to new homes and economic growth particularly in order to make optimal use of the capacity of sites which are well-connected by public transport and have good access to services and amenities. Tall buildings can help people navigate through the city by providing reference points and emphasising the hierarchy of a place such as its main centres of activity, and important street junctions and transport interchanges.
- 9.5 Core Strategy Policy CS5 of the Barnet Core Strategy identifies those areas of the borough where tall buildings will be suitable. The site is located within the Colindale Regeneration Area which is identified as one of the areas suitable for tall buildings by the Policy. The application site is located within the Brent Cross Cricklewood Regeneration Area which is identified as being suitable for tall buildings.
- 9.6 Given the compliance with Policy CS5 and D6, officers consider that the overarching principle of tall buildings in this location is acceptable. Nevertheless, further assessment is required as to whether the proposed building heights in themselves would be acceptable within their context. In order to fully assess this, it is necessary to carry out further assessment under Policy DM05 of the Local Plan which identifies 5 criteria which tall buildings would adhere to. These criteria are set out below with an assessment of the application against each criterion.
- i) An active street frontage
- 9.7 Development blocks A-D would be built with a podium deck with communal amenity areas located at podium level and as such the interface between the tall buildings and the public realm would be at ground floor level. Notwithstanding the podium nature of the development blocks, the public realm facing elevations of the podium

elevations would incorporate active frontages. Whilst layout and design are reserved matters, outline details set out that residential core entrances would be located on the elevations facing the central public open space whilst flexible use commercial and community uses would be located on the elevations of Blocks A and B facing the new public square and Cricklewood Green. These active frontages comply with the criterion and can be clearly seen in the image below (flexible use units in yellow).



ii) Successful integration into the urban fabric

9.8 In order to fully assess the visual impact of the proposed development and its level of integration into the surrounding urban fabric, a Heritage, Townscape and Visual Impact Assessment (HTVIA) from Montagu Evans was submitted in support of the application. A further Urban Design Study was submitted and was subject to a further consultation exercise. Subsequent to this, the scheme was revised to reduce the height of Block A from 25 to 19 storeys. The submitted HTVIA was predicated upon the taller scheme with the 25 storey Block A and the conclusions drawn

9.9 In order to assess the visual impact of the development within its context, a number of viewpoints were identified and assessed within the HTVIA, these are set out below (those views marked with a * are assessed under a subsequent section of this report). All views are considered cumulatively with other consented development.

- 1) Clitterhouse Playing Fields looking South
- 2) Claremont Road/The Vale Junction looking South
- 3) Hampstead Cemetery looking West
- 4) Cricklewood Lane (The Tavern) looking West
- 5) Cricklewood Station looking South-west
- 6) Oak Grove looking North-west
- 7) Elm Grove looking North-west
- 8) Cricklewood Broadway (The Crown Pub) looking North*
- 9) Chichele Road looking North-east
- 10) Walm Lane/St Gabriel's Church looking North-east*
- 11) Ashford Road looking North-east
- 12) Cricklewood Broadway looking South-east
- 13) Railway Terraces Needham Terrace looking South-east*
- 14) Railway Terraces Allotments looking South-east*
- 15) Railway Terraces Johnston Terrace looking South-east*
- 16) Railway Terraces Rockhall Way Gardens looking South-east*
- 17) LVMF View 5A.2 Greenwich Park, the General Wolfe Statue*

9.11 View 1 is taken from Clitterhouse Playing Fields looking South. The existing view is characterised by green open in both the foreground and middleground. The backdrop is formed of continuous hedgerow boundaries and mature trees which extend from right to left and partially screen residential properties within the Golders Green Estate to the south. The cumulative view would show the proposed development and the consented Brent Cross development scheme (BXC) rising above the continuous hedgerow boundary. Officers consider that the magnitude of change would not be substantial, with a minor adverse impact due to the distance

and the level of screening by the foliage. This would be even more the case with the reduced height of Block A.

- 9.12 View 2 is taken from Claremont Road/The Vale Junction looking South. The existing view is characterised by suburban residential development, associated roads and surrounding vegetation which reflects a typical suburban street scene. The cumulative view shows that the proposed BXC development would totally obscure the proposed development. The impact of the development in this view would therefore be nil.
- 9.13 View 3 is taken from Hampstead Cemetery looking West. The existing view is characterised by regimented rows of gravestones and funerary monuments laid out within the middleground and background of the view, along with interspersed low-lying vegetation and mature trees shown from left to right. The cumulative view shows that the proposed development would present in background of the view above the tree line. Officers consider that the magnitude of change would not be substantial and even less so with the reduced height, with a minor adverse impact due to the distance and the level of screening by the foliage.
- 9.14 View 4 is taken from Cricklewood Lane (The Tavern) looking West. The existing view represents the main western route into Cricklewood town centre, this view is linear in configuration and characterised by mixed urban development either side of the road. The recent development at 112-132 Cricklewood Lane rises above the prevailing townscape to 8 storeys. The cumulative view shows that the proposed development would rise above the prevailing townscape with 4 tall elements decreasing in height from Block A to the left of the view. Officers consider that the magnitude of change would be moderate and even less so with the reduced height, with a minor adverse impact.
- 9.15 View 5 is taken from Cricklewood Station looking South-west. The existing view is characterised by the low rise station buildings and associated infrastructure with Cricklewood Lane leading to the west/left of the view. The cumulative view shows that the proposed development would present clearly and dominantly in this view in the middle and background of the view to the rear of the station. Officers consider that the magnitude of change would be significant. In terms of the effect of the change, this view represents a comparatively short-range view and development of any meaningful scale, accordant with strategic imperatives around optimisation would represent a high magnitude of change given the low-rise character of the station. The reduced height of Block A would only marginally reduce the impact in this view given the short-range nature of the view.

- 9.16 Paragraph 3.8,1 of the London Plan states, inter alia, that tall buildings can help people navigate through the city by providing reference points and emphasising the hierarchy of a place such as its main centres of activity, and important street junctions and transport interchanges. In this case, the tallest element at Block A would provide such a reference point and contribute toward the legibility and hierarchy of the area. In this regard, officers consider that the effect of the impact is neutral with any negative impact counterweighed by the positive impact to legibility.
- 9.17 View 6 is taken from Oak Grove looking North-west. The existing view is residential in nature. It is characterised by red brick terraced properties and more modern developments of comparable scale either side of the linear road view. The cumulative view would show Block A of the proposed development at 25 storeys presenting dominantly at the end of the linear view. In terms of magnitude of change, officers consider that it is significant. Given the prevailing scale of development and the established residential character of the street, officers consider that the previous 25 storey tower in this view would have had a major adverse effect. With the height reductions, it is clear that the impact would be less however officers consider that this would not be to an extent that would reduce the effect from major adverse given the disparity in building scale.
- 9.18 View 7 is taken from Elm Grove looking North-west. Similarly to view 6, the view is residential in nature and is characterised by red brick terraced properties either side of the linear road view. The previous cumulative view would show Block A of the proposed development at 25 storeys presenting dominantly at the end of the linear view with Blocks B and C presenting to the left and to the background respectively. In terms of magnitude of change, officers consider that it is significant, and this would remain the same with the reduced height. Given the prevailing scale of development and the established residential character of the street, officers consider that the effect would be major adverse.
- 9.19 View 9 is taken from Chichele Road looking North-east. The view is characterised by residential properties either side of the street which comprise uniform mansion blocks and terraced properties of three and four storeys. The cumulative view shows that the proposed development would present centrally within the linear view, consented scheme 1-13 Cricklewood Lane would also present in the foreground of the proposed development. Officers consider that the magnitude of change would be moderate, with a minor adverse impact.
- 9.20 View 11 is taken from Ashford Road looking North-east. The existing view is characterised by residential terraced housing and the 9-storey tall inter-war flat block of Ashford Court either side of the linear road. The cumulative view shows that

the proposed development would present across the skyline from left to right, with the consented development at 194-196 Cricklewood Broadway also viewable. Officers consider that the magnitude of change would be moderate, with a minor adverse impact due to the distance and the height of existing development in the foreground.

9.21 View 12 is characterised by a mixed commercial and residential street with the view is framed on the left by a terrace of locally listed buildings (nos. 1-40 Gratton Terrace) which form a consistent building line and set piece in the left frame of the view. The cumulative view shows that Grafton Terrace would totally obscure the proposed development. The impact of the development in this view would therefore be nil.

9.22 In summary, officers note that there are instances of adverse impacts, most notably in Views 6 and 7 even with the reduced height. Notwithstanding these views where major adverse impacts are identified, officers must take a view of the scheme in the whole and in the context of the strategic policy designations for the site. The site is identified as being suitable for tall buildings and as an area for intensification under its designation as a Regeneration Area/Opportunity Area. In this context and particularly in views 6 and 7, development of any scale which sought to align with these strategic objectives would represent a significant magnitude of change given the existing state of the application site and the low rise nature of the residential areas to the south. It is therefore largely inexorable that delivering a high-density scheme which delivered on the strategic objectives would result in harm in views from the south of the site.

9.23 Nevertheless, the harm is identified and officers have taken this into account in taking a holistic view of the townscape (excluding heritage assets) impact. Given the limited viewpoints from where major adverse impacts are identified, it is considered that taken as a whole, the development would result in less than substantial townscape harm which will be taken into account in the wider planning balance.

iii) A regard to topography and no adverse impact on Local Viewing Corridors, local views and the skyline

9.24 View 17 represents the London View Management Framework View 5A.2 which is taken from Greenwich Park adjacent to the General Wolfe Statue. The LVMF describes the view as follows:

'Viewing location 5A includes two Assessment Points. The view from the statue, at Assessment Point 5A.1, takes in the formal, axial arrangement between Greenwich

Palace, and the Queen's House. The view also includes Greenwich Reach and the tall buildings on the Isle of Dogs.

The eastern extent of the panorama is towards central London and St Paul's Cathedral. This is best seen from Assessment Point 5A.2, and includes a Protected Vista towards the Cathedral.

The relationship between Tower Bridge, the Monument to the Great Fire and St Paul's Cathedral are important elements of the view. The threshold height of the Protected Vista between Assessment Point 5A.2 and St Paul's Cathedral acknowledges the visual relationship between these three landmarks. The relationship, and the elements themselves, are integral to the viewer's ability to recognise and appreciate St Paul's Cathedral and its western towers in the view.

Therefore, new development should preserve or enhance the setting of the landmarks and the relationship between them."

9.25 The cumulative view shows that the development would not be readily perceptible in the view and as such there would be a negligible impact.

iv) Not cause harm to heritage assets and their setting

9.26 In terms of heritage assets, the HTVIA identified a number of assets which were incorporated into the assessment, within the study area. The study focuses on those assets which are likely to experience change as a result of the development and has excluded those which are unlikely to experience change. Those assets excluded are outlined below.

- Milestone Sited Outside Nos. 3 and 4 Gratton Terrace (Grade II) (4);
- Willesden Green Underground Station (Grade II) (8);
- Dollis Hill Synagogue and Forecourt Railings (Grade II) (9);
- Pair of K2 Telephone Kiosks outside The Recreation Ground (Grade II)(10);
- 128, Fortune Green Road (Grade II) (11);
- Beckford Primary School, Attached Railings and Gateway, and Building approx 23m to East within Playground (Grade II) (12);
- Kingsley Court (Grade II) (13);
- St Luke's Church Vicarage (Grade II) (14);
- Kings College: College Chapel, The Summerhouse, Kidderpore Hall, The Maynard Wing, and The Skeel Library (Grade II) (15);
- Golder's Green Synagogue (Grade II) (16);
- Untitled [Listening] Sculpture (Grade II) (17);

- 6, 8, 12, 14, 26, 26A, 33 and 35 Ferncroft Avenue (Grade II) (18);
- Church of St Francis (Grade II) (19);
- Cattle Trough at junction with Hermitage Lane (20); and
- 17, Rosecroft Avenue (Grade II) (21).

9.27 The study focuses on the following designated heritage assets which are likely to experience change as a result of the development.

- Railway Terraces Conservation Area;
- Mapesbury Conservation Area (LB Brent);
- The Crown Public House and Three Lamp Standards in front of The Crown Public House (Grade II);
- Church of St Gabriel (Grade II);
- Church of St Michael (Grade II);
- Hampstead Cemetery Mortuary Chapels, Monuments and Tombs (Grade II).

9.28 The Railway Terraces Conservation Area is assessed through viewpoints 13, 14, 15 and 16 within the HTVIA which are taken from Needham Terrace, Allotments, Johnston Terrace and Rockhall Way Gardens respectively. All of the views look south-east towards the application site. Given the location of the CA to the north of the site, the impact of the revised scheme is largely consistent with that of the original submission, however with slightly .

9.29 As set out in the comments received from the Council's Heritage and Conservation officers, The Railway Terraces, Cricklewood Conservation Area was designated by the Council in March 1998. Conservation Area status acknowledges the importance of an area, highlighting its real and potential attractiveness. It also means that the Council's efforts in the area are geared to preserving and enhancing its special character and appearance. The majority of historic buildings are also locally listed, so are undesignated heritage assets which need consideration. The formal, regular street scape and building layout, together with the unusual relationship between buildings, private and public open space all help to give the area a distinctive, intimate but ordered feel. The area is characterised by small scale, dense development with regular building rhythms and designs.

9.29 The assessment undertaken by the Council's Heritage and Conservation officers identifies that in all of the assessed views from the CA, the development would be overly dominant and create a visual disparity in scale.

9.30 The assessment also identifies the positive contribution that chimneys make to the historic streetscape within the CA, "chimneys are part of the historic streetscape,

and an important visual feature because of their prominence as seen against the shallow pitch roofs, making a positive contribution to the conservation area. They usually have tall terracotta clay pots which are striking features against the skyline.” The assessment goes on to identify that these positive features will disappear into the mass of the new development behind which adversely affects their significance in their contribution to the CA.

- 9.31 The assessment concludes that “as such it can be considered that the proposed development, in terms of its excessive scale, mass, bulk and height will have a detrimental impact and cause less than substantial harm to the setting of both of these designated heritage assets, aside what other interested 3rd parties may identify in regard to other heritage assets further afield”. Further assessment was undertaken with the revised 19 storey scheme which maintained the previous conclusions.
- 9.32 In balancing the views of the Council’s Heritage and Conservation officer, it is necessary to understand the policy context. In this case, based on the views set out within the HTVIA and the assessment of the Conservation Officer, it is clear that the development would result in harm to the setting of the CA. However, the conclusion of the Conservation Officer is that this would constitute less than substantial harm.
- 9.33 In such instances Paragraph 196 of the NPPF is relevant and relates to the assessment of impacts on the settings of heritage assets. Paragraph 196 states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”
- 9.33 The less than substantial harm therefore needs to be balanced against the public benefits of the scheme. Most significant of these is the delivery of 1049 homes, 35% of which would be affordable. This must be afforded significant weight in any balancing exercise. Further public benefit is derived from the delivery of substantial new public realm, a new town square and enhancements to Cricklewood Green in an area lacking in open space.
- 9.34 Officers consider that the cumulative weight of the public benefits, in particular the delivery of a significant number of affordable houses, outweighs the less than substantial harm identified by Conservation officers.
- 9.35 The Crown Public House is Grade II listed located on Cricklewood Broadway and is assessed through viewpoints

9.36 The listed building description for the asset states the following:

“Dated 1900. Grand "Jacobean" public house of 2 storeys with 2 dormered storeys in mansard roof. Three storey wing to right 4 bays faced in sandstone. Rusticated attached columns and pilasters flank 4 entrance doors to main block and 2 doors to wing, first floor projection of 16 lights with single flanking 2 light windows. Two windows to wing. Two bay decorative gabling at second floor with mullioned windows surmounted by blind archway. Second floor to wing battlemented with ornamental crest, pyramid roof and decorative finial.

The building is set back from the pavement with a large forecourt to its front. It is connected, by a rear extension, to the neighbouring Clayton Crown Hotel, which sits forward of the pub in the street. Due to the difference in architectural appearance of both buildings, the pub appears in the streetscene as a standalone structure. It is a prominent building within the townscape, viewed and experienced as it is with its iconic roofscape and a clear sky above and around.”

9.37 The impact on the setting of the asset is assessed through viewpoint 8 taken from Cricklewood Broadway looking North past the pub and encompassing the backdrop of the asset.

9.38 In assessing the impact the Council’s Conservation officers have outlined that the height of the proposed main tower (Block A) would be clearly visible in views from the public realm looking north, in the backdrop of the asset whilst another smaller block would be then be seen to “fill in” the existing space between the pub and its neighbour to the north.

9.39 The Conservation officer concludes to say that whilst no actual harm may be done to the heritage asset itself, its significance within the streetscape and Cricklewood town Centre would be diminished by the visual intrusiveness of the proposal. In this case, it is also concluded that this would constitute less than substantial harm. Again, further assessment is undertaken for the revised scheme and the conclusions were maintained.

9.40 Again, officers must have regard to Paragraph 196 of the NPPF and weigh the less than substantial harm against the public benefit arising from the scheme. Again, officers consider that the cumulative weight of the public benefits, in particular the delivery of a significant number of affordable houses, outweighs the less than substantial harm identified by Conservation officers.

- 9.41 The HTVIA considers the impact on the assets at Church of St Gabriel (Grade II), Church of St Michael (Grade II), Hampstead Cemetery Mortuary Chapels, Monuments and Tombs (Grade II) and Mapesbury Conservation Area (LB Brent). In all cases, the impacts are considered to be negligible and no objection is raised to the impact on their setting by conservation officers.
- 9.42 Taking the heritage impact as a whole and based on the requisite assessment under Paragraph 196 of the NPPF, officers consider that the cumulative weight of the public benefits, in particular the delivery of a significant number of affordable houses, outweighs the less than substantial harm to the identified heritage assets. Nevertheless, officers will take the harm into account in the wider planning balance.
- v) That the potential microclimate effect does not adversely affect existing levels of comfort in the public realm
- 9.43 The impact of the development on the local microclimate is assessed within the ES (ES Volume I -Chapter 16: Wind Microclimate). A comprehensive assessment of baseline (existing) and likely pedestrian level wind conditions upon completion of the Proposed Development was undertaken, based on wind tunnel testing of a physical scale model and the industry standard Lawson Comfort Criteria. The methodology and the scope of the assessment are considered to be acceptable. The Statement of Conformity submitted in support of the revised scheme also confirms that the wind conditions would not be materially altered by the revised massing.
- 9.44 The baseline assessment (worst case scenario) below shows that the application site benefits from largely benign wind conditions with the assessment points being at the lower end of the Lawson scale (blue and green).



9.45 The proposed conditions assessment (worst case scenario) shows that wind conditions would worsen across the site however mostly only up to a medium comfort level (yellow). Some areas between the buildings would experience worse wind conditions (purple) however these spots are limited and are located in areas likely to be transitory thoroughfares.



9.46 The ES assessment recognises that mitigation measures could improve likely wind conditions. Given the outline nature of the scheme and the lack of fixed detail on layout and landscaping, and the fact that the detailed design of the building will affect aerodynamics, these details will be secured at reserved matters stage.

Design and Appearance

9.47 In terms of the visual appearance of the scheme, this is a reserved matter and only indicative details are provided with a Design Guidance Document (DGD). This document is provided as a secondary control document, with the aim to inform the detail design development of future RMAs so that a sense of coherence and continuity in design can be ensured.

9.48 In terms of appearance, the DGD sets out fundamental principles to which the future RMA detail would adhere, including complementary variation in brick tones for individual development parcels and subtle variation in brick tone within individual parcels. In terms of materiality, the document state that RMA proposals should be of

exemplary design, with the palette of materials limited to ensure a coherent architectural language. It is also state that the primary building material should be brickwork.

- 9.49 Officers consider that the DGD provides a good basis for the design of the scheme to evolve and be fixed at RMA stage.

Supplementary Urban Design Study

- 9.50 Subsequent to the submission of the original application, a further Urban Design Study (UDS) by 'City Designer' was submitted in support of the application. This report provides a design assessment and assesses the qualitative visual townscape effects of the proposed development on the application site.

- 9.51 As well as the viewpoints assessed within the HTVIA, the UDS assesses the following additional viewpoints:

- View A: Edgware Road, bus stop north of Longley Way (render)
- View B: Cricklewood Broadway looking along Cricklewood Lane (render)
- View C: Fordwych Road by No.108 (render)
- View D: Cricklewood Lane by Church of St Agnes (render)
- View E: Kara Way (render)

- 9.52 In respect of the viewpoints assessed within the HTVIA, some of these viewpoints are also rendered with indicative elevations within the document for additional clarity. The rendered images do not alter the substance of the officer assessment and conclusions on each of the viewpoints in the preceding section of this report.

- 9.53 In terms of the additional viewpoints assessed, viewpoint A is taken from Edgware Road adjacent to the bus stop north of Longley Way. The view shows Block A of the development rising above the roofline of the residential terraced roofline on the edge of the Railway Terraces CA. Whilst the development would be visible above the roofline, the level of impact would be lessened by the distance which would be readily perceptible in the view.

- 9.54 Viewpoint B is taken from Cricklewood Broadway looking along Cricklewood Lane and shows Block A rising significantly above the existing parade at 1-13 Cricklewood Lane. Seen in this context, the sensitivity of the view is not high and it is considered the visibility and prominence of Block A in this view would enhance the permeability and local hierarchy through marking the transport interchange.

- 9.55 Viewpoint C is taken from Fordwych Road looking at the application site. The view shows that the development would be clearly visible, framed centrally in the linear view by the terraces to either side. The development would not rise perceptibly above the rooflines in the view.
- 9.56 View D is taken from Cricklewood Lane adjacent the church of St Agnes. The view is similar to View 4 of the HTVIA and the recent development at 112-132 Cricklewood Lane is even more perceptible in this view, rising above the prevailing townscape to 8 storeys. The view shows that the proposed development would rise above the prevailing townscape with 4 tall elements decreasing in height from Block A to the left of the view.
- 9.57 View E is a short-range view taken from Kara Way playground looking south east at the development. The view is a short range one looking directly at the site and as such the development dominates the view. There is a visual and spatial gap between the development and the terraces which lessens the perceptibility the disparity in height.
- 9.58 In summary, officers consider that the supplementary UDS document submitted, does not alter the conclusions drawn in the assessment of the townscape impact from the HTVIA. Taken as a whole, it is considered that the views show that the development would result in less than substantial townscape harm which will be taken into account in the wider planning balance. This is similarly the case taking into account the reduced heights of the revised scheme.

10.0 Amenity Impact on Neighbouring Properties

Daylight, Sunlight and Overshadowing

- 10.1 The application was accompanied by a Daylight/Sunlight report from AECOM within the ES (ES Volume: Chapter 11: Daylight, Sunlight and Overshadowing). The standardised assessment methodology for daylighting is set out within the BRE document Site Layout Planning for Daylight and Sunlight (BRE, 2011). Within this document it is set out that the primary tools for the assessment of daylight are Vertical Sky Component (VSC)). For VSC the guideline value for windows to retain the potential for good daylighting is 27% or more than 0.8 times its former value. The Statement of Conformity submitted in support of the current scheme also confirms that the daylight and sunlight impact of the development would not be materially worsened by the revisions to the massing and in some cases would slightly improve.

10.2 In line with BRE guidelines, it is only necessary to carry out the detailed assessment on a neighbouring window if a 25-degree line drawn from the centre of the window would subtend the facing elevation of the subject development. In this case, the report identifies the following neighbouring properties as necessitating the additional assessment:

- 1-11 Champion Terrace;
- Crown Terrace (2-20 Cricklewood Lane);
- 26-28 Cricklewood Lane;
- 32A & 34-40 Cricklewood Lane;
- 42-48 Cricklewood Lane;
- 1-8 Oakhouse;
- Raynes Court;
- Dairyman Close;
- Kemps Court; and
- Lansdowne Care Home.

10.3 In addition to the existing receptors identified above, the following consented schemes were assessed.

- 1-13 Cricklewood Lane; and
- 194-196 Cricklewood Broadway.

10.4 Average Daylight Factor (ADF) methodology was used to assess the of consented but not built or occupied buildings.

10.5 The VSC results for the existing receptors are set out below:

Receptor	No. of Windows Tested	No. of Windows that meet BRE criteria	%
1-11 Champion Terrace;	55	50	91%
Crown Terrace (2-20 Cricklewood Lane)	65	56	86%
26-28 Cricklewood Ln	8	5	63%
32A Cricklewood Ln	7	5	71%
34-40 Cricklewood Ln	12	0	0%
42-48 Cricklewood Ln	31	13	42%
Oak House	24	0	0%
Raynes Court	12	1	8%
Dairyman Close	156	84	54%
Kemps Court	12	11	92%
Lansdowne Care Home	46	30	65%

TOTAL	428	255	60%
--------------	------------	------------	------------

- 10.6 It is clear from the table above that there would be notable daylight failures at 34-40 Cricklewood Lane and Oak House with 0% of windows meeting the criteria; and at Raynes Court with 8% of windows meeting the criteria.
- 10.7 The results are predicated on the assessed receptors retaining the prescribed level of VSC as set out in BRE guidance. However, the assessment notes that VSC target levels are predicated on suburban environments and that each of the windows assessed retains over 15% VSC which is considered acceptable for an urban environment (and has been noted as acceptable on similarly scaled and located schemes in London). In addition, all of the windows assessed at Oak House serve bedrooms which are less sensitive to daylight reductions than primary living spaces
- 10.8 In addition to the existing receptors, future developments at 194-196 Cricklewood Broadway and 1-13 Cricklewood Lane were tested. At 194-196 Cricklewood, 34 (58%) of the 59 rooms within this future property would retain levels of daylight in line with or above BRE recommendations in terms of ADF. At 1-13 Cricklewood Lane, 111 of the 166 assessed rooms (67%) would experience a negligible or beneficial effect with the proposed development in place.
- 10.9 As well as individually, the daylight results must also be considered in the whole and in this regard officers consider that an adherence level of 60% for VSC represents a good level of adherence in the context of the wider benefits of the scheme, the urban context and the need to deliver on the strategic objectives of the Opportunity/Regeneration Area. It is important to note that the assessments set out in the BRE guidelines are not intended to be applied rigidly and do allow for some flexibility in the context of the development. This approach is also supported in the February 2019 NPPF which states that guidelines relating to daylight and sunlight should be applied flexibly to enable a development site to be used efficiently, particularly when considering applications for housing. Cognisant of the above, officers consider that the daylight impact of the proposed development would be acceptable.
- 10.10 In relation to sunlight, the BRE recommends that the Annual Probable Sunlight Hours (APSH) received at a given window in the proposed condition should be at least 25% of the total available including at least 5% during the winter months. Where the proposed values fall short of these, and the absolute loss is greater than 4%, then the proposed values should not be less than 0.8 times their previous value in each period.

10.11 The BRE guidelines state that “..all main living rooms of dwellings should be checked if they have a window facing within 90 degrees of due south. Kitchens and bedrooms are less important, although care should be taken not to block out too much sun”. In accordance with the BRE Guidelines the following properties were therefore assessed shown with the APSH results:

Receptor	No. of Windows Tested	No. of Windows that meet BRE criteria	%
1-11 Campion Terrace;	3	3	100%
26-28 Cricklewood Ln	2	2	100%
32A Cricklewood Ln	3	3	100%
42-48 Cricklewood Ln	7	7	100%
Raynes Court	12	12	100%
Dairyman Close	132	87	66%
Kemps Court	12	12	100%
Lansdowne Care Home	45	41	91%
TOTAL	216	167	77%

10.12 Taken both as a whole and individually, it is considered that the results show that the surrounding receptors would retain a good level of sunlight.

10.13 In terms of overshadowing, all 10 sensitive receptors experience a Negligible (not significant) effects.

10.14 It should be noted that both the daylight and sunlight results are modelled on the original submission 25 storey scheme. With the reduced 19 storey scheme it is inexorable that the results would improve and as such it is considered that the officer conclusions drawn remain sound.

Privacy and Outlook

10.15 The development would enjoy significant separation distances from all surrounding development which is considered would be sufficient to ensure that there would be no unacceptable harm in terms of privacy or outlook.

Conclusion

10.16 With the above in mind, officers consider that, on balance, the application is in accordance with Policy DM01 in terms of impact on residential amenity and would not result in any unacceptable harm to the living conditions of any surrounding occupiers.

11.0 Sustainability

11.1 The 2021 London Plan, requires within Policy SI2 that major development be net zero-carbon. This means reducing greenhouse gas emissions in operation and minimising both annual and peak energy demand in accordance with the following energy hierarchy:

- be lean: use less energy and manage demand during operation.
- be clean: exploit local energy resources (such as secondary heat) and supply energy efficiently and cleanly.
- be green: maximise opportunities for renewable energy by producing, storing and using renewable energy on-site. be seen: monitor, verify and report on energy performance.

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

11.4 With regards to the energy hierarchy set out within the aforementioned London Plan policy, it is considered that the application is broadly in accordance. The application is accompanied by an Energy Statement from Meinhardt which sets out that the energy efficiency measures and sustainable energy measures that would be incorporated within the scheme.

Be Lean

11.5 Energy demand will be significantly reduced beyond Part L requirements, and will be expected to exceed the GLA's target for a minimum 10% reduction in residential carbon emissions and 15% in non-residential carbon emissions over Part L 2013 through passive design and energy efficiency measures alone. The demand reduction would be achieved by a combination of the measures including those detailed below:

- Building Fabric Insulation
- Cold Bridging
- Air Tightness
- Natural Daylight
- Solar Gain
- Shading
- Corridor Ventilation
- Heating and Hot Water System Insulation
- Heating Systems
- Cooling
- Ventilation Systems
- Lighting

- Smart Controls / Metering
- Appliances

Be Clean

- 11.6 The site is not located near to an existing heat network serving the area. However the Energy Statement sets out that the site has been identified as a possible heat network opportunity site, therefore a provision for a centralised heat network was explored. The proposed development will be provided with a secondary building network which will connect all apartments, commercial and other non-domestic uses, and supply heat for space heating and domestic hot water generation. This secondary distribution within the development will be designed in accordance with CIBSE CP1 Heat Networks: Code of Practice.

Be Green

- 11.7 The renewable technologies feasibility study carried out for the development identified photovoltaics and air source heat pumps as suitable technologies for the development and both would be implemented.
- 11.8 In total, all of the measures combined would achieve CO2 savings of 43.3%. Recognising the London wide net zero target the applicant is therefore required to mitigate the regulated CO2 emissions, through a contribution of £1,793,647 to the borough's offset fund. This contribution would be predicated on the formula set out within GLA guidance which would be secured through the Section 106.

12.0 Transport / Highways

- 12.1 Policy CS9 of the Barnet Core Strategy (Providing safe, effective and efficient travel) identifies that the Council will seek to ensure more efficient use of the local road network and more environmentally friendly transport networks, require that development is matched to capacity and promote the delivery of appropriate transport infrastructure. Policy DM17 (Travel impact and parking standards) of the Barnet Development Management Plan document sets out the parking standards that the Council will apply when assessing new developments. Other sections of Policies DM17 and CS9 seek that proposals ensure the safety of all road users and make travel safer, reduce congestion, minimise increases in road traffic, provide suitable and safe access for all users of developments, ensure roads within the borough are used appropriately, require acceptable facilities for pedestrians and cyclists and reduce the need to travel.

Residential Car Parking

- 12.2 The London Plan 2021 sets out the standards for residential parking based on inner/outer London and PTAL. Outer London PTAL 2 is up to 1 space per dwelling and Outer London PTAL 3 requires 0.75 spaces per dwelling.

- 12.3 Car parking standards for residential development are also set out in the Barnet Local Plan and recommend a range of parking provision for new dwellings based on the site's Public Transport Accessibility Level (PTAL) and the type of unit proposed. Policy DM17 of the Local Plan sets out the parking requirements for different types of units with the range of provision is as follows:
- Four or more-bedroom units - 2.0 to 1.5 parking spaces per unit
 - Two and three-bedroom units - 1.5 to 1.0 parking spaces per unit
 - One-bedroom units - 1.0 to less than 1.0 parking space per unit
- 12.4 A total of 110 residential car parking spaces is proposed (parking ratio of 0.1 spaces per unit). All spaces will be of a size suitable for disabled drivers; however, 3% (33) will be allocated for disabled drivers from the outset with the residual 7% (77) available as standard spaces with the ability to be demarcated as parking for disabled residents in the future if demand exceeds the initial 3%.
- 12.5 The site is located immediately adjacent to Cricklewood Station and several bus routes with a high PTAL and the level of car parking provision proposed is in line with current policy which seeks to encourage sustainable and active modes travel.
- 12.6 Reduced levels of parking proposed can be supported where accompanied by improved accessibility measures, suitable overspill parking control / protection and the provision of sustainable transport measures. The proposed development will deliver a suite of improved accessibility measures as set out in the HoT at the start of this report. Future residents would also be prevented from applying for parking permits in surrounding CPZs.
- 12.7 There are surrounding roads in vicinity of the site and within LBB boundaries that are not suitability protected by a CPZ. Therefore, a contribution of £42k would be secured through the S106 to undertake a review of local CPZs to establish if any changes or extensions are required to mitigate the impact of the development.
- 12.8 Subject to the matters outlined, it is considered that the level of residential parking is in line with both the LBB Local Plan (Policy DM17) and the London Plan (2021).

Cycle Parking

- 12.9 Cycle parking should be provided, designed and laid out in accordance with the new London Plan (2021) and the guidance contained in London Cycling Design Standards (it is noted that there has been slight changes to the standards from the previous 'Intend to Publish' London Plan to the now adopted London Plan).
- 12.10 The TA sets out that the development would provide a minimum of 1,846 long-stay and 28 short-stay cycle parking spaces for the residential use. At this stage, the non-residential uses are proposed to have 12 long-stay and 32 short-stay cycle parking spaces. The phased provision / design / location of long and short-term cycle parking

should be detailed as part of the reserved matters submissions. Appropriate conditions would secure the requisite provision.

Trip Generation / Network Impact

- 12.11 Technical Note 5 suggests that the forecast residential vehicle trips for the proposed development shall be 35 and 24 two-way trips in the AM and PM peak hour periods respectively (with a daily total of 265 vehicle trips). This compares with the original Transport Assessment that forecasted 118 and 85 two-way vehicle trips in the AM and PM peak hour respectively (with a daily total of 898 vehicle trips). The new assessment now suggests forecasted vehicle trips that are approximately 30% of the original forecasts.
- 12.12 The methodology set out within Technical Note 5 is not a standard process. It is not clear why the combined 'Residential M - Mixed private / Affordable housing' land use was not selected as per the proposed development, but instead private and affordable were calculated individually. The reason given for calculating residential vehicle trip rates per parking space are noted. However, this is not standard practice when using the TRICS database. It is advised that 'trip rate calculations per parking space are only available for land uses where it can be considered with good confidence that the vast majority of parking takes place on-site and where it is also considered most relevant.' The TRICS trip rate parameters for residential land consist of site area, dwellings, housing density and bedrooms. It is also noted that the standard TRICS methodology uses weighted averages for the standard parameters and that the calculations undertaken within Technical Note 5 do not.
- 12.13 However, the LB Barnet Transport team have undertaken an initial assessment for comparison purposes and have concluded that the forecast vehicle trips are acceptable.
- 12.14 The existing retail use peak hour traffic generation reported in Table 5.1 includes 'rat-run' traffic and is therefore not suitable to use when undertaking a net comparison review of land use generation. Therefore, the net reduction in peak hour vehicle trips shown in Table 5.3 and stated in Paragraph 5.2 is queried.
- 12.15 The traffic generation numbers shown in Tables 5.1 and 5.2 is not reflective in the traffic flow diagrams. It is also not understood why there are negative numbers shown on the traffic flow diagrams. Clarification on the development distribution assumptions is sought (it is noted that in the TA one distribution diagram is provided however we are not sure of the assumptions behind this and to what peak hour period it relates to). Perhaps a direct discussion with the Transport consultant would help address / clarify this issue.

Access

- 12.16 It is proposed that vehicular access would be from Depot Approach, a private access road, with the closure of the existing vehicle access onto Cricklewood Lane. The

closure of the existing vehicle access onto Cricklewood Lane will require a s278 Agreement and would include improvements to the pedestrian environment and this is included within the agreed heads of terms.

- 12.17 In terms of the access from Depot Approach, it is noted that this is a private road under the ownership of an adjoining landowner. It is also noted that the adjoining landowner has objected to the application on the basis that the applicant has no legal right to install a new access from the private road. The LPA have taken legal advice on the matter from HBPL and it is advised that there is no legal basis for resisting the application on this basis and that an appropriately worded condition would serve to secure the relevant access in so far as the LPA granting consent is concerned.

Conclusion

- 12.18 Having regard to the above and subject to the relevant conditions and S106 obligations, it is considered that the application is in accordance with relevant Barnet and Mayoral policies and is acceptable from a transport and highways perspective.

13.0 Other Matters

Flood Risk

- 13.1 Policy CS13 of the Barnet Core Strategy states that “we will make Barnet a water efficient borough and minimise the potential for fluvial and surface water flooding by ensuring development does no cause harm to the water environment, water quality and drainage systems. Development should utilise Sustainable Urban Drainage Systems (SUDS) in order to reduce surface water run-off and ensure such run-off is managed as close to its source as possible subject to local geology and groundwater levels.
- 13.2 A Flood Risk Assessment is submitted in support of the application which shows that the site is located in Flood Zone 1, which indicates a low risk of flooding. The flood risk from groundwater is also assessed as low and the existing flood risk from surface water is assessed as low to medium. No objection was received from the Council’s drainage officers and a condition would be attached requiring the submission of a full SUDS strategy at RMA stage.

Ecology

- 13.4 An Ecological Appraisal from AECOM was submitted in support of the application. The Ecological reporting comprises a summary of the potential impacts of the Proposed Development, along with appropriate mitigation measures and relevant recommended enhancement to biodiversity as part of the Reserved Matters application.

- 13.5 The Phase 1 Habitat Survey, bat emergence survey and the desktop ecology study have provided evidence that the Sites current ecological receptors do not cause a constraint to delivery of the regeneration if appropriate mitigation set out within the appraisal is implemented. The prescribed mitigation would be secured by condition as appropriate.

Ground Conditions

- 13.6 An assessment of ground conditions submitted in support of the application sets out that there are potential sources of ground based contamination on site, linked to historical railway sidings and a former warehouse potential contamination sources include existing made ground which is likely to have incorporated demolition materials from the historic developments on-site. Ground water across the Site has been found to be of reasonable quality. The risks identified with the assessment at the demolition and construction phase can be mitigated through the delineation and remediation of the contaminated soil hotspots identified during the historic site investigation and the commissioning of desk based assessment, prior excavation and oiling works at the Site.
- 13.7 A robust condition would be attached to any consent requiring a full ground survey to be undertaken prior to any works. The Council's EHO has no objection to the application on ground condition matters subject to such a condition.

Air Quality

- 13.7 The application site is located within an Air Quality Management Area ('AQMA') that has been designed by the Council for exposure to exceedances of annual mean objectives for nitrogen dioxide and particulate matter. The proposed development as considered the Construction and Operational phase effects in terms of Dust and local concentration of both nitrogen dioxide and particulate matter. It has been determined that there would be no discernible effects from the construction site associated with the proposal with appropriate mitigation measures put in place.
- 13.8 The assessment has identified that at future receptors, the effect of impacts on local air quality are negligible for NO₂ and PM₁₀ concentrations. Therefore, the overall effect of the Proposed Development on local air quality is defined as not significant. The Council's EHO has no objection to the application on air quality matters.

Arboriculture

- 13.9 The Council's Arboriculture officer identifies that the quality of the site is very low in terms of tree cover and bio-diversity as the vast majority of the land is hard surfacing or buildings.
- 13.10 He also goes on to identify that there are trees on the site that merit retention G9, G10, T19 & T21 on the tree plan which is a row of London Plane trees along site the railway line. They provide vital screening to the railway lines. The trees will also

provide screening from Cricklewood Station towards any development on the site. The proposal retains these trees.

- 13.11 Similarly, he also identifies the mixed group of trees at the Cricklewood Lane entrance provide significant tree amenity (T48 to T74). Only 7 trees of this group will be retained in the outline proposal which the Council's Arboriculture officer considers unacceptable.
- 13.12 In terms of landscaping no detailed landscaping plans have been submitted given that it is a reserved matter however the indicative landscape plans for the ground floor, podium and roof areas appear to be providing a reasonable level of green infrastructure for the development.
- 13.13 In balancing the views of the Arboriculture officer, the comments must be considered holistically in the context of the scheme. The scheme would deliver a substantial new area of public realm with opportunities for new tree planting and is proposing to retain most of the trees identified as meriting retention. On this basis, it is considered that the loss of the trees identified is outweighed by the wider benefits of the scheme.

Other Matters

- 13.9 Archaeology, Climate Change, Socio-economics and Health and Noise and Vibration are also assessed as part of the ES and are also covered within the Statement of Conformity. No significant impacts are identified subject to mitigation and conditions where necessary and such conditions are attached accordingly.

14.0 Equalities and Diversity

- 14.1 Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

“(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

- 14.2 For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;

- religion or belief;
- sex;
- sexual orientation.

14.3 The above duties require an authority to demonstrate that any decision it makes is reached “in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application.

14.4 Officers consider that the application does not give rise to any concerns in respect of the above.

15.0 Conclusion

15.0 In conclusion, officers consider that a balanced recommendation must be made having regard to the benefits of the scheme weighed against any harm identified.

15.1 The application site is located within the Brent Cross Cricklewood Regeneration / Opportunity Area and the principle of optimising the site for housing delivery is supported. The site is located within an area identified as being suitable for tall buildings and as such the principle of tall buildings is also supported. The scheme would deliver 1049 homes which must be afforded significant weight in the context of the boroughs housing targets. It is also very important to note that the provision of 1049 homes is largely in line with the site allocation within the Council’s emerging Local Plan (Reg 19). 35% of the 1100 homes would be delivered as affordable housing which must also be afforded significant weight.

15.2 The scheme would also deliver substantial new public realm, including a new town square, as well as improvements to Cricklewood Green. The scheme would also deliver public realm, highways, employment and enterprise and sustainability improvements through the Section 106 as well as a CIL payment of approximately £12m to be spent on local infrastructure.

15.3 Weighing against the application, and as set out in the relevant section of the report, the scheme would result in some harm in some townscape views and would also result in some harm to the setting of nearby heritage assets. In terms of the townscape views, on balance, the harm is not considered to be substantial. It is fully acknowledged that the development would represent a high magnitude of change, given the low-rise nature of the existing site. However, the highly sustainable, brownfield location of the site and the location within a Regeneration / Opportunity Area means that any development which sought to align with the strategic objectives of the site would inexorably represent a high magnitude of change.

15.4 In terms of heritage harm, the harm to both the Railway Terraces Conservation Area and the Crown Hotel as less than substantial. In such circumstances the NPPF requires the decision maker to undertake a balancing exercise between the identified harm and the level of public benefit arising from the scheme. In both

cases, individually and taken together, officers consider that the public benefit outweighs the less than substantial harm to the setting of the heritage assets.

- 15.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Council to determine any application in accordance with the statutory development plan unless material considerations indicate otherwise. All relevant policies contained within the development plan, as well as other relevant guidance and material considerations, have been carefully considered and taken into account by the Local Planning Authority.
- 15.6 In this case, the benefits of the scheme are considered to outweigh the harm. Officers consider that, when taken as a whole, the application is consistent with the development plan,

RECOMMENDATION: TO GRANT OUTLINE CONSENT SUBJECT TO CONDITIONS AND A SECTION 106, AND REFERRAL TO THE MAYOR OF LONDON

Appendix 1: Site Location Plan



Appendix 2: Conditions

Condition 1 – Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans and documents.

10965-EPR-XX-XX-DR-A-TP-0100 – Location Plan
10965-EPR-XX-XX-DR-A-TP-0101 – Parameter Plan Demolition
10965- EPR-XX-XX-DR-A-TP-0102 – Parameter Plan Development Parcels
10965-EPR-XX-XX-DR-A-TP-0105 – Parameter Plan Phasing
10965 -EPR-XX-XX-DR-A-TP-0106 P4 – Parameter Plan Illustrative Heights
10965-EPR-XX-GF-DR-A-TP-0200 – Illustrative Masterplan
ExA_1939_100 rev D – General Arrangement Plan – Ground Floor
ExA_1939_101 rev C – General Arrangement Plan – Podium Level
ExA_1939_102 rev C – General Arrangement Plan – Roof Level

Planning Statement July 2020; Design and Access Statement July 2020; Design Guidelines July 2020 and updated Design Guidelines received July 2021; Environmental Statement July 2020; Transport Statement March 2021 (including drawing ref:SK401).

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the application as assessed in line with Policies DM01, DM02, DM05 of the Barnet Local Plan (2012) and the London Plan (2021).

Condition 2 – Reserved Matters

Applications for the approval of the reserved matters (being scale, layout, appearance and landscaping) shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town & Country Planning Act 1990 (as amended).

Condition 3 – Implementation

The development hereby permitted in shall begin no later than 2 years from:

- i. The final approval of the last Reserved Matters Application pursuant to Condition 2, or;
- ii. The final approval of any pre-commencement condition associated with the Development.

Reason: To comply with the provisions of Section 92 of the Town & Country Planning Act 1990 (as amended).

Condition 4 – Construction Management Plan

No site works or works on this development including demolition or construction work shall commence until a Demolition and Construction Management and Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following information:

- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
- ii. site preparation and construction stages of the development;
- iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
- iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
- v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
- vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
- vii. noise mitigation measures for all plant and processors;
- viii. details of contractors compound and car parking arrangements;
- ix. Details of interim car parking management arrangements for the duration of construction;
- x. Details of a community liaison contact for the duration of all works associated with the development.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties and in the interests of highway and pedestrian safety in accordance with policies CS9, CS13 , CS14, DM01, DM04 and DM17 of the Barnet Local Plan and the London Plan 2021.

Condition 5 – Depot Approach Access

No development shall commence until the access / egress point from Depot Approach and footpaths has been provided in accordance with Entran drawing ref SK401. Any variation

required to the detail(s) of the access shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of highway safety and to ensure that a safe access can be provided from Depot Approach in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

Condition 6 – Delivery and Servicing Management Plan

Prior to the occupation of the development a Delivery and Servicing Management Plan should be submitted to and approved in writing by the Local Planning Authority. All servicing and delivery arrangements shall be carried out in accordance with the approved Plan. If changes are made a revised Delivery and Service Plan (DSP) shall be submitted to and agreed by the Local Planning Authority.

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

Condition 7 – Operational Waste Strategy

Prior to the first occupation of the development, a waste and recycling strategy for that unit shall be submitted to and approved in writing by the Local Planning Authority. This shall set out the location, design and accessibility of refuse and recycling stores, details of the separation and collection of waste, storage of bulky waste and any chute systems or waste compactors. The waste and recycling strategy shall be implemented as approved, unless otherwise agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details, made available for use prior to the first occupation of the development, and managed and operated in accordance with the approved strategy in perpetuity.

Reason: To ensure adequate refuse storage is provided on site and can be readily collected, in accordance with Policy CS14 of the Barnet Local Plan (2012) and the London Plan (2021).

Condition 8 – Car Park Management Plan

Prior to occupation, a Residential Car Parking Management Scheme to cover the residential use shall be submitted to and agreed in writing by the Local Planning Authority. The RCPMS shall include a plan identifying the disabled parking spaces to be delivered clearly marked with a British Standard disabled symbol and disabled parking shall be retained for the use of disabled persons and their vehicles and for no other purpose unless agreed in writing with the Local Planning Authority. The RCPMS shall include details of electric vehicle charging points to be installed in the development shall have been submitted to the Local Planning

Authority and approved in writing. These details shall include provision for each and every disabled space.

Reason: To ensure that parking is provided and managed in line with Barnet Council standards in the interests of highway and pedestrian safety and in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012. To ensure and promote easier access for disabled persons to the approved building in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

Condition 9 – Contaminated Land

Part 1

Before development commences other than for investigative work:

- a) A desktop study (Preliminary Risk Assessment) shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study (Preliminary Risk Assessment) and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.
- b) If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:
 - a risk assessment to be undertaken,
 - refinement of the Conceptual Model, and
 - the development of a Method Statement detailing the remediation requirements.

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

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

Part 2

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

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

Condition 10 – Surface Water Drainage

Prior to the commencement of development, drainage plans and calculations reflective of the latest drainage scheme demonstrating the surface water can be managed appropriately on site shall be submitted to and approved in writing by London Borough of Barnet planning authority. The scheme shall subsequently be implemented in accordance with the approved details before development is completed.

Reason To ensure a satisfactory method of surface water drainage, and to prevent the increased risk of flooding to third parties in accordance with Policy CS13 of the Barnet Local Plan, Policies 5.13 and 5.14 of the London Plan, and changes to SuDS planning policy in force as of 6 April 2015 (including the Written Ministerial Statement of 18 December 2014, Planning Practice Guidance and the Non statutory Technical Standards for Sustainable Drainage Systems)

Condition 11 – Foul Water Infrastructure

Prior to the commencement of utilities works*, a Wastewater strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be agreed with Thames Water and shall include details of how the existing water network infrastructure will accommodate the needs of the development.

Reason: To ensure that waste water from the site can be managed effectively parties in accordance with Policy CS13 of the Barnet Local Plan

Condition 12 - Wind Mitigation

Prior to the first occupation of the development, full details of the wind mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in full prior to the first occupation of the development.

Reason: To ensure that the development does not create an unsafe microclimate in accordance with Policy CS5 and DM05 of the Barnet Local Plan.

Condition 13 – Sustainability Measures

Prior to the first occupation of the development, full details of the Air Source Heat Pumps and Photovoltaic equipment shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in full prior to the first occupation of the development.

Reason: To ensure that the development can achieve the Carbon Dioxide emissions reductions set out in the Sustainability Statement in accordance with the London Plan 2021.

Condition 14 – Energy Network Capped Connection

Prior to the first occupation of the development, a strategy setting out how the development could enable future connection to any District Heating Network shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details as approved

Reason: In the interests of sustainable development and in accordance with the London Plan 2021.

Condition 15 – Fire Statement

Prior to the commencement of development, a Fire Safety Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the development incorporates the necessary fire safety measures in accordance with the 2021 London Plan Policy D12.

Condition 16 – Management and Maintenance

Prior to first occupation, a management plan detailing the maintenance and repair of all buildings, estate management, access arrangements, access to resident's manuals, the

provision of guidance on managing overheating, parking permits and community events shall be submitted to and approved by the Local Planning Authority.

Reason: In the interests of delivering good design in line with London Plan Policy D4.

Condition 17 - Circular Economy Statement

No development shall take place until a detailed Circular Economy Statement and Operational Waste Management Strategy in line with the GLA's Circular Economy Statement Guidance is submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.

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

Condition 18 – Circular Economy – Completion

Within 6 months of completion, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement shall be submitted to the GLA at: circulareconomystatements@london.gov.uk, along with any supporting evidence as per the GLA's Circular Economy Statement Guidance. The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of submission to the GLA shall be submitted to, and approved in writing by, the local planning authority, prior to occupation.

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

Condition 19 – No Permitted Development

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

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

Reason: To ensure that the development does not impact adversely on the character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with Policies CS5 and DM01 and DM18 of the Local Plan.

Condition 20 – BREEAM

Within 6 months of first occupation of the non-residential development hereby permitted, a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction Shell Only rating of 'Very Good' and such certificate has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of sustainable development and in accordance with the London Plan 2021.

Condition 21 – Accessible Dwellings

A minimum of 10% of all dwellings shall be built to comply with requirement M4(3) wheelchair user dwellings contained within Part M volume 1 of the Building Regulations, as identified on the plans approved under condition 2. All other dwellings shall be built to requirement M4(2) accessible and adaptable dwellings contained within Part M volume 1 of the Building Regulations.

Reason: To promote housing choice for disabled and elderly households and ensure a socially inclusive and sustainable development, in accordance with Policies CS4, DM02 of the Barnet Local Plan (2012) and Policies 3.8, 7.2 of the London Plan (2016).

Condition 22 – Opening Hours

The flexible use commercial units shall not be open to customers other than between the hours of 0700 and 2300 Mondays to Saturdays, and 0800 to 2200 Sundays and at no other times, unless otherwise approved, in writing, by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring residents and future residents of the development

Condition 23 – Construction Times

No construction works shall occur outside of the following times unless otherwise agreed in writing by the Local Planning Authority:

- 08:00 - 18:00 hours weekdays;
- 08:00 - 13:00 hours Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policies DM01 and DM04 of the Barnet Local Plan.

Condition 24 – Secured by Design

Prior to the first occupation of the relevant part of the development, certification demonstrating compliance with Secured by Design standards (or any superseding accreditation) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: in the interests of community safety in accordance with paragraphs 8 and 11 of the NPPF.



7th September 2021

Carl Griffiths
London Borough of Barnet
Planning Services
2 Bristol Avenue
Colindale
London
NW9 4EW

Williams Gallagher
Portman House
5-7 Temple Row West
Birmingham
B2 5NY

williams-gallagher.com
m: 07375 041 974
e: matthew@williams-gallagher.com

Sent by Email

Dear Carl

**FURTHER OBJECTION TO PLANNING APPLICATION REFERENCE 20/3564/OUT
REDEVELOPMENT OF B&Q, CRICKLEWOOD LANE, LONDON, NW2 1ES**

As you are aware, Williams Gallagher act for Tepbrook Properties Ltd. We have previously submitted objections to the above planning application in October 2020, May 2021 and July 2021. These objections have consistently raised the issue of the access being undeliverable and the daylight and sunlight assessment prepared by the applicant being deficient. For ease of reference I attach the two most recent submissions on these matters.

The applicant has not provided any response or scheme amendments in light of these objections and has failed to positively engage with my client.

In addition, the report to committee for determination of the application on 9th September does not address either of these matters adequately. The officer's assessment and conclusions ignore the deficiency in the daylight and sunlight assessment work and do not provide any legal analysis to counter the very clear and correct points made by Pinsent Masons in the attached letter of 20th July 2021.

We have reviewed the conditions which were missing from the previous committee report and note that proposed condition 5 is plainly, on its terms, inadequate to deal with the issue and is contrary to the NPPG as previously stated. We therefore conclude that the advice of Pinsent Masons remains wholly correct and a positive determination of the application will be open to legal challenge.

Yours sincerely

Matthew Williams
WILLIAMS GALLAGHER

Cc: Fabien Gaudin
Cllr Peter Zinkin
Cllr Anne Clarke
Cllr Shimon Ryde
Enc: Letter of Pinsent Mason dated 20th July 2021 and letter of JMR dated 27th July 2021

BY E-MAIL

Tepbrook Properties Limited
124 Finchley Road
London
NW3 5JS

Our Ref 118086548.2\JO09\PRP001.000100

20 July 2021

Dear Sirs

**B&Q, BROADWAY RETAIL PARK, CRICKLEWOOD LANE, LONDON, NW2 1ES (THE "PROPERTY")
PLANNING APPLICATION REF: 20/3564/OUT (THE "APPLICATION")**

We are instructed by Tepbrook Properties Limited ("**Tepbrook**") to provide advice in relation to the Application, which has been submitted by Montreaux Cricklewood Developments Limited (the "**Applicant**").

This letter highlights two fundamental legal flaws with the Report to Committee for the Application scheme ("**the Report**") which is scheduled to go to Planning Committee on Monday 26th July 2021. This is without prejudice to the identification of other legal and other flaws in relation the Report.

1. FAILURE TO DEAL PROPERLY WITH UNDELIVERABLE NEW ROAD ACCESS TO THE SCHEME AND UNDELIVERABLE NEW FOOTPATH ARRANGEMENTS TO THE SCHEME

1.1 We note at paragraphs 12.16 and 12.17 of the Report in relation to access arrangements to the scheme that the Report states as follows:

Access

12.16 It is proposed that vehicular access would be from Depot Approach, a private access road, with the closure of the existing vehicle access onto Cricklewood Lane. The closure of the existing vehicle access onto Cricklewood Lane will require a s278 Agreement and would include improvements to the pedestrian environment and this is included within the agreed heads of terms.

12.17 In terms of the access from Depot Approach, it is noted that this is a private road under the ownership of an adjoining landowner. It is also noted that the adjoining landowner has objected to the application on the basis that the applicant has no legal right to install a new access from the private road. The LPA have taken legal advice on the matter from HBPL and it is advised that there is no legal basis for resisting the application on this basis and that an appropriately worded condition would serve to secure the relevant access in so far as the LPA granting consent is concerned."

Pinsent Masons LLP

55 Colmore Row Birmingham B3 2FG United Kingdom

T +44 (0)121 200 1050 F +44 (0)121 626 1040 DX 703167 Birmingham 12



- 1.2 We enclose our letter dated 6 November 2020 which concluded two key points:
 - 1.2.1 There are no rights for the applicant to create the New Access for the Application scheme which is therefore not deliverable.
 - 1.2.2 There are no rights for the applicant to create the New Footpaths for the Application scheme which are therefore not deliverable.
- 1.3 As set out in our letter dated 6 November 2020:
 - 1.3.1 Pursuant to section 70(2) of the Town and Country Planning Act 1990, the local planning authority must have regard to all material considerations when determining a planning application. The inability of the applicant to deliver its proposals, including the New Access and the New Footpaths which are fundamental to the delivery of the Application is a highly material planning consideration given the nature of the application and the reliance placed on the New Access and the New Footpaths to enable and serve the development. This was reflected in the case of *British Railways Board v SoSE* [1993] 3 P.L.R. 125.
 - 1.3.2 **In this case, there is no prospect at all of the New Access or New Footpaths being provided and these fundamental issues cannot be avoided by imposition of a planning condition, given there is no prospect of such condition being satisfied either, see NPPG Paragraph: 009 Reference ID: 21a-009-20140306:**

"Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission or other aspects linked to the planning permission (e.g. occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission."
 - 1.3.3 The Report refers to the LPA having taken legal advice on the matter and "*it is advised that there is no legal basis for resisting the application on this basis and that an appropriately worded condition would serve to secure the relevant access in so far as the LPA granting consent is concerned*". However, no explanation is provided to support this position in light of the legal position as we set it out above. There is no explanation at all dealing with the clear contravention of the NPPG planning guidance. The Report is flawed and any decision made on the basis of it in this respect is liable to judicial review. In addition, there is no published Appendix 2 set of conditions which means it is not possible to examine the proposed condition purportedly imposed to address the issue. Give the proposed planning conditions, including this one, would need to be provided alongside the report 5 clear days before the Committee meeting on 26 July 2021,
2. **FAILURE TO COMPLY WITH SS100B AND 110D LOCAL GOVERNMENT ACT 1972 IN TERMS OF PUBLISHING REPORTS AND BACKGROUND PAPERS 5 CLEAR DAYS BEFORE THE COMMITTEE MEETING**
 - 2.1 The failure to publish Appendix 2 (draft conditions) within 5 clear days of the Committee meeting on Monday 26 July 2021 is a clear breach of sections 100B and D of the Local Government Act 1972 (as amended). Section 100B deals with access to agendas and



reports and section 100D with access to background papers. In both cases these must be “open to inspection by members of the public at the offices of the council” at least five clear days before the meeting (“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting (*R v Swansea City Council, ex p Elitestone Ltd (1993) 66 P. & C.R. 422*)). As per case law, e.g. *Joicey, R (on the Application of) v Northumberland County Council [2014] EWHC 3657*, this must be strictly adhered to and the report cannot be properly interpreted without sight of the draft conditions. The Committee will therefore have to be deferred to allow for the proper time for the conditions in Appendix 2 to be published and 5 clear days to elapse before the meeting can be held.

For the reasons set out in this letter, the Report is legally defective, the Committee meeting has to be deferred and the LPA must deal properly with the material consideration in relation to non-deliverability of the New Access and New Footpaths as referred to above. As referred to above, a condition will not satisfy these fundamental issues and the Application will need to be recommended for refusal. If there is cogent legal advice to the contrary, the key points of this advice needs to be reported to the Committee in the Report.

Yours faithfully

Pinsent Masons LLP

Enc Letter dated 6 November 2020

Our ref: DR/B&QCricklewood

3 Princes Street, Mayfair
London W1B 2LD

020 3633 0010

Tepbrook Properties Ltd
C/o Williams Gallagher Town Planning Solutions
Studio 321
51 Pinfold Street
Birmingham B2 4AY

By Email Only

Date 27th July 2021

Re: Proposed Development at B&Q site, Depot Approach, Cricklewood

We have been further instructed to comment upon the B&Q development proposals at Depot Approach in relation to the consented development at 194-196 Cricklewood Broadway (“Asda site”) planning reference 17/0233/FUL.

We have reviewed the B&Q Broadway Retail Park Cricklewood Lane London NW2 1ES response by Childs Hill reference 203564 (total 86 pages).

We set out below our comments in relation to daylight, sunlight:-

1. The latest responses confirm, acknowledges we are on site building out the consented scheme. We are therefore an existing building eligible for consideration as per the BRE Guidance. Therefore the Daylight, Sunlight consultant is obliged to undertake a VSC and NSL assessment of our clients consented scheme.
2. We are firmly of the view that the developers consultant is refusing to undertake this method of assessment as the results will clearly demonstrate our concerns raised over 8 months ago.
3. Whether the scheme is 25 or 19 storeys high our concerns are and remain the same.
4. Unless the developers consultant undertakes a VSC and NSL assessment of our clients development how can the local authority carefully consider the impacts to adjacent existing residential properly, in a considered manner, to in turn make an informed decision.
5. The local authority has accepted VSC and NSL method of assessment for existing properties elsewhere around the site including properties further distanced away from the site than our clients development.

Continued...



Summary

Given the orientation of the Asda site relative to the B&Q site, the majority of the windows serving our clients property will be significantly impacted and rooms facing the site will have to heavily rely upon electric lighting throughout the day due to the significant reduced daylight levels with the proposed outline development in place.

Our comments made on 30th Oct 2020 still stand – no changes nor further assessments have been undertaken. We have previously requested and still do expect to see VSC and NSL assessments to be undertaken.

We enclose a further copy of our response dated 30th October 2020.

It would appear for a number of reasons set out above that the proposed massing on the B&Q site is likely to cause harm through impacts to the Asda site residential and its surrounding residential neighbours.

Yours sincerely

David Reynolds MRICS
Director

david@jmrsurveyors.com
Mobile: 07813 782879

Enc Letter dated 30/10/2021

1. We have been instructed by Barnet Council in connection with the objection by Tepbrook Properties Limited (“Tepbrook”) to the planning application reference 20/3564/OUT relating to the redevelopment of B&Q, Cricklewood Lane, London, NW2 1ES (“the Property”).
2. We have been asked to review the document produced by Pinsent Masons (“PM”) submitted to the Council on behalf of Tepbrook by Williams Gallagher and advise:
 - a. If the issue regarding the provision of the new access is a material planning consideration.
 - b. If the use of a Grampian condition would be appropriate in this instance.
 - c. If there are any other mechanisms available to the Council to secure improvements/access/visibility splays etc to a road that is outside of the applicant's ownership.
 - d. Any other general comments on the matters raised in the enclosure.

Summary of Advice

3. Access, is a material planning consideration. The fact that it is over third-party land is not necessarily relevant from a planning perspective, as the applicant may have a right to use the access or may be able to secure such rights. In this instance, the access is not an issue as the applicant has a right of way over Depot Approach, but the owner of Depot Approach will not permit the access to the Property at the locations shown on the plans submitted with the application.
4. The applicant has a right of way over Depot Approach to access the Property, pursuant to a transfer in 2001. The grant of the right of way does not restrict access to the Property at a particular point on Depot Approach. Therefore, the applicant has a right to access the Property from anywhere along Depot Approach shown hatched on the 2001 transfer plan sent by PM. Therefore, planning permission should not be refused on the basis that the new access is unlikely to be provided. A Grampian condition could be used if it is considered necessary.
5. The applicant has a right of way on foot over that part of the Depot Approach that is not shown hatched on the plan, sent by PM, provided that, it has not been landscaped. It is difficult to conclude whether this makes it unlikely that the applicant can provide these footpaths. It may be difficult to obtain the consent of Tepbrook or establish the applicant's right to construct the footpaths but these difficulties are not planning considerations. It could be a material consideration if it was impossible to provide these footpaths and these footpaths at these locations were essential. In this instance, it would be easier to ask the applicant to revise the plans so that the footpaths are all located within the site boundary.

Facts and case law

6. The applicant has submitted an outline planning application (including means of access with all other matters reserved) for the demolition of existing buildings and the comprehensive phased redevelopment of the site for a mix of use development including up to 1100 residential units (Use Class C3), and up to 1200 sqm of flexible commercial and community floorspace (Use Classes A3/B1/D1 and D2) in buildings

ranging from 3 to 25 storeys along with car and cycle parking landscaping and associated works. It is a substantial development therefore it would be necessary to ensure that the access to the site is suitable and the adjoining road is able to accommodate the increased pedestrian traffic.

7. The access to the Property is over Depot Approach. Depot Approach is owned by Tepbrook.
8. Tepbrook claim that permission should not be granted, as there is no reasonable likelihood of the permission being implemented, as they will not permit the construction of the new access off Depot Approach or the new footpaths on Depot Approach. They refer to the case of *British Railway Board v Sec State for the Environment 1993*. In that case, British Railway Board (“**BRB**”) applied for planning permission for a residential development with access over land owned by Hounslow Council. Hounslow Borough Council, failed to determine the planning application and BRB appealed to the Secretary of State. Hounslow would not grant its consent to the access road on its land. Therefore, the Secretary of State refused planning permission on the basis that he was precluded in law from granting the permission subject to conditions which appeared to have no reasonable prospect of fulfilment within the five-year life of the permission. However, on appeal, the House of Lords ruled that the Secretary of State’s decision was incorrect. The House of Lords confirmed that a negatively worded condition could be imposed to secure an access over third party land. It said, even if the access land was outside the application site, the considerations would be the same as those to be applied where an application for planning permission relates to land not in the ownership of the applicant. The court concluded that “*the mere fact that a desirable condition appeared to have no reasonable prospects of fulfilment did not mean that planning permission must necessarily be refused. Something more is required before that could be the correct result*”.
9. The National Planning Practice Guidance (“NPPG”) provides:

Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – i.e. prohibiting development authorised by the planning permission or other aspects linked to the planning permission (e.g. occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.
10. Therefore, the question is whether, because of Tepbrook’s position, it is unlikely for the permission to be implemented. Tepbrook transferred the Property to B&Q Plc in 2001. The sole access to the Property from the public highway is over Depot Approach. The Property was transferred, with a right of way over Depot Approach, for all persons at all times for access to and egress from the Property: with or without motor vehicles over those parts of Depot Approach hatched black and on foot only over those parts of Depot Approach not hatched (and not landscaped from time to time). PM, do not refer to any clause in the 2001 transfer that restricts the location of the access to the Property.

11. In *Shaw v Grouby & another* [2017] EWCA Civ 233, the Court of Appeal considered the extent of a right of way granted over a neighbouring driveway. The appellants sold a parcel of land to the respondent but retained ownership of the driveway. Access to the respondent's property was provided by the grant of a right of way under the terms of the property transfer. There was an access point to the driveway from the property at the time of the transfer. The respondent then constructed a new access off the driveway, at another location. The appellant in that case argued that the respondent could only access their land from the original access point, at the time of the transfer. The Court of Appeal concluded that the right of way granted access to every part of the property that abutted the driveway over which a right of way had been granted. If the intention had been to limit the right of way to a particular and fixed point of access, it was to be expected that the transfer would say so. It did not.
12. Applying the ruling by the Court of Appeal in *Shaw*, to the rights granted over Depot Approach, it appears that as the 2001 transfer, that granted the right of way, did not limit access to the Property to a particular point. The applicants can access and egress their Property from any point that directly abuts the area shown hatched on the plan provided by PM. Therefore, there is a realistic possibility that the applicant can implement the planning permission with the new access. Any condition imposed to secure this would be in accordance with the guidance in the NPPG.
13. With regard to the new footpaths, it is not clear whether these are within the area which is excluded from the grant, as they are within 'landscaped areas'. More details are required. The applicant has a right of way on foot over the areas shown hatched and in respect of the areas not shown hatched, provided they are not landscaped. It is not clear whether the term 'landscaped areas' include hard landscaping or only applied to soft landscaping. Tepbrook are said to have hard landscaped the areas on which the new footpaths are to be created. What is the nature of the hard landscaping? Looking on Google maps, it appears that there are existing footpaths along Depot Approach. Are the proposed new footpaths along these existing footpaths? If so, it is unlikely that the existing footpaths have been excluded from the pedestrian right of way granted to the applicant. More information is required.

Conclusion

14. Based on the Court of Appeal ruling in *Shaw v Gould* it appears that the applicant has a realistic possibility of creating a new access point. There is no physical impediment to this. Therefore, planning permission should not be refused on the basis that it is unlikely that the new access can be provided. The provision of a new access can, if necessary, be secured by a condition preventing commencement of the construction of the units until the new access had been provided, similar to the condition in the *British Railway Board v SoSE* case.
15. The creation of the new footpaths may be an issue depending on what was meant by 'landscaped'. If there is an issue of the footpaths being within an area specifically excluded, it could be argued that in view of the stance taken by Tepbrook that it may not be possible to provide these footpaths and therefore a Grampian condition should not be imposed. The mere fact that the owner of Depot Approach does not want these footpaths to be constructed is not sufficient reason, in my view, to say that there is no prospect of these footpaths being constructed.

16. If the new footpaths, outside the site boundary, are in fact within the area excluded in the 2001 transfer from the right of way on foot, then the simplest solution would be to push back the footpaths within the red line boundary.

I have not considered the other objections and have limited this opinion just to the issue of the new access and new footpaths as set out in the PM letter. If you have any questions please do not hesitate to contact me either by phone or email.

Mrinalini Rajaratnam 17 November 2020

Matt Walton
Montreaux
By email only: mattwalton@montreaux.co.uk

10 Throgmorton Avenue
London
EC2N 2DL

townlegal.com

T: 020 3893 0370

D: 020 3893 0382

E: clare.fielding@townlegal.com

Our ref: MON002/0001/cf
22 January 2021

Dear Matt

Cricklewood - Tepbrook objection

You have asked us to comment on the letter from Pinsent Masons dated 6 November 2020 which forms part of the objection to your planning application that has been submitted by Tepbrook Properties Limited.

We cannot comment on the matter of the extent of the private law matters referred to in paragraphs 1, 2 and 3 of Pinsent Masons' letter, i.e. whether or not the applicant does or does not have the requisite legal rights over the proposed point of access and/or the land on which the footpaths are proposed to be provided.

However, in relation to paragraph 4 of Pinsent Masons' letter, we note that in the case they refer to - *British Railways Board v SSoE (1994) JPL 32* - the leading judgement acknowledged that planning legislation contemplated that an application for planning permission could be made by a person who did not own the land to which [part of] an application related and that the owner of any such land could object to it. However, if there were good planning reasons why the development should be allowed, the owner's objections were not necessarily a ground for refusal. There was therefore no absolute rule that the existence of difficulties, even if apparently insuperable, must necessarily lead to the refusal of planning permission. Lord Keith of Kinkel, giving the leading judgement, said:

"A would-be developer may be faced with difficulties of many different kinds, in the way of site assembly or securing the discharge of restrictive covenants. If he considered that it is in his interests to secure planning permission notwithstanding the existence of such difficulties, it is not for the planning authority to refuse it simply on their view of how serious the difficulties are."

This led to the change in the Government's guidance on the imposition of Grampian-style planning conditions which Pinsent Masons identifies. Prior to this case planning guidance used to prevent imposition of Grampian conditions unless there was a reasonable prospect of the condition being satisfied. The way the planning guidance puts it nowadays (following this court decision) is that Grampian conditions should not be used where there are "no prospects at all" of the action in question being performed within the time limit imposed by the planning permission.

Partners: Elizabeth Christie, Mary Cook, Duncan Field, Clare Fielding, Michael Gallimore, Raj Gupta, Meeta Kaur, Simon Ricketts, Patrick Robinson, Louise Samuel

Town Legal LLP is an English limited liability partnership authorised and regulated by the Solicitors Regulation Authority. Its registered number is OC413003 and its registered office is at 10 Throgmorton Avenue, London EC2N 2DL. The term partner refers to a member of Town Legal LLP. See www.townlegal.com for more information.

22 January 2021

It is for these reasons that planning authorities rarely refuse planning permission based on objections about the “deliverability” of development due to private law issues raised by neighbours.

Insofar as the matters referred to in Pinsent Masons’ letter are concerned, therefore, it would clearly be lawful for a Grampian condition to be imposed preventing the development (or relevant parts of it) from being implemented until any requisite remaining legal rights over the relevant land had been secured. This would also be in accordance with the guidance in the PPG since the local planning authority cannot know whether there are “no prospects at all” of those rights being secured, notwithstanding what Pinsent Masons’ letter says. Commercial parties frequently reach agreement about private law matters on neighbouring sites, as the local planning authority will know.

Yours sincerely

A handwritten signature in black ink that reads "Town Legal LLP". The signature is written in a cursive, slightly stylized font.

Town Legal LLP