

# PLANNING COMMITTEE REPORT

Development Management Service  
Planning and Development Division  
Environment and Regeneration  
Department  
PO Box 333  
222 Upper Street  
LONDON N1 1YA

|                           |                                |            |
|---------------------------|--------------------------------|------------|
| <b>PLANNING COMMITTEE</b> |                                |            |
| Date:                     | 10 <sup>th</sup> December 2015 | NON-EXEMPT |

|                          |  |
|--------------------------|--|
| Application number       | P2015/2937/FUL   |
| Application type         | Full Planning Application  |
| Ward                     | Mildmay  |
| Listed building          | Not Listed   |
| Conservation area        | None   |
| Development Plan Context | No designation   |
| Licensing Implications   | None   |
| Site Address             | 139A and 139B Grosvenor Avenue N5 2NH  |
| Proposal                 | Demolition of the existing 2-storey semi-detached houses in multiple occupation (HMO- use class C4) and the construction of a new 5-storey (inc lower ground floor) building providing 10 residential dwellings (C3) consisting of 10no 2 bedroom units with bin storage area to the front, cycle storage area to rear and associated landscaping. |

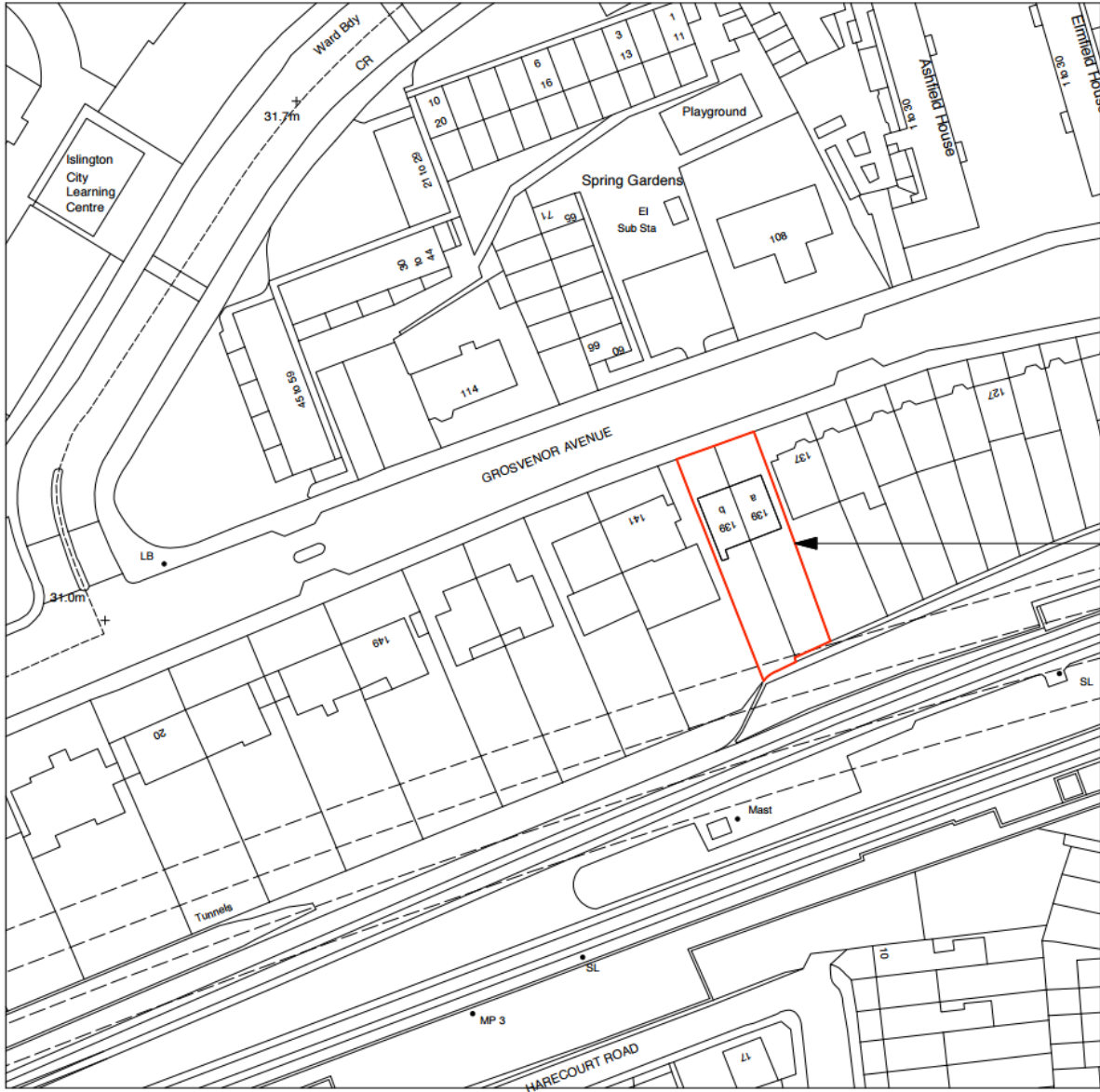
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|--------------|---------------------|
| Case Officer | Simon Greenwood     |
| Applicant    | Mr Carlton James    |
| Agent        | Mr Stephen Sinclair |

## 1. RECOMMENDATION

The Committee is asked to resolve to **GRANT** planning permission:

1. subject to the conditions set out in Appendix 1;
2. conditional upon the prior completion of a Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 securing the heads of terms as set out in Appendix 1;

## 2. SITE PLAN (site outlined in red)





### 3. PHOTOS OF SITE/STREET



**Image 1: The existing properties from Grosvenor Avenue**



**Image 2: the Eastern Neighbour, No 137**





**Image 3: The Western Neighbour, No 141**

#### **4. SUMMARY**

- 4.1 Planning permission is sought for the demolition of a pair of 2 storey semi-detached Houses in Multiple Occupation (HMO) (Use Class C4) and their replacement with a 5 storey (including semi-basement) building comprising 10 two bedroom flats.
- 4.2 Planning permission was recently refused and dismissed at appeal for a similar scheme comprising a building of the same scale and appearance but providing 6 two bedroom and 2 four bedroom flats. The planning application was refused on grounds relating to underdevelopment, lack of a financial contribution towards off-site affordable housing and the impact of the proposed cycle store on the amenities of the occupants of neighbouring residential dwellings. At the subsequent appeal the Inspector agreed that the scheme failed to maximise its development potential. He did not consider it necessary to examine the viability of a financial contribution to off-site affordable housing as he concluded that, as the site could accommodate 10 units, affordable housing should be provided on site. He was satisfied that the proposed cycle store would not result in undue harm in amenity terms.
- 4.3 The currently proposed scheme is an amendment to the previous scheme involving an internal reconfiguration to provide 10 two bedroom flats. The revised unit mix is considered to satisfactorily address previous concerns regarding underdevelopment, and it is considered that the development potential of the site has been maximised. The proposal would deliver one affordable (shared ownership) unit and a further payment in lieu of on-site affordable housing and is considered acceptable in affordable housing terms. In view of the Inspector's decision the proposal is therefore considered to satisfactorily address the previous grounds of refusal.

- 4.4 One issue which arises from the amended scheme is the acceptability of the proposed unit mix of 10 two bedroom units, which fails to provide a mix of housing to contribute towards meeting the borough's needs. However, it is considered that the constraints of the site and the need to provide a satisfactory standard of accommodation for future occupants whilst maximising the development potential of the site represent sufficient justification for the proposed unit mix. The proposal is considered satisfactory in this regard.
- 4.5 It is considered that the proposed demolition of the existing 2 storey semi-detached houses in multiple occupation (HMO) (Use Class C4) and the erection of a 5 storey (including lower ground floor) building providing 10 residential dwellings would be acceptable in land use terms, have an acceptable impact upon the visual amenities of the street scene and the character and appearance area including upon the adjoining conservation area. Furthermore, the proposal would not result in an unduly harmful impact upon the residential amenities of the occupants of the neighbouring dwellings.
- 4.6 As such, the proposed development is considered to accord with the policies in the London Plan, Islington Core Strategy, Islington Development Management Policies, and the National Planning Framework and is recommended for approval subject to appropriate conditions.
- 4.7 It is therefore recommended that planning permission be granted subject to conditions.

## **5. SITE AND SURROUNDING**

- 5.1 The application site is currently occupied by a pair of 1950s semi-detached houses which were converted to Houses of Multiple Occupation (HMOs) following a grant of planning permission in 2007.
- 5.2 The scale and form of the existing building is at odds with neighbouring development on the southern side of Grosvenor Avenue which comprises three and four storey over basement Victorian terraced houses, most of which have been converted to flats or HMOs. The opposite (northern) side of Grosvenor Avenue is characterised by a mixture of four and five storey post-war residential development, including the Highbury Estate.
- 5.3 The site is not located within a conservation area and the building is not listed. However, the western boundary of the site adjoins the Highbury New Park Conservation Area.

## **6. PROPOSAL (in Detail)**

- 6.1 It is proposed to demolish the existing building on the site and erect a five storey (including lower ground floor) block comprising 10 two bedroom flats. The external appearance of the building would be consistent with that of the previously refused proposal.
- 6.2 The existing pair of 1950s semi-detached houses were converted to HMOs following a grant of planning permission in 2007 (applications refs. P070499 & P070589).
- 6.3 The block would be of contemporary design and would be comparable in height to the adjacent Victorian terraces. The front elevation would feature timber frame full height windows to reflect the proportions of the adjacent buildings and to maximise the natural light to the dwellings. Brickwork is proposed to reflect the appearance of neighbouring buildings on the southern side of Grosvenor Avenue.
- 6.4 The footprint of the block would be 3m forward and 3m to the rear of the existing building on the site, and this would bring the front of the block in line with the front building line of the

neighbouring terraces. The southwest corner of the block was amended under the previous application in order to address a loss of daylight and sunlight to No. 137 Grosvenor Avenue and this amended arrangement is maintained within the current proposal. The proposed building retains an approx. 1m side space to both boundaries which is similar to the existing properties.

- 6.5 A low rendered masonry wall is proposed along the front boundary and this would match existing front boundary treatments along this part of Grosvenor Avenue. The large tree to the front of the building would be retained.
- 6.6 The two lower ground floor units would have private garden areas whilst balconies would be provided to 7 of the upper floor units. One unit will have no private amenity space. All of the units will have access to a 210m<sup>2</sup> communal rear garden.
- 6.7 The block will feature a living roof and a living wall to the rear elevation.
- 6.8 Secure cycle parking (20 spaces) would be provided to the rear of the site whilst refuse storage would be provided to the front of the building.

## 7. RELEVANT HISTORY:

### 139 A Grosvenor Road:

- 7.1 **P070598** - Change of use from single family residence to house in multiple occupation (**granted permission 13/11/2007**).
- 7.2 **P062091** - Change of use from single family residence to house in multiple occupation (**refused permission 08/11/2006**).
- 7.3 **P061040** - Change of use from single family residence to house in multiple occupation (**refused permission 11/07/2006**).

### 139 B Grosvenor Road:

- 7.4 **P070499** - Change of use from single family residence to house in multiple occupation (**granted permission 09/07/2007**).
- 7.5 **P062142** - Change of use from single family dwelling to house in multiple occupation (**refused permission 14/11/2006**).
- 7.6 **P061041** - Change of use from single family residence to house in multiple occupation (**refused permission 10/07/2006**).
- 7.7 **P2014/3449/FUL** - Planning permission was refused in June 2015 for demolition of the existing two-storey semi-detached Houses in Multiple Occupation (Use Class C4) and the construction of a new five-storey (including a lower ground floor) building comprising 6 two bedroom and 2 four bedroom flats. The grounds of refusal were as follows:

1. The proposed scheme does not result in sustainable development as it fails to maximise the development potential of this urban site. It fails to deliver a maximum number of units on the site, and consequently fails to deliver affordable housing on the site, of which there is an acute need within the borough, and is therefore contrary to Policy CS12 of the Islington Core Strategy.

2. The applicant has failed to submit written confirmation of an agreement to pay the full contribution sought by the Islington Affordable Housing Small Sites Contributions SPD for the number of housing units proposed. The applicant has submitted a viability assessment to demonstrate that the full contribution is not viable and that instead a lesser contribution should be made, however this has not been agreed by the Council. Therefore, the proposal is contrary to policy CS12 Part G of the Islington Core Strategy 2011, the Islington Affordable Housing Small Sites Contributions SPD.
3. The proposed bike shed by virtue of its scale and siting on the boundary, is considered to have a detrimental overbearing impact and potential detrimental noise impact on the amenity of the neighbouring property No 137, contrary to policy DM2.1 of Islington's Development Management Policies.

7.8 The application was subsequently dismissed at appeal (PINS ref. APP/V5570/W/15/3131288) and the following are excerpts from the Inspector's report:

'The Courts have held that development plan policies must be interpreted objectively in relation to the common meaning of the language used and the context in which they have been drafted. It seems to me that Policy CS12(G) requires an early appraisal of any site to ascertain whether it could accommodate *'10 or more units gross'*. That appraisal cannot be undertaken in isolation but has to be carried out within the framework of other development plan policies. Nevertheless, the identification in an adopted policy of so specific a criterion as to the number of units to be accommodated on a site suggests particular weight should be given to that factor when compared with other criteria. At the very least, any proposal that does not meet the *'10 unit'* threshold needs to be explicit as to why the site on which it is located cannot accommodate that number of units.

In respect to the word *'capable'*, its meaning seems to be less clear cut. It might simply mean the physical capacity of the site, but that ignores the wide range of other factors that could and should influence the nature of any development. Nevertheless, as I have suggested above, the use of the word, *'capable'*, suggests that there is at least an initial presumption that the capacity of any site has to be tested against the 10 unit threshold. Furthermore, there would need to be a clear and overriding justification as to why a site that was deemed *'capable'* of accommodating 10 or more units was being considered for a scheme that did not do so.

I accept that the context of Policy CS12(G) is to encourage the development of sites to their full potential whilst giving priority to development that is of sufficient scale to allow the on-site provision of affordable housing. I also suspect that the policy has been drafted in the manner it has to dissuade applicants from putting forward schemes with a smaller number of units in order to avoid such on-site provision.

I see no problems with Policy CS12(G) in terms of a requirement that the proposals for any particular site maximise its residential potential whilst meeting the full range of criteria set by the policies of the adopted development plan. Moreover, in assuming that the appeal site could accommodate a larger number of units than the eight proposed, the Council describes that failure to meet its maximum potential as a failure to achieve the sustainable development that lies at the heart of the Government's National Planning Policy Framework ('the Framework'). The Framework encompasses economic, social and environmental

factors in its definition of sustainable development and I accept the Council's argument that ensuring that sites achieve their maximum potential should be a material consideration.

Furthermore, I take that view notwithstanding the general principle that every application and appeal has to be judged on its own merits and that none should be rejected on the grounds that there might be a better proposal 'round the corner'. Section 38(6) of the Planning and Compulsory Purchase Act 1994 states that every application and appeal should be determined in accordance with the adopted development plan '*...unless other material considerations indicate otherwise*'. Policy CS12(G) is part of the adopted development plan and applications should therefore be determined in accordance with its provisions.

The issue is therefore whether the appellant has demonstrated that the appeal site is not capable of accommodating 10 or more units. The Council obviously thought he had not. Its evidence to support the argument that the proposed development does not achieve the site's full potential centres on the claimed excessive size of the two four-bedroom units. The Council points out that their floorspace substantially exceeds the standards for such units set by the London Plan and carried forward into Policy DM2.3 of the Islington Development Management Policies Development Policy Document (DPD). For four-bedroom units, the minimum space standard is 99m<sup>2</sup> but the two four-bedroom units proposed here have floorspaces of 158m<sup>2</sup> and 164m<sup>2</sup> respectively. The units are thereby over 50% larger than the minimum standard. The Council argues that this demonstrates the capacity of the site/development to accommodate a greater number of units.

In refuting the Council's claim, the appellant argues that relying on the claim that the two four-bedroom units could be sub-divided is too simple. The design of the proposed development is based on many factors and it cannot be dismissed simply on the basis of the floorspace of the two largest units. I agree but that argument must still depend, in the terms set by Policy CS12(G), on the appellant providing a convincing demonstration that the site could not accommodate more units. I recognise that might well need a re-designed scheme.

Paragraphs 2.18 to 2.42 of the appellant's statement seek to demonstrate why the site could not accommodate 10 or more units. I found these arguments unconvincing. I acknowledge, however, that the appellant may have been under some disadvantage in presenting a case that essentially argues for his particular scheme rather than presenting a more general case as to any restrictions that may affect the capacity of the site. The distinction might seem subtle but it lies at the heart of Policy CS12(G).

I recognise that the appellant and Council officers spent a good deal of time and effort working up the scheme that led to the application. I cannot tell, however, how far Council officers may have taken on board in those discussions their members' clear priorities with regard to affordable housing. Nevertheless, the reaction of the Planning Committee perhaps should not have surprised the appellant.

Furthermore, the Council has directed me to a second application made by the appellant (Council Ref. P2015/2917/FUL) that proposes a scheme of ten residential units within the same building envelope. The appellant has asked me to give this second proposal only limited weight, not least because it has not yet



been determined by the Council. Notwithstanding that comment, I do not see how I can ignore a proposal, put forward by the appellant, that apparently demonstrates the capacity of the site to accommodate at least ten residential units. It is obviously different from the original proposal but given fundamental similarities in terms of scale, massing and design, I do not accept that it can easily be dismissed as impractical, or not viable or, most importantly, as demonstrating that the site is incapable of accommodating 10 or more units.

I am accordingly persuaded that the appeal site has a capacity to accommodate at least 10 residential units. In these circumstances, the development fails the criterion set by Policy CS12(G) and the first reason for refusal is justified.'

- 7.9 The Inspector did not consider the second ground of refusal in detail on the basis that he had concluded that the site could accommodate 10 units and a development should therefore provide on-site affordable housing rather than a payment in lieu of on-site affordable housing.
- 7.10 The Inspector dismissed the Council's third ground of refusal on the basis that the proposed cycle shed would not result in any significant material harm to the residential amenities of the occupants of No. 137.
- 7.11 The Inspector considered the impact of the proposal on the amenities of the occupants of the neighbouring properties as follows:

'The proposed development has no windows on its relevant, eastern, side elevation and there is therefore no issue of overlooking of No 137. Furthermore, although the proposed development would be taller than the existing semi-detached properties, it has been specifically designed to be of no greater height than either Nos 137 or 141. I accept that the proposed development would be somewhat deeper than the neighbouring properties but the relationships between it and its neighbours would be broadly similar to those that exist between other pairs of semi-detached properties in Grosvenor Avenue.

Moreover, I was already aware of the Daylight and Sunlight study that had been carried out for the appellant by MES Building Solutions, and which had been amended following an internal inspection of No 137. The study accompanied the original application and was specifically carried out to assess the effects of the proposed development against Policy DM2.1 of the adopted Development Plan. The study was based on the generally accepted criteria for these matters set by the Building Research Establishment's (BRE), *Site Layout Planning for Daylight and Sunlight*. It used the impact of the proposed development on the Vertical Sky Component (VSC) of the windows of all neighbouring properties, including, of course, No 137, but also looked at the Daylight Distribution test in respect of the rooms that might be most affected and the effects of sunlight and the impact on neighbouring properties' amenity space.

The MES Building Solutions study looked at four properties close to the proposed development, Nos 137 and 141 Grosvenor Avenue, i.e. the two properties on either side of the proposed development, and two properties on the other side of the road, 114 Grosvenor Avenue and Park Church House. It was clear from the conclusions that only 137 Grosvenor Avenue gave any cause for concern in terms of any loss of daylight or sunlight.

The MES Building Solutions raised no issues in respect of No 141 or properties on the other side of Grosvenor Avenue. Nor, in respect of the basement, ground and first floors of No 137, do I see any evidence that the proposed development would result in a substantial diminution of daylight or sunlight reaching those rooms with windows facing west, i.e. towards the proposed development. I take this view, having considered the amendment to the scheme such that its south-eastern corner would be angled away from the basement flat of No 137 and the fact that there is already the side elevation of the existing semi-detached dwellings close to the boundary with No 137.

The Daylight and Sunlight study demonstrates, however, that there would be some reduction in the daylight and sunlight reaching the side elevation windows at second floor level. Nevertheless, as the MES Building Solutions comments and as I saw for myself on my second site visit, these windows light a workshop area, which would not normally be given the same priority as a habitable room. I am also aware that neither of the windows most affected is a principal window lighting the relevant room and that, as a whole, the room would continue to be well-lit despite any effects of the proposed development.

The MES Building Solutions study also looked at the effect of the proposed development on the rear garden of No 137 and concluded that it would produce no significant material harm. I agree: the orientation of No 137 to the proposed development is such that there should be little if any interference with the enjoyment of their rear garden by the occupants of No 137.

There finally remains the small terrace that is at second floor level in No 137 and which faces the proposed development. I have little doubt that the views from this terrace would be affected – as would the views from the two second floor windows to which I refer in paragraph 29. However, it is a well-established principle that planning can provide no security for views and this matter has to be discounted. Furthermore, I agree with the Council's officers that a side terrace of the form that exists here so close to the property boundary should not carry the same protection as might be afforded to amenity space such as a rear garden. The material harm to the future use of this terrace therefore cannot weigh sufficiently against the proposed development for me to conclude that it is in breach of those criteria of Policy DM2.1 that seek to protect the living conditions of the occupants of neighbouring properties.'

7.12 The Inspector's full report is attached at **APPENDIX 2**.

## **8. CONSULTATION**

### **Public Consultation**

- 8.1 Letters were sent to occupants of 239 adjoining and nearby properties at Grosvenor Avenue, Spring Gardens, Highbury New Park, Heaven Tree Close and Aberdeen Park on 4 September 2015. A site notice and a press advert were displayed on 10 September 2015. The public consultation of the application therefore expired on 1 October 2015. However, it is the Council's practice to continue to consider representations made up until the date of a decision.
- 8.2 At the time of the writing of this report 20 letters of objection have been received, which are summarised as follows (with paragraph numbers stated in brackets stating where the issue is addressed):

- Loss of daylight and sunlight to neighbouring properties (paras. 7.11, 10.48-10.66)
- Plans make inaccurate assumptions about the layout of No. 137 (it is considered that the submitted plans are sufficiently accurate to allow proper consideration of the proposed development and its impact upon neighbouring dwellings)
- Amendments to corner of block under previous planning application do not address concerns regarding loss of light to basement flat at No. 137 (paras. 7.11, 10.60-10.63)
- Loss of privacy and noise and disturbance at basement flat at No. 137 due to location of pathway to bicycle shed (para. 11.3)
- Cycle store will be unsightly (paras. 7.10, 11.3)
- Loss of green space, including from cycle shed (paras.10.67-10.73)
- Loss of trees / harm to biodiversity / impact on adjacent Site of Importance for Nature Conservation (SINC) requires full consideration (paras. 10.67-10.73)
- Developer has not requested permission to remove the shared boundary wall with No. 137 (this is a civil matter and not a planning consideration)
- Basement construction may result in subsidence
- Increase from 8 to 10 units will result in overdevelopment and increased noise, loss of privacy and demand for on-street car parking / increased traffic (paras. 10.21-10.24, 10.41-10.47, 11.1-11.5)
- Loss of privacy and noise and disturbance at basement flat at No. 137 due to location of pathway to bicycle shed (para 11.3)
- Inadequate affordable housing provision / housing will not be affordable (paras. 10.74-10.78)
- Overdevelopment of the site / overbearing visual impact / excessive height / excessive rearward projection (paras. 10.8-10.20, 10.41-10.47)
- Out of character / loss of openness (paras. 10.8-10.20)
- Previously proposed unit mix would have delivered family housing and was preferable (paras.10.39-10.40)
- Existing houses should be retained (paras.10.8-10.20).

8.3 1 representation in support of the proposal has been received.

### **Internal Consultees**

8.4 Design and Conservation Officer: design concerns were addressed under the previous application and the detailing and materials are now considered appropriate.

8.5 Inclusive Design Officer: concerns are raised that the scheme will be unable to fully meet the Council's accessibility requirements – discussions are ongoing at the time of writing and an update will be provided at the meeting.

8.6 Trees Officer: No objections. an Arboricultural Method Statement should be secured by condition should planning permission be granted.

### **External Consultees**

8.7 Network Rail: - The developer must ensure that the development does not encroach onto Network Rail land or affect its infrastructure.

8.8 HighSpeed1 – conditions are requested to ensure that the development does not result in adverse implications for the High Speed 1 project.

8.9 London and Middlesex Archaeological Society (LAMAS) (Historic Buildings and Conservation Committee) – no objections, the proposal would have little impact upon the conservation area.

8.10 London Underground – no comments.

8.11 Thames Water – no objections.

## **9. RELEVANT POLICIES**

9.1 Details of all relevant policies and guidance notes are attached in **Appendix 3**. This report considers the proposal against the following development plan documents.

### **National Guidance**

9.2 The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **Development Plan**

9.3 The Development Plan is comprised of the London Plan 2015, Islington Core Strategy (2011) and Development Management Policies (2013). The policies of the Development Plan are considered relevant to this application and are listed at **Appendix 3** to this report.

### **Designations**

9.4 The site has the following designations under the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013 and Site Allocations 2013:

- Sited within 50m of a Conservation Area (Highbury New Park).

### **Supplementary Planning Guidance (SPG) / Document (SPD)**

9.5 The SPGs and/or SPDs which are considered relevant are listed in Appendix 3.

## **10. ASSESSMENT**

10.1 The main issues arising from this proposal relate to:

- Land use
- Design
- Density
- Accessibility
- Neighbouring amenity
- Trees and Landscaping
- Quality of residential accommodation
- Dwelling mix
- Affordable housing (and financial viability)
- Energy conservation and sustainability
- Highways and Transportation



- Planning obligations/mitigations.

### **Land Use**

- 10.2 It should be noted that the Council, in considering the previous planning application, and the Inspector considering the recent appeal, raised no objection to the proposed change in land use from Use Class C4 (HMOs) to C3 (dwelling houses). The planning history would therefore indicate that the proposal is acceptable in land use terms. However, in the interests of completeness, land use is considered in the following paragraphs.
- 10.3 The two existing properties are each in use as a HMO and policy DM3.9(C) of the Development Management Policies states that the Council will resist the loss of good quality HMOs. The properties were granted permission for use as HMOs in 2007 and were considered at the time to provide good quality accommodation of this type.
- 10.4 It has been established that each of the two properties are occupied by five individuals through the submission of copies of licences issued by the Council's Environmental Health division. The dwellings therefore fall within the C4 use class.
- 10.5 Recent changes to the General Permitted Development Order 2015 (Part 3, Class L - *small HMOs to dwellinghouses and vice versa*) indicate that the conversion of the existing HMOs to two residential dwellings would be permitted development not requiring planning permission. It is therefore the case that the site could be returned to C3 (dwelling houses) use, which is the proposed use of the site, without the requirement for planning permission. It would be impractical and unreasonable to require the initial change of use of the existing HMOs to C3 use in order to establish the acceptability of the proposed C3 use. It can simply be acknowledged that a C3 use of the site would not require planning permission and therefore redevelopment of the site for C3 use is considered acceptable in principle.
- 10.6 Policy DM3.9(D) states that, 'Where the loss of an HMO is acceptable, development should provide accommodation to meet an acute need identified by the Council's housing department, which may include social rented housing'. The proposed development would provide one affordable shared ownership unit and a payment in lieu of further on-site affordable housing and it is considered that the requirements of Core Strategy Policy CS12 requiring on-site affordable housing contribution has been satisfied. The proposal is therefore considered to satisfy the requirements of Policy DM3.9(D).
- 10.7 As such, in principle, it is considered that the redevelopment of the site to provide residential dwellings (Use Class C3) is acceptable.

### **Design and appearance**

- 10.8 The external design and appearance of the building is unchanged from that considered by the Council under the previous planning application and that considered by the Inspector at the recent appeal. The design and appearance of the building was previously considered acceptable by the Council and the Planning Inspector and the planning history would therefore indicate that the proposal is acceptable in terms of design and appearance. However, in the interests of completeness, design and appearance is considered in the following paragraphs.
- 10.9 Paragraph 63 of the National Planning Policy Framework states that "in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area".

- 10.10 Policy DM2.1 (Design) requires all forms of development to be of a high quality, to incorporate inclusive design principles and make a positive contribution to the local character and distinctiveness of an area, based upon an understanding and evaluation of its defining characteristics. Development which fails to take the opportunities available for improving the character and quality of an area and the way that it functions will not be supported.
- 10.11 The proposal involves the demolition of a pair of two storey semi-detached houses and the erection of a five storey (including lower ground floor) residential block of contemporary design. The existing 1950s built dwellings have little architectural merit and represent an incongruous break in the predominantly three and four storey height of the neighbouring Victorian buildings.
- 10.12 The existing building has approx. 1m side space to either boundary whilst No. 141 has approx. 3m side space to the boundary. Accordingly, the existing building enjoys a relatively spacious setting with views towards the rear of the site. Furthermore, this side of Grosvenor Avenue, particularly to the west is in part characterised by open space to the side of semi-detached properties and at the end of terraced rows.
- 10.13 The proposed building retains an approx. 1m side space to both boundaries which is similar to the existing properties. As such, it is considered that a satisfactory setting for the building would be maintained. The proposed building retains the same approximate ridge and eaves height of the neighbouring dwellings, and therefore in terms of scale and massing the building is considered appropriate.
- 10.14 Whilst set some 3m in front of the existing properties, the building line is consistent with both neighbours, with only the lightwells and bin storage areas set further forward.
- 10.15 The development provides a sunken private rear amenity space for the two lower ground floor units, with steps up to the retained existing garden space at the rear.
- 10.16 The detailing of the front elevation was amended under the previous planning application to address the concerns raised by the Design & Conservation Officer in relation to the scale and consistency of the fenestration. Furthermore, the dormer windows were reduced slightly in scale to be more in keeping with the surrounding properties. The vertical emphasis of the façade replicates the traditional Victorian dwellings on either side.
- 10.17 The materials proposed (predominantly facing brickwork and timber framed windows) will ensure that the development is in keeping with the traditional Victorian street scene. A condition is proposed to secure appropriate materials.
- 10.18 The building is set back from the front boundary in line with the existing dwellings and incorporates landscaping and a low rendered masonry wall which will match the existing front boundary treatment along this part of Grosvenor Avenue. The large tree to the front of the building, which contributes to the character and appearance of the street scene will be retained (this is discussed further below).
- 10.19 The block will appear as a contemporary addition to the street scene which sits comfortably within the historic surroundings.
- 10.20 It is therefore considered that the proposed development is considered acceptable in design and appearance terms and will maintain the character and appearance of the adjacent Conservation Area.

## **Density**

- 10.21 The London Plan encourages developments to achieve the highest possible intensity of use compatible with the local context. The development scheme proposes a total of 10 new residential dwellings.
- 10.22 In assessing the appropriate housing density for the application site it is necessary to consider the London Plan which notes that it would not be appropriate to apply these limits mechanistically. In particular, the local context as well as design considerations should be taken into account when considering the acceptability of a specific proposal.
- 10.23 The site has a public transport accessibility level (PTAL) of 6a (Excellent). For urban areas with such a high PTAL, the London Plan Policy 3.4 (Table 3.2) suggests that a density level of between 55 and 225 units per hectare would be most appropriate.
- 10.24 The proposed development would result in a residential density of some 167 units per hectare. This level of housing density falls within the recommended density range and is considered acceptable.

## **Accessibility**

- 10.25 London Plan Policy 7.2 states that development should achieve the highest standards of accessible and inclusive design, ensuring that developments can be used safely, easily and with dignity by all regardless of disability, age gender ethnicity or economic circumstances.
- 10.26 London Plan Policy 3.8 states there should be genuine housing choice which meets requirements for different sizes and types of dwellings in the highest quality environments. These requirements are reinforced by Islington Core Strategy CS12 and the Accessible Housing SPD.
- 10.27 Development Management Policy DM2.2 requires all new developments to demonstrate inclusive design whilst Policy DM3.4 provides housing standards for all types of residential developments. The Council's Inclusive Design SPD sets out guidelines for the appropriate design and layout of dwellings, including wheelchair accessible units.
- 10.28 The recent Housing Standards Review was followed by a Deregulation Bill on 16 March 2015 which was implemented on 1 October 2015. The Bill introduced a new National Standard for Housing Design as an enhancement of Part M of the Building Regulations which will be enforced by Building Control or an Approved Inspector. The new National Standard is broken down into 3 categories: Category 1 (Visitable Dwellings), Category 2 (Accessible and Adaptable Dwellings, similar to Lifetime Homes) and Category 3 (Wheelchair Accessible dwellings, similar to Islington's present wheelchair accessible housing standard).
- 10.29 The GLA have introduced a Minor Alterations to the London Plan which reframes London Plan Policy 3.8 (Housing Choice) to require that 90% of new housing be built to Category 2 and 10% to Category 3 and has produced evidence of that need across London.
- 10.30 The Council's Inclusive Design Officer has expressed concerns that the proposed development will be unable to fully meet the Council's accessibility requirements. The applicant has indicated that they are willing to accept conditions to secure appropriate measures relating to these requirements. Discussions are ongoing at the time of writing with a view to addressing this matter and an update will be provided at the meeting.

## **Standard of Accommodation for Future Occupiers**

- 10.31 It should be noted that in considering the recent planning application and appeal the previously proposed scheme was considered acceptable by the Council and the Inspector in terms of living conditions. The currently proposed scheme has been amended internally whereby the previously proposed 2 lower ground floor and ground floor four bedroom duplex units have been amended to 4 two bedroom units (2 on each floor). The layouts of the first to third floor units remain unchanged from the previous application. The planning history would therefore indicate that, subject to consideration of the acceptability of the amendments at ground and lower ground floor level, the proposal is acceptable in terms of standards of accommodation for future occupants. However, in the interests of completeness, living conditions for future occupants is considered in the following paragraphs.
- 10.32 Islington Core Strategy policy CS12 identifies that to help achieve a good quality of life, residential space and design standards will be significantly increased and enhanced from their current levels. The Islington Development Management Policies DM3.4 sets out the detail of these housing standards. In accordance with this policy, all new housing is required to provide functional and useable spaces with good quality amenity space, sufficient space for storage and flexible internal living arrangements.
- 10.33 Unit Sizes: all of the proposed residential units comply with the minimum unit sizes detailed within policy DM3.4 and the minimum space standards set out within the London Plan. The application indicates that the net internal areas of the units range from 65m<sup>2</sup> to 81m<sup>2</sup> therefore none of the units are excessively large.
- 10.34 Aspect/Daylight Provision: all of the units will provide dual aspect accommodation as required by Policy DM3.4 part D. The two front lower ground floor bedrooms (one each to units 1 and 2) are served only by lightwells. This is not ideal, but given that these are dual aspect units with excavated rear gardens and rear facing windows to the living areas and second bedrooms providing aspect and daylight it is considered, on balance, that this is acceptable in this instance.
- 10.35 Amenity Space: Policy DM3.5 of the Development Management Policies Document 2013 within part A identifies that 'all new residential development will be required to provide good quality private outdoor space in the form of gardens, balconies, roof terraces and/or glazed ventilated winter gardens'. The policy goes on to state that the minimum requirement for private outdoor space is 5m<sup>2</sup> on upper floors and 15m<sup>2</sup> on ground floors for 1-2 person dwellings with an extra 1m<sup>2</sup> on upper floors and 5m<sup>2</sup> on ground floors for each additional occupant. The development will provide a 210m<sup>2</sup> communal garden and private amenity space as follows:

| Unit                       | Required amenity space (m <sup>2</sup> ) | Amenity space (m <sup>2</sup> ) |
|----------------------------|--|---------------------------------|
| Unit 1 - 2b(3p)            | 25                                       | 30                              |
| Unit 2 - 2b(4p) wheelchair | 25                                       | 27                              |
| Unit 3 - 2b(4p)            | 7  | 8                               |
| Unit 4 - 2b(3p)            | 6  | Nil                             |
| Unit 5 - 2b(4p)            | 7  | 9                               |
| Unit 6 - 2b(4p)            | 7  | 7                               |
| Unit 7 - 2b(4p)            | 7  | 6                               |
| Unit 8 - 2b(4p)            | 7  | 10                              |
| Unit 9 - 2b(4p)            | 7  | 5                               |
| Unit 7 - 2b(3p)            | 6  | 8                               |



- 10.36 Eight of the proposed units therefore comply with the private amenity space guidelines outlined in Policy DM3.5 whilst there will be nil private amenity space to unit 4 and a 1m<sup>2</sup> shortfall to unit 7. The amenity space to Unit 4 was removed under the previous application following a design revision to ensure that a satisfactory level of sunlight and daylight to No. 137 was maintained. It is noted that there were no objections to the lack of amenity space to Unit 4 under the previous application and subsequent appeal. In view of the access that the occupants of this unit will have to a large communal garden the provision of amenity space within the development is considered acceptable.
- 10.37 As such, it is considered that all 10 units will provide a satisfactory standard of living accommodation.
- 10.38 Dwelling Mix: the development would comprise 10 two bedroom flats. Part E of policy CS12 of the Islington Core Strategy requires a range of unit sizes within each housing proposal to meet the needs in the borough, including maximising the proportion of family accommodation in both affordable and market housing. In the consideration of housing mix, regard has to be given to the constraints and locality of the site and the characteristics of the development as identified in policy DM3.1 of the Development Management Policies.
- 10.39 The proposal would fail to provide a dwelling mix to accord with the requirements of Policy 3.1 of the London Plan. The previous application proposed 6 two bedroom units and 2 four bedroom units and was refused planning permission on a ground that the number of units proposed represented an underdevelopment of the site. It is considered that any increase in the height, bulk and massing of the block would be likely to result in an adverse impact upon the character of the area and/or upon the residential amenities of the occupants of neighbouring properties. On the basis that an amended scheme which addresses concerns regarding underdevelopment whilst providing a satisfactory standard of accommodation should comprise a similar sized block, it can be accepted that there are constraints to providing a more appropriate mix of housing. The proposed mix of 10 two bedroom flats ensures that the block is able to provide dual aspect units which satisfy relevant space standards. Taking these factors into consideration the proposal is therefore viewed as acceptable in terms of unit mix.

### **Neighbouring Amenity**

- 10.40 The previous proposal was considered acceptable by the Council and the Planning Inspector in terms of the impact of the proposal on the residential amenities of the occupants of neighbouring residential dwellings. The currently proposed scheme is unchanged in terms of the arrangement of the fenestration and the bulk and massing of the block. The current scheme proposes two additional units and therefore represents a higher density of development. Subject to consideration of any impact from the increased density of the scheme, the planning history would indicate that the proposal is acceptable in residential amenity terms. However, in the interests of completeness residential amenity is considered in the following paragraphs.
- 10.41 The Development Plan contains policies which seek to appropriately safeguard the amenities of residential occupiers when considering new development. London Plan policy 7.6 identifies that buildings should not cause unacceptable harm to the amenity of in particular, residential buildings in respect of matters including privacy and overshadowing. Policy DM2.1 of the Development Management Policies Document 2013 identifies that satisfactory consideration shall be given to noise and the impact of disturbance, vibration, as well as overshadowing, overlooking, privacy, direct sunlight and daylight receipt, over-dominance, sense of enclosure and outlook.

- 10.42 Policy DM2.1 states that the design and layout of buildings must enable sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from unacceptable overshadowing. It goes on to state that development must not unduly prejudice the satisfactory development or operation of adjoining land and/or the development of the surrounding area as a whole. It also states that the impacts on amenity such as privacy, direct sunlight or daylight must be considered.
- 10.43 The proposed building is clearly greater in scale and massing than the existing pair of two-storey semis. It extends to the rear by an additional 3m, to the front by an additional 3m and is approx. 4m higher at the highest point.
- 10.44 The eastern neighbour No 137, a five storey semi-detached property, includes a separate basement flat. The applicants state that the second floor of this building is not in use as residential but rather as a therapy and health/well being business.
- 10.45 The eastern neighbour No 141, a four storey semi-detached property, has been converted into flats.
- 10.46 In terms of overlooking, the building has no windows to the side elevations, and all rear balconies face directly down the site. In addition, the balconies are set behind the side walls and therefore it is considered that the building will not result in any unacceptable overlooking of either adjacent neighbour.

### **Daylight and Sunlight**

- 10.47 It should be noted that daylight and sunlight were considered in detail by the Inspector considering the previous appeal who concluded that the scheme would not result in any unacceptable impacts. The Inspectors comments are detailed at paragraph 7.11 above.
- 10.48 It is widely acknowledged that daylight and sunlight are fundamental to the provision of a good quality living environment and for this reason people expect good natural lighting in their homes. Daylight makes an interior look more attractive and interesting as well as to provide light to work or read by. Inappropriate or insensitive development can reduce a neighbour's daylight and sunlight and thereby adversely affect their amenity to an unacceptable level.
- 10.49 The application is accompanied by a Daylight and Sunlight Report (dated 28 October 2014) prepared by MES Building Solutions which is supplemented by an addendum dated 16 March 2015 which followed a redesign of the south-east corner of the building under the previous planning application.
- 10.50 The report assesses the impact of the development upon Vertical Sky Component (VSC) of the windows of the neighbouring properties. In general, for assessing the sunlight and daylight impact of new development on existing buildings, Building Research Establishment (BRE) criteria is adopted. In accordance with both local and national policies, consideration has to be given to the context of the site, the more efficient and effective use of valuable urban land and the degree of material impact on neighbours.
- 10.51 In terms of sunlight, a window may be adversely affected by a new development if a point at the centre of the window receives in the year less than 25% of the annual probable sunlight hours including at least 5% of annual probable sunlight hours during the winter months and less than 0.8 times its former sunlight hours during either period. It should be noted that BRE guidance advises that sunlight is only an issue to a neighbouring property where the new development is located within 90 degrees of due south.

10.52 Daylight: the BRE Guidelines stipulate that there should be no real noticeable loss of daylight provided that either:

'The Vertical Sky Component (VSC) as measured at the centre point of a window is greater than 27%; or the VSC is not reduced by greater than 20% of its original value. (Skylight); or

The area of the working plane in a room which can receive direct skylight is not reduced to less than 0.8 times its former value. (No Sky Line / Daylight Distribution).'

10.53 Daylight is also measured by the no sky-line or daylight distribution contour which shows the extent of light penetration into a room at working plane level, 850mm above floor level. If a substantial part of the room falls behind the no sky-line contour, the distribution of light within the room may be considered to be poor.

10.54 Sunlight: the BRE Guidelines confirm that windows which do not enjoy an orientation within 90 degrees of due south do not warrant assessment. For those windows that do warrant assessment, it is considered that there would be no real noticeable loss of sunlight where:

In 1 year the centre point of the assessed window receives more than 1 quarter (25%) of annual probable sunlight hours (APSH), including at least 5% of Annual Winter Probable Sunlight Hours (ASPH) between 21 Sept and 21 March – being winter; and less than 0.8 of its former hours during either period.

In cases where these requirements are breached there will still be no real noticeable loss of sunlight where the reduction in sunlight received over the whole year is no greater than 4% of annual probable sunlight hours.

10.55 Where these guidelines are exceeded then daylighting and/or sunlighting may be adversely affected. The BRE Guidelines provide numerical guidelines, the document though emphasizes that advice given is not mandatory and the guide should not be seen as an instrument of planning policy, these (numerical guidelines) are to be interpreted flexibly since natural lighting is only one of many factors in site layout design.

10.56 The application site is located within an accessible location, where the potential of sites and density should, according to policy, be maximised where possible. Urban design considerations are also important when applying the guidance quoted above.

10.57 Residential dwellings within the following properties have been considered for the purposes of daylight and / or sunlight impacts as a result of the proposed development:

- 137 Grosvenor Avenue
- 141 Grosvenor Avenue
- 114 Grosvenor Avenue
- Park Church House.

10.58 141 Grosvenor Avenue : this property has 4 windows on its side elevation including a bay window. The bay window and first floor side elevation windows serve rooms which are also served by windows to the front elevation. The report considers the Daylight Distribution Test to be more appropriate and this indicates that these rooms achieve comfortable compliance with the guidelines. The lower ground floor windows to the side elevation serve non-habitable rooms. It should also be noted that the BRE standards state that side elevation windows close to a boundary 'should not be considered in the same way as

windows built a reasonable distance from their boundary'. The daylight and sunlight impact of the development on the side elevation of No. 141 is considered to be acceptable. The front and rear windows to No. 141 all pass the VSC, Daylight Distribution and Available Sunlight Hours tests.

- 10.59 137 Grosvenor Avenue: the design of the proposed building was amended under the previous application to address concerns regarding the impact on daylight and sunlight at No. 137.
- 10.60 No. 137 has a door and a small window on the second storey (opening onto a small terrace) and a side facing dormer. The two second storey openings will experience a reduction in sunlight and daylight. However this room is also served by front and rear windows and these side windows are secondary. The room also passes the Daylight Distribution test and as such, it is considered that the impact of the development on this room is acceptable. The side dormer windows pass all the tests, and the development will not have a detrimental impact upon this room. The ground and first floor windows to the rear elevation pass all tests.
- 10.61 The basement/lower ground floor is in use as an independent flat. The previous scheme was amended in order that the corner of the building angled away from No. 137 and it was subsequently demonstrated that the all tests were passed with regard to the basement unit windows, one of which serves a bedroom and one of which serves a kitchen.
- 10.62 It is not therefore considered that the development will have a detrimental impact on the rear facing windows of No. 137.
- 10.63 114 Grosvenor Avenue/Park Church House: the report demonstrates that the proposed block will not result in a harmful loss of daylight and/or sunlight to No. 114 Grosvenor Avenue or Park Church House, both located on the opposite side of Grosvenor Avenue.
- 10.64 Amenity Space: the report also demonstrates that the block will comply with BRE standards in relation to the impact on neighbouring amenity space. It should be noted that the amenity space assessment does not consider the terrace above the side extension to No. 137. It is not considered reasonable to expect that this space should be protected given its siting along the side boundary.
- 10.65 As such and on balance, it is not considered that the proposed development will have an unacceptable impact on the amenity of neighbouring properties.

### **Tree and Landscaping**

- 10.66 Policy DM6.5 states that developments must protect, contribute to and enhance the landscape, biodiversity value and growing conditions of the development site and surrounding area, including protecting connectivity between habitats.
- 10.67 Concerns relating to the impact of the proposal on the large London Plane tree located immediately to the front of the block were addressed during the course of the previous planning application. The tree is considered to have significant amenity value and Tree Officer's concerns related to the proposed measures to protect the tree and the proposed service connections.
- 10.68 The applicant's arboricultural consultant previously submitted additional information demonstrating that the development can be carried out without harm to the street tree.



Amendments to the hard and soft landscaping to the front of the site to provide a more porous surface were also proposed.

- 10.69 The current application is accompanied by an updated Arboricultural Development Report. The Council's Tree Officer is satisfied that, subject to a condition requiring the approval of an arboricultural method statement, the development could be carried out without harm to the London Plane street tree.
- 10.70 The development would involve the removal of nine trees within the rear garden. It should be noted that these trees are not the subject of Tree Preservation Orders and the site is not located within a Conservation Area. The Council's Trees Officer has raised no objection to the loss of these trees. Several trees to the rear of the site would be retained.
- 10.71 The development would incorporate a green roof and a living wall to the rear elevation. A semi-porous bound resin surface is proposed to the front of the block whilst a large communal garden would be retained to the rear along with private gardens to the lower ground floor flats. A suitable landscaping scheme can be secured through an appropriate condition.
- 10.72 In conclusion, the proposal is considered acceptable in terms of trees and landscaping, subject to appropriate conditions.

### **Affordable Housing**

- 10.73 Paragraph 47 of the NPPF states that, to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. Paragraph 173 states that to ensure viability, "*the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable*".
- 10.74 London Plan policy 3.12 states that the "maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes. It adds that negotiations on sites should take account of their individual circumstances including development viability, the availability of public subsidy, the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements". ICS policy CS12 (part G) states that Islington will meet its housing challenge, to provide more affordable homes by:
- requiring that 50% of additional housing to be built in the borough over the plan period should be affordable.
  - requiring all sites capable of delivering 10 or more units gross to provide affordable homes on-site. Schemes below this threshold will be required to provide financial contribution towards affordable housing provision elsewhere in the borough.
  - seeking the maximum reasonable amount of affordable housing, especially Social Rented housing, from private residential and mixed-use schemes, taking account of the overall borough-wide strategic target of 50% provision.
  - delivering an affordable housing tenure split of 70% social housing and 30% shared ownership housing.

- 10.75 The Affordable Housing Offer: 1 of the 10 residential dwellings proposed will be provided as a shared ownership affordable unit, representing a 10% provision of affordable housing by units and by habitable rooms. A clause would be required within the Section 106 agreement to secure a payment in lieu of this unit in the event that there was no interest from a Registered Provider and the unit was instead delivered as a private sale unit.
- 10.76 The application was accompanied by a Financial Viability Assessment which has been reviewed by BPS, an independent Assessor appointed by the Council. The independent review concluded that the proposed development could support an additional payment in lieu of on-site affordable housing of £200,000 (subject to any deduction that may result from a carbon offset payment and other section 106 obligations and an update will be provided at the meeting). The applicant has agreed to make this additional off-site affordable contribution which is detailed within the agreed Heads of Terms for the Section 106 legal agreement.
- 10.77 Viability Review Mechanism: The Council would seek a financial viability review mechanism in the event that 'substantial implementation' is delayed, enabling a re-assessment of the viability with the aim of maximising affordable housing delivery. The Council's Planning Obligations SPD sets out some details for this, with the emerging Viability SPD going further. Essentially, if substantial implementation (to avoid a technical start on site) is delayed by more than 12 months, an updated Financial Viability Assessment would be required to be assessed and agreed by the Council. Any uplift in the value of the development would be secured to provide additional on-site affordable housing, or a payment in lieu to provide off-site affordable housing. The applicant has agreed in principle that a viability review mechanism would be secured by a legal agreement should planning permission be granted.

### **Sustainability, Energy Efficiency and Renewable Energy**

- 10.78 At the time of writing matters relating to sustainability, energy efficiency and renewable energy had not been fully resolved. An update will be provided at the committee meeting.
- 10.79 London Plan Policy 5.1 stipulates a London-wide reduction of carbon emissions of 60 per cent by 2025. Policy 5.2 of the plan requires all development proposals to contribute towards climate change mitigation by minimising carbon dioxide emissions through energy efficient design, the use of less energy and the incorporation of renewable energy. London Plan Policy 5.5 sets strategic targets for new developments to connect to localised and decentralised energy systems while Policy 5.6 requires developments to evaluate the feasibility of Combined Heat and Power (CHP) systems.
- 10.80 All development is required to demonstrate that it has minimised onsite carbon dioxide emissions by maximising energy efficiency, supplying energy efficiently and using onsite renewable energy generation (CS10). Developments should achieve a total (regulated and unregulated) CO<sub>2</sub> emissions reduction of at least 27% relative to total emissions from a building which complies with Building Regulations 2013 (39% where connection to a Decentralised Heating Network is possible). Typically all remaining CO<sub>2</sub> emissions should be offset through a financial contribution towards measures which reduce CO<sub>2</sub> emissions from the existing building stock (CS10).
- 10.81 The London Plan and Core Strategy require development proposals minimise carbon dioxide emissions in accordance with the energy hierarchy; be lean, be clean, be green. Policy 5.2 of the London Plan requires the submission of a detailed energy assessment setting out efficiency savings, decentralised energy options and renewable energy production.

## BE LEAN

### *Energy efficiency standards*

- 10.82 The council's Environmental Design SPD states 'The highest possible standards of thermal insulation and air tightness and energy efficient lighting should be specified'. 'U values' are a measure of heat loss from a building and a low value indicates good insulation. The proposed U-values are: walls = 0.15-0.19, roof = 0.14, floors = 0.12 and glazing = 1.1 and these values are considered to be generally good. The air tightness of the proposed building would be 4m<sup>3</sup>/m<sup>2</sup>/hr @ 50pa and this value is accepted. Low energy lighting is also proposed. These measures are supported and further details can be secured by condition.

## BE CLEAN

### *District heating*

- 10.83 DM7.3A requires all developments to be designed to be able to connect to a District Energy Network (DEN) if and when such a network becomes available. Specific design standards are set out in the councils Environmental Design SPD. Policy DM7.3B and C states that where there is an existing or future DEN within 500m of the site, the development should connect. There is no available local DEN network to link up to within 500m of the site at present.
- 10.84 DM7.3D states that where there is no existing or proposed future DEN within 500m of the site, where possible developments should connect to a shared heating network, unless not reasonably possible. No shared heat network (SHN) is proposed and the council is satisfied that there are no current buildings or pending developments which could provide an opportunity for importing or exporting low carbon heating to the proposed development at this time.

### *Combined Heat and Power*

- 10.85 The application proposes individual gas combination boilers to provide hot water and heating (via underfloor systems) to the properties. This would make future proofing for connection to a DEN substantially more difficult. The applicant argues that the low heat and electricity demands at the development render on-site CHP unviable. This is likely to be correct. However, at the time of writing the applicant had been requested to confirm the monthly and peak heat loads in order to demonstrate that this is the case.
- 10.86 The applicant has ruled out the use of a communal heating system within the block due to both technical reasons and the potential loss of residential accommodation to accommodate plant. At the time of writing the applicant had been requested to provide further evidence in this regard.

## BE GREEN

### *Renewable energy technologies*

- 10.87 The applicant proposes installation of a 9.6kWp solar PV array at the development, and this is supported. At the time of writing details of the total carbon emissions and the reduction achieved was awaited and this information will inform whether a further increase to the system size or output was required.
- 10.88 Carbon Emissions: Council policy requires onsite total CO<sub>2</sub> reduction targets (regulated and unregulated) against Building Regulations 2010 of 27% where connection to a decentralised energy network is not possible. The London Plan sets out a CO<sub>2</sub> reduction target, for regulated emissions only, of 40% against Building Regulations 2010 and 35% against Building Regulations 2013.

- 10.89 The Sustainable Design and Construction Statement indicates that the development will achieve final carbon emissions of 7.93 tCO<sub>2</sub> per year. However, these are regulated emissions only and the Statement does not indicate unregulated emissions. At the time of writing an updated energy statement was awaited in order to assess the overall emissions or percentage reductions achieved. This assessment will inform the level of financial contribution required to offset the remaining carbon emissions in order to comply with the Council's Zero Carbon policy. A financial contribution would be secured through a Section 106 agreement.
- 10.90 Overheating and Cooling: DM7.5A requires developments to demonstrate that the proposed design has maximised passive design measures to control heat gain and deliver passive cooling, in order to avoid increased vulnerability against rising temperatures whilst minimising energy intensive cooling. Part B of the policy supports this approach, stating that the use of mechanical cooling shall not be supported unless evidence is provided to demonstrate that passive design measures cannot deliver sufficient heat control.
- 10.91 Part C of the policy requires applicants to demonstrate that overheating has been effectively addressed by meeting standards in the latest CIBSE (Chartered Institute of Building Service Engineers) guidance. The thermal modelling submitted addresses this issue to the satisfaction of the councils Energy team.
- 10.92 An overheating analysis has been provided by the applicant, in line with the criteria specified by Islington. The assumptions used for the analysis have been reviewed and are considered to be reasonable. The applicant does not propose artificial cooling for the development, and this is supported. The thermal modelling has demonstrated that cooling is not required. The approach to the cooling hierarchy proposed by the applicant is considered satisfactory.
- 10.93 Drainage: London Plan 2011 policy 5.13, Core Strategy policy CS10 and Development Management Policy DM6.6 require development to utilise Sustainable Urban Drainage Systems (SUDS) to reduce runoff rates. The application is accompanied by a Drainage Sustainability Statement. A condition is recommended to secure flood prevention measures to comply with Policy DM6.6 of the 8litres per second per hectare CHECK/AMEND
- 10.94 Construction: A condition requiring a Construction Method Statement is recommended to ensure that construction is undertaken in an appropriate manner.

## **11. Highways and Transportation**

- 11.1 The site benefits from a Public Transport Accessibility Level of 6A (Excellent). The site is located within a Controlled Parking Zone (CPZ) and it is proposed that the development would be car free. As such, future residential and commercial occupiers would not be eligible to obtain on-street car parking permits. The exceptions to this would be where persons occupying the residential development are living in residential properties within Islington prior to moving in and have previously held a permit for a period of 12 months consecutive to the date of occupation of the new unit. In this case, in the interests of reasonableness and not to deter movement within the borough of existing residents, they would be able to transfer and obtain a permit.
- 11.2 It is not proposed to provide any on-site disabled parking. 1 wheelchair accessible unit is proposed it is considered necessary that the applicant agrees to pay for the costs of designating (as and when required) 1 additional on-street disabled bay within the vicinity of the site. Alternatively, the applicant would be required to make a contribution of £2,000



towards provision of on-street bays or other accessible transport initiatives. Regardless of these arrangements and car free restrictions, all blue badge holders are able to park in Islington Resident Parking Permit bays.

11.3 Cycle storage: Policy DM8.4 states that major developments creating new residential units are required to provide cycle parking in accordance with the minimum standards set out in Appendix 6. Cycle parking is required to be designed to best practice standards and shall be secure, sheltered, integrated, conveniently located, adequately lit, step-free and accessible. In this instance, 1 cycle space per bedroom (20) should be provided. A cycle parking area (for 20 cycles) is provided at the rear of the site within an enclosed timber structure (with a green roof). This is accessible through a secured access along the eastern side of the building. Concerns are raised by an occupant of No. 137 that this access arrangement would result in harm to residential amenities. However, this arrangement remains the same as proposed under the previous planning application and was not considered by the Council or by the Planning Inspector to result in a harmful impact. These decisions are material to consideration of the current proposal and the access arrangement is considered acceptable.

11.4 Waste/refuse: bin storage would be provided to the front of the site adjacent to the new front boundary wall. The brick bin storage area will match that of the front elevation of the building and will incorporate a planter to soften its appearance.

11.5 The proposal is considered acceptable from a highways and transportation point of view.

## 12. Planning Obligations, Community Infrastructure Levy and local finance considerations

12.1 The Community Infrastructure Levy (CIL) Regulations 2010, part 11 introduced the requirement that planning obligations under section 106 must meet three statutory tests, i.e. that they (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development, and (iii) fairly and reasonably related in scale and kind to the development.

12.2 The Section 106 agreement would include the following agreed Heads of Terms:

- On-site provision of 10% affordable housing (1 unit) with a clause triggering a payment in lieu if there is no interest in the unit from Registered Providers
- Payment in lieu of on-site affordable housing of £200,000 (this figure may be subject to a slight reduction to reflect any carbon offset payments and other Section 106 obligations – an update will be provided at the meeting)
- Contribution of £TBC towards offsetting projected residual CO2 emissions of the development.
- Facilitation of 1 work placement during the construction phase of the development, lasting a minimum of 26 weeks, or a fee of £5,000 to be paid to LBI.
- Compliance with the Code of Local Procurement.
- Compliance with the Code of Construction Practice, including a monitoring fee of £1,000.
- Provision of 1 additional accessible parking bay or a contribution of £2,000 towards provision of on-street bays or other accessible transport initiatives.
- Connection to a local energy network, if technically and economically viable (burden of proof will be with the developer to show inability to connect). In the event that a local energy network is not available or connection to it is not economically viable, the developer should develop an on-site solution and/or connect to a neighbouring site (a Shared Heating Network) and future proof any on-site solution so that in all

cases (whether or not an on-site solution has been provided), the development can be connected to a local energy network if a viable opportunity arises in the future.

- Submission of a Green Performance Plan and a post occupation Green Performance Plan
- Submission of a draft framework Travel Plan with the planning application, of a draft full Travel Plan for Council approval prior to occupation, and of a full Travel Plan for Council approval 6 months from first occupation of the development.
- Payment of Council's fees in preparing and monitoring the S106.
- Submission of an updated viability appraisal if the development has not been substantially implemented within 12 months of the grant of planning consent. Updated appraisal to be submitted prior to substantial implementation with surplus profit used to provide additional onsite affordable housing (if viable) in accordance with the additional affordable housing schedule forming part of the S106 agreement. Alternatively, if any additional profit cannot support additional on-site affordable housing, surplus profit to be used to provide an increased payment in lieu of on-site affordable housing.
- Removal of eligibility for residents' parking permits (additional units only).

12.3 Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), the Mayor of London's and Islington's Community Infrastructure Levy (CIL) will be chargeable on this application on grant of planning permission. This will be calculated in accordance with the Mayor's adopted Community Infrastructure Levy Charging Schedule 2012 and the Islington adopted Community Infrastructure Levy Charging Schedule 2014.

## **SUMMARY AND CONCLUSION**

### **13. Summary**

13.1 The previous planning application was refused on grounds relating to underdevelopment, lack of a financial contribution towards affordable housing and the impact of the proposed cycle store on the amenities of the occupants of neighbouring residential dwellings. The application was subsequently considered at appeal and the Inspector agreed that the scheme failed to maximise its development potential. The Inspector did not consider it necessary to examine viability and any financial contribution and was satisfied that the proposed cycle store would not result in undue harm in amenity terms. The currently proposed scheme is an amendment to the previous scheme involving an internal reconfiguration to provide 10 two bedroom flats as opposed to 6 two bedroom and 2 four bedroom flats. The block is unchanged externally. The revised unit mix is considered to satisfactorily address previous concerns regarding underdevelopment, and the development potential of the site has been maximised. The proposal would deliver one affordable (shared ownership) unit and a further payment in lieu of on-site affordable housing and is considered acceptable in affordable housing terms. In view of the Inspector's decision the proposal is therefore considered to satisfactorily address the previous grounds of refusal.

13.2 One issue which arises from the amended scheme is the acceptability of the proposed unit mix of 10 two bedroom units, which fails to provide a mix of housing to contribute towards meeting the borough's needs. However, it is considered that the constraints of the site and the need to provide a satisfactory standard of accommodation for future occupants whilst maximising the development potential of the site represent sufficient justification for the proposed unit mix. The proposal is considered satisfactory in this regard.

- 13.3 In accordance with the above assessment, it is considered that the proposed demolition of the existing 2 storey semi-detached houses in multiple occupation (HMO- use class C4) and the erection of a 5 storey (including lower ground floor) building providing 10 residential dwellings would be acceptable in land use terms, have an acceptable impact upon the visual amenities of the street scene and the character and appearance of the area including upon the adjoining conservation area. Furthermore, the proposal would not result in an unduly harmful impact upon the residential amenities of the occupants of the neighbouring dwellings.
- 13.4 As such, the proposed development is considered to accord with the policies in the London Plan, Islington Core Strategy, Islington Development Management Policies, and the National Planning Framework and is recommended for approval subject to appropriate conditions.

### **Conclusion**

It is recommended that planning permission be granted subject to the prior completion of a Section 106 agreement and subject to conditions as set out in Appendix 1.

## APPENDIX 1 – RECOMMENDATIONS

### RECOMMENDATION A

That planning permission be granted subject to the prior completion of a Deed of Planning Obligation made under section 106 of the Town and Country Planning Act 1990 between the Council and all persons with an interest in the land (including mortgagees) in order to secure the following planning obligations to the satisfaction of the Head of Law and Public Services and the Service Director, Planning and Development / Head of Service – Development Management or, in their absence, the Deputy Head of Service:

- On-site provision of 10% affordable housing (1 unit) with a clause triggering a payment in lieu if there is no interest in the unit from Registered Providers
- Payment in lieu of on-site affordable housing of £200,000 (this figure may be subject to a slight reduction to reflect any carbon offset payments and other Section 106 obligations – an update will be provided at the meeting)
- Contribution of £TBC towards offsetting projected residual CO2 emissions of the development.
- Facilitation of 1 work placement during the construction phase of the development, lasting a minimum of 26 weeks, or a fee of £5,000 to be paid to LBI.
- Compliance with the Code of Local Procurement.
- Compliance with the Code of Construction Practice, including a monitoring fee of £1,000.
- Provision of 1 additional accessible parking bay or a contribution of £2,000 towards provision of on-street bays or other accessible transport initiatives.
- Connection to a local energy network, if technically and economically viable (burden of proof will be with the developer to show inability to connect). In the event that a local energy network is not available or connection to it is not economically viable, the developer should develop an on-site solution and/or connect to a neighbouring site (a Shared Heating Network) and future proof any on-site solution so that in all cases (whether or not an on-site solution has been provided), the development can be connected to a local energy network if a viable opportunity arises in the future.
- Submission of a Green Performance Plan and a post occupation Green Performance Plan
- Submission of a draft framework Travel Plan with the planning application, of a draft full Travel Plan for Council approval prior to occupation, and of a full Travel Plan for Council approval 6 months from first occupation of the development.
- Payment of Council's fees in preparing and monitoring the S106.
- Submission of an updated viability appraisal if the development has not been substantially implemented within 12 months of the grant of planning consent. Updated appraisal to be submitted prior to substantial implementation with surplus profit used to provide additional onsite affordable housing (if viable) in accordance with the additional affordable housing schedule forming part of the S106 agreement. Alternatively, if any additional profit cannot support additional on-site affordable housing, surplus profit to be used to provide an increased payment in lieu of on-site affordable housing.
- Removal of eligibility for residents' parking permits (additional units only).

## RECOMMENDATION B

That the grant of planning permission be subject to **conditions** as follows:

### List of Conditions:

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| <b>1</b> | <b>Commencement</b>   |
|          | <p>CONDITION: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).</p>  |
| <b>2</b> | <b>Approved plans list</b>  |
|          | <p>CONDITION: The development hereby approved shall be carried out in accordance with the following approved plans:</p> <p>304.PRS.00.01; 304.PRS.00.02; 304.PRS.00.03; 304.PRS.01.01; 304.PRS.01.02; 304.PRS.02.01; 304.PP.02.02; 304.PRS.02.03; 304.PRS.02.04; 304.PRS.02.05; 304.PRS.02.06; 304.PRS.02.07; 304.PRS.02.08; 304.PRS.02.09; 304.PRS.02.10; 304.PRS.02.11; 304.PP.02.12; 304.PRS.02.13; 304.PRS.02.14; 304.PRS.02.15; 304.PRS.02.16; 304.PRS.03.01/</p> <p>Aboricultural Impact Assessment , Aboricultural Development Report, Tree Survey (Arbtech)<br/>Planning Statement (AZ Urban Studio 11/07/15)<br/>Daylight &amp; Sunlight Report 28/10/14 (MES building Solutions) &amp; Addendum 16/03/15<br/>Design &amp; Access Statement (Fourthspace Aug 2015)<br/>Sustainable Design &amp; Construction Statement (Ingleton Wood 17/07/15)<br/>Thermal Modelling Report (Ingleton Wood 23/07/15)<br/>Drainage Sustainability Report (July 2015)</p> <p>REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.</p> |
| <b>3</b> | <b>Materials</b>  |
|          | <p>CONDITION: Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing on site. The details and samples shall include:</p> <ul style="list-style-type: none"><li>a) solid brickwork (including brick panels and mortar courses)</li><li>b) window treatment (including sections and reveals);</li><li>c) roofing materials;</li><li>d) balustrading treatment (including sections);</li><li>e) garden fences;</li><li>f) bin store;</li><li>e) divisions between gardens; and</li><li>f) Green Procurement Plan</li></ul> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.</p>  |

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| <b>4</b> | <b>Inclusive Design</b>  |
|          | <p>CONDITION: The development shall be designed in accordance with the principles of Inclusive Design. Details of inclusive design measures shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site.</p> <p>The development shall be carried out strictly in accordance with the details so approved, shall be maintained as such thereafter and no change there from shall take place without the prior written consent of the Local Planning Authority</p> <p>REASON: In order to facilitate and promote inclusive and sustainable communities.</p>   |
| <b>5</b> | <b>Accessible Homes (Major Schemes)</b>  |
|          | <p>CONDITION: Notwithstanding the Design and Access Statement and plans hereby approved, 9 of the residential units shall be constructed to meet the requirements of Category 2 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Accessible and adaptable dwellings' M4 (2) and 1 unit shall be constructed to meet the requirements of Category 3 of the National Standard for Housing Design as set out in the Approved Document M 2015 'Wheelchair user dwellings' M4 (3).</p> <p>A total of 1 two bed unit shall be provided to Category 3 standards.</p> <p>A total of 9 two bed units shall be provided to Category 2 standards.</p> <p>Building Regulations Approved Plans and Decision Advice Notice, confirming that these requirements will be achieved, shall be submitted to and approved in writing by Local Planning Authority prior to any superstructure works beginning on site.</p> <p>The development shall be constructed strictly in accordance with the details so approved.</p> <p>REASON - To secure the provision of visitable and adaptable homes appropriate to meet diverse and changing needs, in accordance with London Plan (FALP) 2015 policy 3.8 (Housing Choice).</p> |
| <b>6</b> | <b>Cycle parking</b>   |
|          | <p>CONDITION: Details of the layout, design and appearance (shown in context) of the bicycle storage areas shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing onsite. The storage shall be covered, secure and provide for no less than 20 cycle spaces.</p> <p>The bicycle storage areas shall be provided strictly in accordance with the details so approved, provided/erected prior to the first occupation of the development, and maintained as such thereafter.</p> <p>REASON: To ensure adequate cycle parking is available and easily accessible on site and to promote sustainable modes of transport.</p>   |



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| <b>7</b> | <b>Car Free Housing</b>   |
|          | <p>CONDITION: All future occupiers of the residential units hereby approved shall not be eligible to obtain an on street residents parking permit except:</p> <ul style="list-style-type: none"> <li>(1) In the case of disabled persons</li> <li>(2) In the case of the resident who is an existing holder of a residents parking permit issued by the London Borough of Islington and has held the permit for a period of at least a year.</li> </ul> <p>REASON: To ensure that the development remains car free.</p>   |
| <b>8</b> | <b>Construction Method Statement</b>  |
|          | <p>CONDITION: No development (including demolition works) shall take place on site unless and until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:</p> <ul style="list-style-type: none"> <li>i. the parking of vehicles of site operatives and visitors</li> <li>ii. loading and unloading of plant and materials</li> <li>iii. storage of plant and materials used in constructing the development</li> <li>iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate</li> <li>v. wheel washing facilities</li> <li>vi. measures to control the emission of dust and dirt during construction</li> <li>vii. a scheme for recycling/disposing of waste resulting from demolition and construction works</li> <li>viii. mitigation measures of controlling noise from construction machinery during business hours</li> </ul> <p>The development shall be carried out strictly in accordance with the details so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p> <p>REASON: To ensure that the development does not adversely impact on neighbouring residential amenity due to its construction and operation.</p> |
| <b>9</b> | <b>Green Roof</b>   |
|          | <p>CONDITION: Details of the biodiversity green roofs shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity (green/brown) roof(s) shall be:</p> <ul style="list-style-type: none"> <li>a) biodiversity based with extensive substrate base (depth 80-150mm); and</li> <li>b) planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting, and shall contain no more than a maximum of 25% sedum).</li> </ul> <p>The biodiversity (green/brown) roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency.</p> <p>The biodiversity roof shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.</p>   |

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| <b>10</b> | <b>Arboricultural Method Statement</b>   |
|           | <p>No development (including demolition works) shall take place on site unless and until an arboricultural method statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the AMS and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</p> <p>REASON: In the interest of the protection of trees and to safeguard visual amenities</p>  |
| <b>11</b> | <b>High Speed 1 safeguarding (1)</b>   |
|           | <p>Details of the horizontal distance from the building footprint to the HS1 DN tunnel shall be submitted in writing for approval by the Local Planning Authority in consultation with HS1. The development shall then be carried out only in compliance with the approval unless previously agreed in writing by the Local Planning Authority in consultation with HS1.</p> <p>Reason: The planning application does not contain the detail needed to identify potential effects upon the integrity, safety, security, operation, maintenance and liabilities of HS1 and HS1 property.</p>  |
| <b>12</b> | <b>High Speed 1 safeguarding (2)</b>   |
|           | <p>Prior to the start of construction, details of the design of the foundations and other works proposed below existing ground level shall be submitted in writing and approved by the Local Planning Authority in consultation with HS1. Construction activity shall then be carried out in compliance with the approved details unless previously agreed in writing by the Local Planning Authority in consultation with HS1.</p> <p>Reason: To ensure that loads on, and settlement of, HighSpeed1 tunnels, structures, track and other infrastructure do not prejudice the safety or operation of HighSpeed1.</p>  |
| <b>13</b> | <b>High Speed 1 safeguarding (3)</b>   |
|           | <p>Prior to the start of site investigations involving a borehole or trial pit deeper than one metre, details of the location and depth of site investigations including a method statement shall be submitted in writing and approved by the Local Planning Authority in consultation with HS1. This activity shall then be carried out only in compliance with the approved details unless previously agreed in writing by the Local Planning Authority in consultation with HS1.</p> <p>Reason: No such information has been provided and is required in order that the borehole or trial pit is at an acceptable vertical and horizontal distance from the tunnel such that it does not compromise the integrity, safety or operation of HighSpeed1.</p> |
| <b>14</b> | <b>High Speed 1 safeguarding (4)</b>   |
|           | <p>No demolition activity shall take place until the proposed methodology has been submitted in writing to and approved by the Local Planning Authority in consultation with HS1. Demolition activity shall then be carried out in accordance with the approved details unless the Local Planning Authority in consultation with HS1 has previously agreed in writing to any change.</p> <p>Reason: No such information has been provided and demolition activity could pose a risk to the safety, security and operation of HighSpeed1.</p>   |
| <b>15</b> | <b>High Speed 1 safeguarding (5)</b>   |
|           | <p>Prior to the start of construction activity engineering details of the size, depth and proximity to HighSpeed1 of any excavations shall be submitted in writing to and approved by the Local Planning Authority in consultation with HS1. Excavations shall then be carried out in accordance with the approved details unless the Local</p>  |

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|           | <p>Planning Authority in consultation with HS1 has previously agreed in writing to any change. If the excavation is within the zone of influence of HighSpeed1 infrastructure an engineering design will be required from the developer for approval in advance of excavation.</p> <p>Reason: No such details have been provided. To ensure that the stability HighSpeed1 tunnels, structures, track and other infrastructure is not prejudiced.</p>   |
| <b>16</b> | <b>High Speed 1 safeguarding (6)</b>   |
|           | <p>Prior to the start of construction, details of the size, loading and proximity to HighSpeed1 of additional ground loads such as stockpiles shall be submitted in writing and approved by the Local Planning Authority in consultation with HS1. Works shall be carried out in conformity with the approved details unless the Local Planning Authority in consultation with HS1 has previously agreed in writing to any change. If the stockpile is within the zone of influence of HighSpeed1 infrastructure an engineering design will be required from the developer for approval in advance of excavation.</p> <p>Reason: To ensure that the stability of HighSpeed1 tunnels, structures, track and other infrastructure is not prejudiced.</p>   |
| <b>17</b> | <b>High Speed 1 safeguarding (7)</b>   |
|           | <p>Prior to the start of construction details of the plant and equipment proposed which are likely to give rise to vibration (such as pile driving, demolition and vibro-compaction of the ground) together with predicted vibration levels, shall be submitted in writing and approved by the Local Planning Authority in consultation with HS1 . Activities likely to cause vibration in the vicinity of HighSpeed1 infrastructure such that a peak particle velocity (PPV) of 5mm/s may be exceeded at the railway boundary will be subject to agreement in advance.</p> <p>Where activities could give rise to PPV of 5mm/s or greater, a vibration and settlement monitoring regime shall be submitted in writing to for approval by the Local Planning Authority in consultation with HS1. It shall be put in place prior to the start of works. HS1 shall be provided reasonable access to the results of monitoring</p> <p>Reason: No details of vibration have been provided. To ensure that vibration does not prejudice safety, operation and structural integrity of HighSpeed1.</p> |
| <b>18</b> | <b>Thames Water Piling Method Statement</b>  |
|           | <p>No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.</p> <p>Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.</p>  |
| <b>19</b> | <b>Lifts</b>   |
|           | <p>All lifts serving the dwellings hereby approved shall be installed and operational prior to the first occupation of the residential dwellings hereby approved.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p>  |

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|           | REASON: To ensure that adequate access is provided to the residential units at all floors.  |
| <b>20</b> | <b>Renewable Energy (compliance)</b>  |
|           | <p>The energy efficiency measures/features and renewable energy technology (photovoltaic panels), which shall provide for no less than TBC% on-site total CO<sub>2</sub> reduction as detailed within the 'Sustainable Design and Construction Statement' shall be installed and operational prior to the first occupation of the development.</p> <p>Should, following further assessment, the approved renewable energy option be found to be no-longer suitable:</p> <p>a) a revised scheme of renewable energy provision, which shall provide for no less than TBC% onsite CO<sub>2</sub> reduction, shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site, The final agreed scheme shall be installed and operational prior to the first occupation of the development and shall be maintained as such thereafter.</p> <p>REASON: In the interest of sustainable development and to ensure that the Local Planning Authority may be satisfied that CO<sub>2</sub> emission reduction targets by energy efficient measures/features and renewable energy are met.</p>  |
| <b>21</b> | <b>Landscaping</b>  |
|           | <p>CONDITION: A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The landscaping scheme shall include the following details:</p> <p>a) an updated Access Statement detailing routes through the landscape and the facilities it provides;</p> <p>b) a biodiversity statement detailing how the landscaping scheme maximises biodiversity;</p> <p>c) existing and proposed underground services and their relationship to both hard and soft landscaping;</p> <p>d) proposed trees: their location, species and size;</p> <p>e) soft plantings: including grass and turf areas, shrub and herbaceous areas;</p> <p>f) topographical survey: including earthworks, ground finishes, top soiling with both conserved and imported topsoil(s), levels, drainage and fall in drain types;</p> <p>g) enclosures: including types, dimensions and treatments of walls, fences, screen walls, barriers, rails, retaining walls and hedges;</p> <p>h) hard landscaping: including ground surfaces, kerbs, edges, ridge and flexible pavings, unit paving, furniture, steps and if applicable synthetic surfaces; and</p> <p>i) any other landscaping feature(s) forming part of the scheme.</p> <p>All landscaping in accordance with the approved scheme shall be completed / planted during the first planting season following practical completion of the development hereby approved. The landscaping and tree planting shall have a two year maintenance / watering provision following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season.</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> |

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|           | <p>REASON: In the interest of biodiversity, sustainability, and to ensure that a satisfactory standard of visual amenity is provided and maintained.</p>   |
| <b>22</b> | <p><b>Play Space</b></p>   |
|           | <p>CONDITION: Details of the onsite children's playspace provision, which shall provide for no less than 5 sqm of playspace contained within the communal garden, shall be submitted to and approved in writing by the Local Planning Authority prior to any landscaping works commencing on the communal garden and prior to the first occupation of the development. The details shall include the location, layout, design of the playspace and its proposed equipment/features.</p> <p>The children's playspace shall be provided strictly in accordance with the details so approved, installed/erected prior to the first occupation of the residential dwellings and shall be maintained as such thereafter.</p> <p>REASON: To secure the appropriate provision and design of children's playspace.</p> |
| <b>23</b> | <p><b>Rooftop Plant and Lift Overrun Details</b></p>   |
|           | <p>CONDITION: Details of any roof-top structures/enclosures shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The details shall include the location, height above roof level, specifications and cladding and shall relate to:</p> <p>a) roof-top plant;<br/> b) ancillary enclosures/structure; and<br/> c) lift overrun</p> <p>The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.</p> <p>REASON: In the interest of good design and also to ensure that the Authority may be satisfied that any roof-top plant, ancillary enclosure/structure and/or the lift overruns do not have a harmful impact on the surrounding streetscene.</p> |
| <b>24</b> | <p><b>Lift Shaft Insulation (compliance)</b></p>   |
|           | <p>CONDITION: Prior to the first occupation of the residential accommodation hereby approved sound insulation shall be installed to the lift shafts sufficient to ensure that the noise level within the dwellings does not exceed NR25(Leq) 23:00 – 07:00 (bedrooms) and NR30 (Leq. 1hr) 07:00 – 23:00 (living rooms) and a level of +5NR on those levels for the hours of 07:00 – 23:00.</p> <p>REASON: To secure an appropriate future residential environment</p>  |
| <b>25</b> | <p><b>Details of Refuse and Recycling Enclosures</b></p>   |
|           | <p>CONDITION: The dedicated refuse / recycling enclosure(s) shown on drawing no. 304.PRS.02.02 shall be provided prior to the first occupation of the development hereby approved and shall be maintained as such thereafter.</p> <p>REASON: To secure the necessary physical waste enclosures to support the development and to ensure that responsible waste management practices are adhered to</p>   |
| <b>26</b> | <p><b>Sustainable Urban Drainage System</b></p>  |
|           | <p>CONDITION: Details of a drainage strategy for a sustainable urban drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The details shall be based on an assessment of the potential for disposing of surface water by</p>  |

means of appropriate sustainable drainage systems in accordance with the drainage hierarchy and be designed to maximise water quality, amenity and biodiversity benefits. The submitted details shall include the scheme's peak runoff rate and storage volume and demonstrate how the scheme will aim to achieve a greenfield run off rate (8L/sec/ha) and at minimum achieve a post development run off rate of 50L/ha/sec. The details shall demonstrate how the site will manage surface water in excess of the design event, and shall set out a clear management plan for the system.

The drainage system shall be installed/operational prior to the first occupation of the development. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

REASON: To ensure that sustainable management of water.



**List of Informatives:**

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| <b>1</b> | <b>Positive Statement</b>   |
|          | <p>To assist applicants in a positive manner, the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website.</p> <p>A pre-application advice service is also offered and encouraged.<br/>The LPA and the applicant have worked positively and proactively in a collaborative manner through both the pre-application and the application stages to deliver an acceptable development in accordance with the requirements of the NPPF</p> <p>The LPA delivered the decision in accordance with the requirements of the NPPF.</p>   |
| <b>2</b> | <b>Construction Hours</b>   |
|          | <p>You are reminded of the need to comply with other regulations/legislation outside the realms of the planning system – Building Regulations as well as Environmental Health Regulations.</p> <p>Any construction works should take place within working day.<br/>The Pollution Control department lists the normal operating times below.</p> <p>Delivery and operating times – the usual arrangements for noisy works are</p> <ul style="list-style-type: none"> <li>• 8am – 6pm Monday to Friday</li> <li>• 8am – 1pm Saturday</li> <li>• no noisy works on Sunday or Public Holiday (unless by prior agreement in special circumstances)</li> </ul>  |
| <b>3</b> | <b>CIL</b>  |
|          | <p>CIL INFORMATIVE: Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), this development is liable to pay the London Borough of Islington Community Infrastructure Levy (CIL) and the Mayor of London's Community Infrastructure Levy (CIL). These charges will be calculated in accordance with the London Borough of Islington CIL Charging Schedule 2014 and the Mayor of London's CIL Charging Schedule 2012. One of the development parties must now assume liability to pay CIL by submitting an Assumption of Liability Notice to the Council at <a href="mailto:cil@islington.gov.uk">cil@islington.gov.uk</a>. The Council will then issue a Liability Notice setting out the amount of CIL payable on commencement of the development.</p> <p>Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed and the development will not benefit from the 60 day payment window.</p> <p>Further information and all CIL forms are available on the Planning Portal at <a href="http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil">www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil</a> and the Islington Council website at <a href="http://www.islington.gov.uk/cilinfo">www.islington.gov.uk/cilinfo</a>. Guidance on the Community Infrastructure Levy can be found on the National Planning Practice Guidance website at <a href="http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/">http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/</a>.</p> |
| <b>4</b> | <b>Car Free</b>   |
|          | <p>CAR-FREE DEVELOPMENT: All new developments are car free. This means that no parking provision will be allowed on site and occupiers will have no ability to obtain car parking permits, except for parking needed to meet the needs of disabled people.</p>  |
| <b>5</b> | <b>S106</b>   |

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|           | SECTION 106 AGREEMENT: You are advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.  |
| <b>6</b>  | <b>HS1 Protective Provisions Agreement (PPA)</b>  |
|           | The developer is expected to enter into a PPA with HS1. This is a legal agreement between HS1 and the developer covering safeguards, processes, responsibilities and cost recovery.<br>Reason: The nature and scale of the proposed development is such that detailed discussions, agreements and indemnities are required in respect of the design, construction and future maintenance of the development in order to protect HighSpeed1.   |
| <b>7</b>  | <b>Network Rail Future Maintenance</b>  |
|           | The development must ensure that any future maintenance can be conducted solely on the applicant's land. The developer must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land and air-space, and therefore all/any building should be situated at least 2 metres (3m for overhead lines and third rail) from Network Rail's boundary. The reason for the 2m (3m for overhead lines and third rail) stand off requirement is to allow for construction and future maintenance of a building and without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than 2m (3m for overhead lines and third rail) and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant / resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rail's boundary as in this case there is an even higher probability of access to Network Rail land being required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely upon our maintenance teams' ability to maintain our boundary fencing and boundary treatments. |
| <b>8</b>  | <b>Network Rail (Drainage)</b>  |
|           | No Storm/surface water or effluent should be discharged from the site or operations on the site into Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed near/within 10 - 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.  |
| <b>9</b>  | <b>Network Rail (Plant and Materials)</b>   |
|           | All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.   |
| <b>10</b> | <b>Network Rail (Scaffolding)</b>   |
|           | Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed . The applicant/applicant's contractor must  |

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|           | consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.  |
| <b>11</b> | <b>Network Rail (Piling)</b>  |
|           | Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.  |
| <b>12</b> | <b>Network Rail (Fencing)</b>   |
|           | In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.   |
| <b>13</b> | <b>Network Rail (Lighting)</b>  |
|           | Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.   |
| <b>14</b> | <b>Network Rail (Noise and Vibration)</b>   |
|           | The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which holds relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.   |
| <b>15</b> | <b>Network Rail (Landscaping)</b>   |
|           | <p>Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below:</p> <p>Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees - Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash - Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebrina"</p> <p>Not Permitted: Alder (Alnus Glutinosa), Aspen - Poplar (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore - Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane</p> |

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|           | (Platanus Hispanica).   |
| <b>16</b> | <b>Network Rail (Contact)</b>   |
|           | As the site is adjacent to Network Rail's operational railway infrastructure, Network Rail strongly recommends the developer contacts AssetProtectionAnglia@networkrail.co.uk prior to any works commencing on site, and also to agree an Asset Protection Agreement with us to enable approval of detailed works . More information can also be obtained from Network Rail's website at <a href="http://www.networkrail.co.uk/asp/1538.aspx">www.networkrail.co.uk/asp/1538.aspx</a> .   |
| <b>17</b> | <b>Thames Water (Surface Water Drainage)</b>  |
|           | With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater.<br>Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921.   |
| <b>18</b> | <b>Thames Water (Backflow Protection)</b>   |
|           | Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.  |
| <b>19</b> | <b>Thames Water (Groundwater discharges)</b>  |
|           | Thames Water would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 199. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing <a href="mailto:wwqriskmanagement@thameswater.co.uk">wwqriskmanagement@thameswater.co.uk</a> . Application forms should be completed on line via <a href="http://www.thameswater.co.uk/wastewaterquality">www.thameswater.co.uk/wastewaterquality</a> . |
| <b>20</b> | <b>Thames Water (Water Pressure)</b>  |
|           | Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.  |
| <b>21</b> | <b>Definitions</b>  |
|           | (Definition of 'Superstructure' and 'Practical Completion') A number of conditions attached to this permission have the time restrictions 'prior to superstructure works commencing on site' and/or 'following practical completion'. The council considers the definition of 'superstructure' as having its normal or dictionary meaning, which is: the part of a building above its foundations. The council considers the definition of 'practical completion' to be: when the work reaches a state of readiness for use or occupation even though there may be outstanding works/matters to be carried out.   |
| <b>22</b> | <b>Sustainable Sourcing of Materials</b>  |
|           | Materials procured for the development should be selected to be sustainably sourced and otherwise minimise their environmental impact, including through maximisation of recycled   |

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|           | content, use of local suppliers and by reference to the BRE's Green Guide Specification.   |
| <b>23</b> | <b>High Speed 1 Safeguarding</b>   |
|           | <p>The Developer shall enter into discussions with HS1 and their Engineer, Network Rail (High Speed), as soon as practicable to assist in identifying the likely effect of the development on HighSpeed1 or HS1 Property. Contact: HS1 Ltd, 12th floor, One Euston Square, 40 Melton Street, London, NW1 2FD <a href="mailto:safeguarding@highspeed1.co.uk">safeguarding@highspeed1.co.uk</a></p> <p>Reason: The nature of the proposed development is such that detailed discussion is required concerning the design, construction, future maintenance and demolition of the development to ensure that it does not compromise the integrity, safety, security, operation, maintenance and liabilities of HS1.</p> |

**APPENDIX 2 – INSPECTOR’S REPORT**



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## Appeal Decision

Site visits made on 16 September and 14 October 2015

**by Roger Pritchard MA PhD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 October 2015**

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**Appeal Ref: APP/V5570/W/15/3131288**

**139a and 139b Grosvenor Avenue, London, N5 2NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Carlton James (Grosvenor Avenue LLP) against the decision of the Council of the London Borough of Islington.
  - The application Ref P2014/3449/FUL, dated 22 August 2014, was refused by notice dated 3 June 2015.
  - The development proposed is the demolition of the existing two-storey semi-detached Houses in Multiple Occupation (Use Class C4) and the construction of a new five-storey (including a lower ground floor) design-led building providing eight residential dwellings (Use Class C3) consisting of 2 x four bedroom units and 6 x 2 bedroom units.
- 

### 1. DECISION

1. The appeal is dismissed.

### 2. APPLICATION FOR COSTS

2. An application for costs was made by Mr Carlton James (Grosvenor Avenue LLP) against the Council of the London Borough of Islington. This application is the subject of a separate Decision.

### 3. PROCEDURAL NOTE

3. I made my initial site visit on 16 September 2015. It was on the basis of an Access Required Site Visit (ARSV) at which the Council was not present. However, it subsequently emerged that one of the occupants of a neighbouring property, 137 Grosvenor Avenue, had made a request for me to see the site of the proposed development from that property. I was unaware of this on 16 September. Before finalising my decision, I therefore made a second visit on 14 October for the specific purpose of seeing the site from No 137 and I have incorporated the conclusions from this second site visit in my decision under the Other Matters heading.

### 4. MAIN ISSUES

4. I consider the main issues to be –
  - i. Whether the proposal represents underdevelopment of the site; or
  - ii. If it does not represent underdevelopment, whether the proposed development should provide appropriate provision for affordable housing by means of a financial contribution; and

- iii. Whether the location of the proposed cycle storage arrangements would result in material harm to the living conditions of the occupants of a neighbouring property, 137 Grosvenor Avenue.

## 5. REASONS

### *Background*

5. The appeal site comprises a pair of semi-detached houses, probably dating from the 1950s. In scale and form, Nos 139a) and b) are fundamentally different from the Victorian properties that line the south side of Grosvenor Avenue, on the opposite side of which is the post-war Highbury Estate. Originally taking the form of two, three-bedroom dwellings, in recent years both properties have been licensed as Houses in Multiple Occupation (HMOs). The proposed development would demolish both Nos 139a) and b) and replace these with a five storey block of flats, comprising two large units, with four bedrooms each, and six smaller units each with two bedrooms.

### *Whether the proposal represents underdevelopment of the site*

6. Policy CS 12 of Islington's Core Strategy sets out the Council's principal housing objectives for the Borough. It deals with a wide range of matters associated with the provision of housing, but three elements seem to be most relevant to the proposed development. The first is section D. This requires residential developments to follow and not exceed the density requirements set out in the London Plan whilst complying with the housing quality standards set out elsewhere in the Local Plan. The second is section E. This requires the provision of a range of unit sizes with the aim of maximising the proportion of family accommodation. The third is section G. This deals specifically with the requirement for, and provision of, affordable housing in the Borough. The key criterion is in the second sub-section, which requires all sites capable of delivering 10 or more units to provide affordable homes on site whilst schemes below the 10 unit threshold should provide a financial contribution towards affordable housing provision elsewhere in Islington. (I shall return to the second part of this sub-section later in this decision.)
7. I have no doubt that the proposed development meets the requirements of sections D and E of Policy CS12. The core of the disagreement between Council and the appellant is whether the proposed development conforms to section G. Policy CS12(G) has two critical elements. The first is that it refers to '*sites*' not to '*developments*' or '*proposals*'. The second is the meaning of the word '*capable*'.
8. The Courts have held that development plan policies must be interpreted objectively in relation to the common meaning of the language used and the context in which they have been drafted. It seems to me that Policy CS12(G) requires an early appraisal of any site to ascertain whether it could accommodate '*10 or more units gross*'. That appraisal cannot be undertaken in isolation but has to be carried out within the framework of other development plan policies. Nevertheless, the identification in an adopted policy of so specific a criterion as to the number of units to be accommodated on a site suggests particular weight should be given to that factor when compared with other criteria. At the very least, any proposal that does not meet the '*10 unit*' threshold needs to be explicit as to why the site on which it is located cannot accommodate that number of units.

9. In respect to the word '*capable*', its meaning seems to be less clear cut. It might simply mean the physical capacity of the site, but that ignores the wide range of other factors that could and should influence the nature of any development. Nevertheless, as I have suggested above, the use of the word, '*capable*', suggests that there is at least an initial presumption that the capacity of any site has to be tested against the 10 unit threshold. Furthermore, there would need to be a clear and overriding justification as to why a site that was deemed '*capable*' of accommodating 10 or more units was being considered for a scheme that did not do so.
10. I accept that the context of Policy CS12(G) is to encourage the development of sites to their full potential whilst giving priority to development that is of sufficient scale to allow the on-site provision of affordable housing. I also suspect that the policy has been drafted in the manner it has to dissuade applicants from putting forward schemes with a smaller number of units in order to avoid such on-site provision.
11. I see no problems with Policy CS12(G) in terms of a requirement that the proposals for any particular site maximise its residential potential whilst meeting the full range of criteria set by the policies of the adopted development plan. Moreover, in assuming that the appeal site could accommodate a larger number of units than the eight proposed, the Council describes that failure to meet its maximum potential as a failure to achieve the sustainable development that lies at the heart of the Government's National Planning Policy Framework ('the Framework'). The Framework encompasses economic, social and environmental factors in its definition of sustainable development and I accept the Council's argument that ensuring that sites achieve their maximum potential should be a material consideration.
12. Furthermore, I take that view notwithstanding the general principle that every application and appeal has to be judged on its own merits and that none should be rejected on the grounds that there might be a better proposal 'round the corner'. Section 38(6) of the Planning and Compulsory Purchase Act 1994 states that every application and appeal should be determined in accordance with the adopted development plan '*...unless other material considerations indicate otherwise*'. Policy CS12(G) is part of the adopted development plan and applications should therefore be determined in accordance with its provisions.
13. The issue is therefore whether the appellant has demonstrated that the appeal site is not capable of accommodating 10 or more units. The Council obviously thought he had not. Its evidence to support the argument that the proposed development does not achieve the site's full potential centres on the claimed excessive size of the two four-bedroom units. The Council points out that their floorspace substantially exceeds the standards for such units set by the London Plan and carried forward into Policy DM2.3 of the Islington Development Management Policies Development Policy Document (DPD). For four-bedroom units, the minimum space standard is 99m<sup>2</sup> but the two four-bedroom units proposed here have floorspaces of 158m<sup>2</sup> and 164m<sup>2</sup> respectively. The units are thereby over 50% larger than the minimum standard. The Council argues that this demonstrates the capacity of the site/development to accommodate a greater number of units.

14. In refuting the Council's claim, the appellant argues that relying on the claim that the two four-bedroom units could be sub-divided is too simple. The design of the proposed development is based on many factors and it cannot be dismissed simply on the basis of the floorspace of the two largest units. I agree but that argument must still depend, in the terms set by Policy CS12(G), on the appellant providing a convincing demonstration that the site could not accommodate more units. I recognise that might well need a re-designed scheme.
15. Paragraphs 2.18 to 2.42 of the appellant's statement seek to demonstrate why the site could not accommodate 10 or more units. I found these arguments unconvincing. I acknowledge, however, that the appellant may have been under some disadvantage in presenting a case that essentially argues for his particular scheme rather than presenting a more general case as to any restrictions that may affect the capacity of the site. The distinction might seem subtle but it lies at the heart of Policy CS12(G).
16. I recognise that the appellant and Council officers spent a good deal of time and effort working up the scheme that led to the application. I cannot tell, however, how far Council officers may have taken on board in those discussions their members' clear priorities with regard to affordable housing. Nevertheless, the reaction of the Planning Committee perhaps should not have surprised the appellant.
17. Furthermore, the Council has directed me to a second application made by the appellant (Council Ref. P2015/2917/FUL) that proposes a scheme of ten residential units within the same building envelope. The appellant has asked me to give this second proposal only limited weight, not least because it has not yet been determined by the Council. Notwithstanding that comment, I do not see how I can ignore a proposal, put forward by the appellant, that apparently demonstrates the capacity of the site to accommodate at least ten residential units. It is obviously different from the original proposal but given fundamental similarities in terms of scale, massing and design, I do not accept that it can easily be dismissed as impractical, or not viable or, most importantly, as demonstrating that the site is incapable of accommodating 10 or more units.
18. I am accordingly persuaded that the appeal site has a capacity to accommodate at least 10 residential units. In these circumstances, the development fails the criterion set by Policy CS12(G) and the first reason for refusal is justified.

*Financial provision for off-site affordable housing*

19. The Council's second reason for refusal argues that, even if it were concluded that the appeal site could not accommodate more than eight units, the financial provision for off-site affordable housing provided by the appellant for the scheme is inadequate.
20. The argument between the appellant and the Council around the second reason for refusal is complicated by the issues associated with the two Written Material Statements (WMSs) of 28 November 2014 and 25 March 2015 and the subsequent amendment to the Planning Practice Guidance (PPG). The consequence of these was that the Government advised local planning authorities that contributions towards affordable housing should not be sought

on developments of ‘...10 units or less and which have a maximum combined gross floorspace of no more than 1000sqm (gross internal area)...’ However, following a judgment on 31 July 2015<sup>1</sup>, the Courts quashed the WMSs and issued a Declaration Order that the policies in the Statements must not be treated as a material consideration in the exercise of powers and duties under the Planning Acts. As a consequence the amended paragraphs of the PPG were removed. In these circumstances, I have no reason, in the light of section 38(6) of the Planning and Compulsory Purchase Act 2004, to set aside any part of Policy CS12(G) or give any less weight to the adopted, *Affordable Housing Small Sites Contribution* SPD as a material consideration.

21. Notwithstanding his comments on the WMSs, the appellant had placed ‘on the table’ an Undertaking that proposed an off-site financial contribution towards affordable housing in the Borough. The proposed contribution amounted to £144,000, i.e. less than half the norm expected by the SPD for a scheme that provides a net addition of six units. The SPD would have expected the Undertaking to provide £300,000. The reduced sum was calculated on the basis of a viability assessment prepared by the appellant’s advisors but modified after extensive discussions with Council officers and the Council’s own valuation consultants. The Planning Committee did not accept the conclusions of this viability exercise and the second reason for refusal is that the ‘reduced’ contribution has not been justified and is therefore contrary to Policy CS12(G) and the SPD.
22. Notwithstanding this dispute, I do not consider it necessary for me to go further in assessing the financial viability of the appeal scheme. I take this view principally because of the proposed development’s failure to overcome the first reason for refusal – the capacity of the site to provide 10 or more units. The wording of Policy CS12(G) seems to place a clear priority on the potential to accommodate enough units to justify the on-site provision of affordable housing. The second part of the second sub-paragraph of CS12(G) is a fall-back, requiring an off-site contribution to provision elsewhere in the Borough, only where it has been convincingly demonstrated that the 10 unit threshold cannot be met.

#### *The location of the proposed cycle storage arrangements*

23. The Council’s third reason for refusal concerns the impact of the location of proposed cycle storage on a neighbouring property, 137 Grosvenor Avenue. The proposed development would provide 20 cycle spaces on the standard of 1 space per bedroom in line with Policy DM8.4 of the Development Management Policies DPD. Those spaces would be provided in an enclosed timber structure at the rear of the site adjacent to the boundary with No 137. The Council argues that the proposed cycle store would overbear on No 137’s rear amenity space, whilst the use of the store would lead to noise and disturbance affecting the living conditions of its occupants. As such, the Council argues that the proposed cycle store would breach those elements of Policy DM2.1 of the Development Management Policies (DPD) that seek to protect the amenity of neighbouring land.
24. I find the Council’s arguments unconvincing. The cycle store would be a relatively small structure of restricted height and I consider its impact on the rear amenity space of No 137 would be limited to the point where it would not

<sup>1</sup> West Berkshire District Council and Reading Borough Council v SSCLG [2015] EWHC 2222 (Admin).

result in any significant material harm. By the same token, I find it difficult to believe that the use of the cycle store would result in any greater noise and disturbance to neighbours than would normally be produced by the use of any back garden and would thereby be entirely acceptable. In this respect, it would not therefore be contrary to the terms of Policy DM2.1.

25. However, my acceptance of the appellant's case on this, relatively, minor matter in no way outweighs my view on the first reason for refusal and that view leading to my conclusion that the appeal should be dismissed.

## 6. OTHER MATTER

26. I have already commented in my Procedural Note that I was asked to pay a second site visit to assess the impact of the proposed development on a neighbouring property, 137 Grosvenor Avenue.
27. The proposed development has no windows on its relevant, eastern, side elevation and there is therefore no issue of overlooking of No 137. Furthermore, although the proposed development would be taller than the existing semi-detached properties, it has been specifically designed to be of no greater height than either Nos 137 or 141. I accept that the proposed development would be somewhat deeper than the neighbouring properties but the relationships between it and its neighbours would be broadly similar to those that exist between other pairs of semi-detached properties in Grosvenor Avenue.
28. Moreover, I was already aware of the Daylight and Sunlight study that had been carried out for the appellant by MES Building Solutions<sup>2</sup>, and which had been amended following an internal inspection of No 137. The study accompanied the original application and was specifically carried out to assess the effects of the proposed development against Policy DM2.1 of the adopted Development Plan. The study was based on the generally accepted criteria for these matters set by the Building Research Establishment's (BRE), *Site Layout Planning for Daylight and Sunlight*. It used the impact of the proposed development on the Vertical Sky Component (VSC) of the windows of all neighbouring properties, including, of course, No 137, but also looked at the Daylight Distribution test in respect of the rooms that might be most affected and the effects of sunlight and the impact on neighbouring properties' amenity space.
29. The MES Building Solutions raised no issues in respect of No 141 or properties on the other side of Grosvenor Avenue. Nor, in respect of the basement, ground and first floors of No 137, do I see any evidence that the proposed development would result in a substantial diminution of daylight or sunlight reaching those rooms with windows facing west, i.e. towards the proposed development. I take this view, having considered the amendment to the scheme such that its south-eastern corner would be angled away from the basement flat of No 137 and the fact that there is already the side elevation of the existing semi-detached dwellings close to the boundary with No 137.

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<sup>2</sup>The MES Building Solutions study looked at four properties close to the proposed development, Nos 137 and 141 Grosvenor Avenue, i.e. the two properties on either side of the proposed development, and two properties on the other side of the road, 114 Grosvenor Avenue and Park Church House. It was clear from the conclusions that only 137 Grosvenor Avenue gave any cause for concern in terms of any loss of daylight or sunlight.

30. The Daylight and Sunlight study demonstrates, however, that there would be some reduction in the daylight and sunlight reaching the side elevation windows at second floor level. Nevertheless, as the MES Building Solutions comments and as I saw for myself on my second site visit, these windows light a workshop area, which would not normally be given the same priority as a habitable room. I am also aware that neither of the windows most affected is a principal window lighting the relevant room and that, as a whole, the room would continue to be well-lit despite any effects of the proposed development.
31. The MES Building Solutions study also looked at the effect of the proposed development on the rear garden of No 137 and concluded that it would produce no significant material harm. I agree: the orientation of No 137 to the proposed development is such that there should be little if any interference with the enjoyment of their rear garden by the occupants of No 137.
32. There finally remains the small terrace that is at second floor level in No 137 and which faces the proposed development. I have little doubt that the views from this terrace would be affected – as would the views from the two second floor windows to which I refer in paragraph 29. However, it is a well- established principle that planning can provide no security for views and this matter has to be discounted. Furthermore, I agree with the Council’s officers that a side terrace of the form that exists here so close to the property boundary should not carry the same protection as might be afforded to amenity space such as a rear garden. The material harm to the future use of this terrace therefore cannot weigh sufficiently against the proposed development for me to conclude that it is in breach of those criteria of Policy DM2.1 that seek to protect the living conditions of the occupants of neighbouring properties.

## **7. CONCLUSION**

33. For the reasons given above I conclude that the appeal should be dismissed.

*Roger Pritchard*

INSPECTOR



## **APPENDIX 3: RELEVANT POLICIES**

This appendix lists all relevant development plan policies and guidance notes pertinent to the determination of this planning application.

### **1 National Guidance**

The National Planning Policy Framework 2012 seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of these proposals.

### **2. Development Plan**

The Development Plan is comprised of the London Plan 2011, Islington Core Strategy 2011, Development Management Policies 2013, Finsbury Local Plan 2013 and Site Allocations 2013. The following policies of the Development Plan are considered relevant to this application:

## **A) The London Plan 2015 - Spatial Development Strategy for Greater London**

### **1 Context and strategy**

Policy 1.1 Delivering the strategic vision and objectives for London

### **2 London's places**

Policy 2.9 Inner London

### **3 London's people**

Policy 3.3 Increasing housing supply

Policy 3.4 Optimising housing potential

Policy 3.5 Quality and design of housing developments

Policy 3.6 Children and young people's play and informal recreation facilities

Policy 3.8 Housing choice

Policy 3.9 Mixed and balanced communities

Policy 3.10 Definition of affordable housing

Policy 3.11 Affordable housing targets

Policy 3.12 Negotiating affordable housing on individual private residential and mixed use schemes

Policy 3.13 Affordable housing thresholds

### **5 London's response to climate change**

Policy 5.1 Climate change mitigation

Policy 5.2 Minimising carbon dioxide emissions

Policy 5.3 Sustainable design and construction

Policy 5.6 Decentralised energy in development proposals

Policy 5.7 Renewable energy

Policy 5.9 Overheating and cooling

Policy 5.10 Urban greening

Policy 5.11 Green roofs and development site environs

Policy 5.13 Sustainable drainage

Policy 5.14 Water quality and wastewater infrastructure

Policy 5.15 Water use and supplies

Policy 5.18 Construction, excavation and demolition waste

### **6 London's transport**

Policy 6.3 Assessing effects of development on transport capacity

Policy 6.9 Cycling

Policy 6.10 Walking

### **7 London's living places and spaces**

Policy 7.1 Lifetime Neighbourhoods

Policy 7.2 An inclusive environment

Policy 7.3 Designing out crime

Policy 7.4 Local character

Policy 7.5 Public realm

Policy 7.6 Architecture

Policy 7.8 Heritage assets and archaeology

Policy 7.21 Trees and woodlands

### **8 Implementation, monitoring and review**

Policy 8.1 Implementation

Policy 8.2 Planning obligations

Policy 8.3 Community infrastructure levy

## B) Islington Core Strategy 2011

Spatial Strategy  
Policy CS8 (Enhancing Islington's Character)

Strategic Policies  
Policy CS9 (Protecting and Enhancing Islington's Built and Historic Environment)  
Policy CS10 (Sustainable Design)  
Policy CS11 (Waste)  
Policy CS12 (Meeting the Housing Challenge)

Infrastructure and Implementation  
Policy CS18 (Delivery and Infrastructure)  
Policy CS19 (Health Impact Assessments)

## C) Development Management Policies June 2013

### Design and Heritage

DM2.1 Design  
DM2.2 Inclusive Design  
DM2.3 Heritage

### Housing

DM3.1 Mix of housing sizes  
DM3.4 Housing standards  
DM3.5 Private outdoor space  
DM3.6 Play space  
DM3.7 Noise and vibration (residential uses)

### Health and open space

DM6.1 Healthy development  
DM6.5 Landscaping, trees and biodiversity

### Energy and Environmental Standards

DM7.1 Sustainable design and construction statements  
DM7.2 Energy efficiency and carbon reduction in minor schemes  
DM7.3 Decentralised energy networks  
DM7.4 Sustainable design standards  
DM7.5 Heating and cooling

### Transport

DM8.3 Public transport  
DM8.4 Walking and cycling  
DM8.6 Delivery and servicing for new developments

### Infrastructure

DM9.1 Infrastructure  
DM9.2 Planning obligations  
DM9.3 Implementation

## 5. Designations

The site has the following designations under the London Plan 2015, Islington Core Strategy 2011, Development Management Policies 2013 and Site Allocations 2013:

- Site within 50m of a conservation area

## 6. Supplementary Planning Guidance (SPG) / Document (SPD)

The following SPGs and/or SPDs are relevant:

## Islington Local Development Plan

- Environmental Design
- Inclusive Design in Islington
- Inclusive Landscape Design
- Planning Obligations and S106
- Urban Design Guide
- Neighbourhood Framework Document
- Preventing Wasted Housing Supply

## London Plan

- Accessible London: Achieving and Inclusive Environment
- Housing
- The Control of Dust and Emissions during Construction and Demolition
- Shaping Neighbourhoods: Character and Context
- Sustainable Design & Construction
- Use of planning obligations in the funding of Crossrail, and the Mayoral Community Infrastructure Levy
- Shaping Neighbourhoods: Play and Informal Recreation