

Statement of Case
5 & 6 Firs Walk, Northwood
Planning Appeal

Relating to site at
5-6 Firs Walk, Northwood, London, HA6 2BZ
June 2020



hghconsulting.com

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1.0 Introduction

- 1.1 This Statement of Case has been prepared by hgh Consulting for Gavacan Homes. It supports the planning appeal against the non-determination by the London Borough of Hillingdon ('LBH' or 'the Council') of an application for outline planning permission (all matters reserved except for access) (reference 30837/APP/2019/3096), for the following proposed development at 5 and 6 Firs Walk, Northwood, London, HA6 2BZ:

“Erection of 3, detached, 4-bed dwellings with associated parking and amenity space and installation of vehicular crossover (involving demolition of 5 Firs Walk”

- 1.2 The application was submitted in September 2019 and validated on 10th October 2019. The decision date was the 5th December 2019. An extension of time to determine the planning application has not been agreed. LBH has failed to determine the planning application.

- 1.3 This Statement of Case sets out the appellant's case in support of the proposed development. It should be read in conjunction with the application drawings and reports, which accompany this appeal submission as follows:

- Application Form prepared by Ascot Design;
- Design and Access Statement prepared by Davis Planning Ltd;
- Site Location Plan (Amended) prepared by Ascot Design (plan ref: 19-J2752-LP01 Rev A);
- Site Layout Plan Proposed (Amended) prepared by Ascot Design (plan ref: 19-2752-100 Rev B); and
- Details and Measurements of Crossover (Amended) prepared by Ascot Design (plan ref: 19-2752-03 Rev A).

- 1.4 A description of the proposed development and an assessment of the proposals in relation to planning policy and other material considerations is provided within this Statement. It is set out under the following sections:

- Section 2 outlines the site and its context within the surrounding area;
- Section 3 provides a description of the proposals;
- Section 4 provides an overview of the planning history and background to this appeal;
- Section 5 summarises relevant policy and guidance;
- Section 6 examines the main planning considerations in connection with the appeal; and
- Section 7 concludes the Planning case.

Appeal Procedure

- 1.5 We request that the appeal is considered under the written representation procedure.

2.0 Appeal Site and Surroundings

- 2.1 The appeal site comprises No.5 and part of No.6 Firs Walk. Combined, the two plots form a large, broadly regular shape, which is 0.16 hectares (ha) in area. The plots are separated by a hedgerow boundary running diagonally from south east to north west. The properties are 4 bed detached houses with large gardens and extensive driveways. No.6 is situated to the north of the site with No. 5 located to the south.

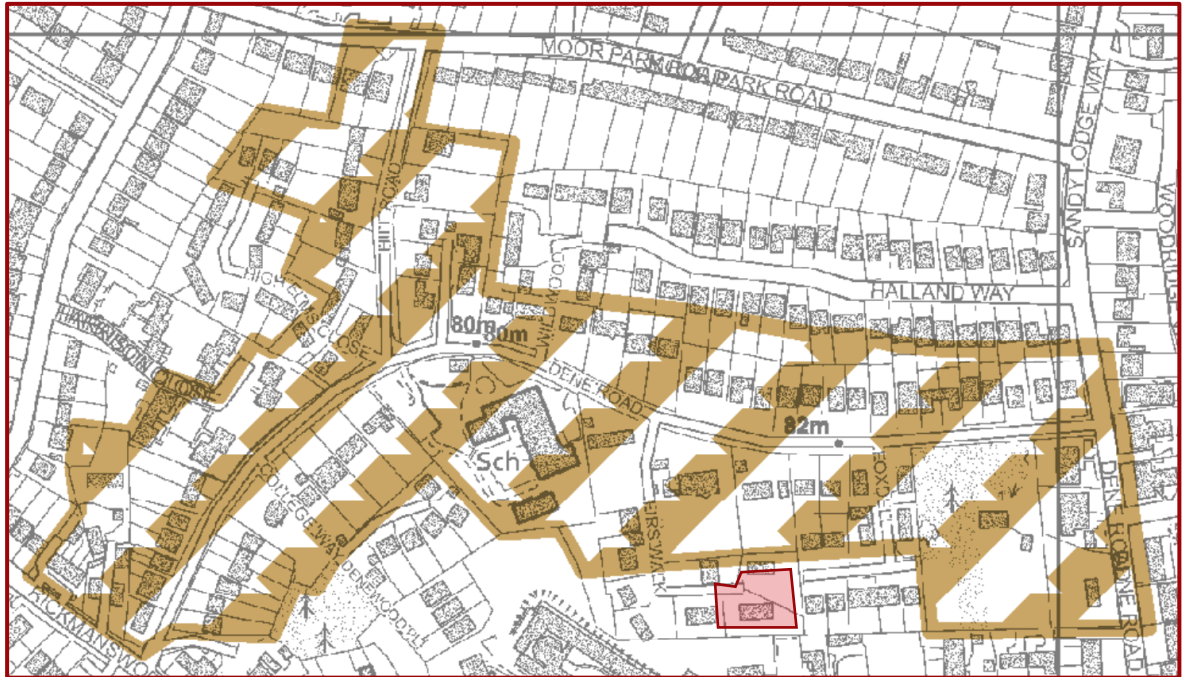
Figure 1: Appeal Site



- 2.2 The site itself is relatively open with few natural features of note. It is currently accessed from Firs Walk which is a cul-de-sac that slopes down from Dene Road, before turning sharply to access both properties via a shared entrance.
- 2.3 The surrounding area is characterised by detached residential dwellings of varying plot size. To the west, the properties in Firs Walk are generally larger and set within relatively generous plots. To the east, dwellings are accessed from Foxdell, which is also a cul-de-sac, comprising newer houses. The plots here are more regularly sited and smaller with tighter spatial relationships. The two cul-de-sacs, which are both accessed from Dene Road, therefore create separate residential enclaves within defined sub-character areas.
- 2.4 The appeal site accommodates the two largest plots between the two sub-areas, which are by far much greater in size and layout than any of the others on Firs Walk and Foxdell. They are, therefore, something of an anomaly that do not belong to either sub-character area.
- 2.5 In its wider context, the appeal site is located within a defined suburban area. The site falls outside of the Dene Road Area of Special Local Character (ASLC) which lies immediately to the north of No. 6 Firs Walk and includes the properties in Dene Road.

- 2.6 The appeal site does not fall within any planning designation. Its flood risk level is low probability (Flood Zone 1).

Figure 2: Extract from Hillingdon Policy Map (2020) showing Dene Road ASLC



3.0 Appeal Proposal

3.1 The appeal proposal is for:

“Erection of 3, detached, 4-bed dwellings with associated parking and amenity space and installation of vehicular crossover (involving demolition of 5 Firs Walk)”

3.2 With the exception of access, the appeal is made for outline planning permission.

3.3 To enable the construction of the three detached dwellings, No. 5 Firs Walk will be demolished and No. 6's plot will be reconfigured to make space for the three separate development plots.

3.4 The northern boundary of No. 6 will be extended into No. 25 Dene Road's grounds to allow a generous garden and thus establish a plot size that is commensurate to the local character. This does not form part of the appeal proposal and is for reference only.

3.5 The proposed site layout plan (ref: 19-2752-100 Rev B) is for indicative purposes. However, it demonstrates the preferred option of the layout. Landscaping will reflect the verdant setting and be designed to ensure privacy and spacious areas of amenity for all plots to the rear. Each dwelling will be two storeys in height and at a scale and appearance that is proportionate and appropriate to the dwellings on Foxdell. The internal floorspace per dwelling will be approximately 300sqm. The dwellings will include private driveways to the front, which will spur off shared access drives.

3.6 The proposed access is submitted for full planning permission. Two separate access points are proposed via the existing access at Firs Walk and by an extension of Foxdell. This latter access requires the installation of a vehicle crossover at the end of the highway (see ref: 19-2752-03 Rev A).

Background to the Appeal Proposals

3.7 The appeal proposal stems from a previous proposal, which was dismissed at appeal in 2019 (Ref: APP/R5510/W/19/3222609). That proposal comprised the demolition of Nos. 5 and 6 Firs Walk and replacement with 6 detached dwellings. The redline was different to this appeal proposal in that it extended northwards to include the whole curtilage of No. 6 Firs Walk as well as part of the garden area of No. 25 Dene Road (which falls within the Dene Road ASLC).

3.8 The appeal was made against the non-determination of a planning application (Ref: 73874/APP/2018/2107). However, the Council had published the case officer's report (see **Appendix A**), which was not presented to planning committee. The application was recommended for refusal, citing two reasons:

1. The proposed development, by reason of its siting and layout would result in a development of the site, which would fail to harmonise with the existing local and historic context of the surrounding area. The principle of intensifying the residential use of the site to the level proposed, as well as the proposed loss of existing private rear garden area would have a detrimental impact on the Dene Road Area of Special Local Character character and appearance of the area as a whole. The proposal is therefore detrimental to the visual amenity and character of the surrounding area and contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policies BE5, BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012), Policies 3.5, 7.1 and 7.4 of the London Plan (March 2016), the Mayor of London's adopted Supplementary Planning Guidance - Housing (March 2016).

2. The proposed layout and access, by reason of the close proximity of the proposed turning head, would be detrimental to the residential amenity of the future occupants of plot 1 by reason of the noise, disturbance and potential light pollution. As such the proposal would fail to comply with Policies BE19, BE21 and OE1 of the Hillingdon Local Plan: Part Two - Saved UDP Policies and the adopted Supplementary Planning Document HDAS: Residential Layouts.

- 3.9 Attention is drawn to reason for refusal 1, which refers to the loss of the private rear garden area. Although the reason for refusal refers to the detrimental impact by the loss of the rear garden (by reference to No. 6 Firs Walk's inclusion) on the ASLC and thus the area's character, in the report's main body it was reported at paragraph 7.01:

In order to establish the acceptability of the principle of developing this site for residential purposes, it is necessary to take into account currently adopted planning policy. Paragraph 7.29 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (November 2012) suggests that backland development may be acceptable in principle subject to being in accordance with all other policies, although Policy H12 does resist proposals for tandem/backland development which may cause undue disturbance or loss of privacy.

- 3.10 Paragraph 7.29 supplemented Policy H12 (Backland and Tandem Development), which has since been superseded by Policy DMH6 (Garden and Backland Development) in the Local Plan – Part 2. Notwithstanding, the Council did not return to Policy H12 in its reason for refusal despite it being identified as a relevant policy. Nonetheless, it will have been brought to the Inspector's attention at the appeal.
- 3.11 The appeal was dismissed on grounds that the proposal would harm the character and appearance of the surroundings generally and would create an unacceptable living environment for the occupiers of the proposed new house on one of the plots (Plot 1) due to the proximity of a vehicle turning head. Notably, the Inspector did not refer explicitly or implicitly to backland and tandem development in his report nor did he cite Policy DMH6, which was in draft at the time.
- 3.12 After the dismissal, the appellant progressed a new proposal incorporating a reduced level of development quantum. The new proposal, which has evolved during the planning application determination period to become the appeal proposal, was developed on the basis of the Inspector's report findings. The key findings that have influenced the appeal proposal are:
1. The appeal site's location can be described as a "sustainable" location in planning terms (para 12);
 2. The appeal site lies within an established urban area and a proposed housing scheme would make a useful addition to the housing stock (para 16);
 3. The new houses would have been more cramped on their plots than their neighbours (para 12);
 4. The new houses would have introduced a significant building bulk into the locality and that the streetscene would have a much more built up appearance therefore detracting from the character and appearance of the locality (para 13);

5. The overdeveloped nature of the scheme would have generated an unsatisfactory relationship between the proposed road and new residents with the turning head causing undue disturbance to the occupants of Plot 1 (para 14).

- 3.13 The principle of the proposed development was accepted, but for the aforesaid character and living conditions impact reasons the appeal was not allowed.
- 3.14 A new outline planning application (Ref: 30837/APP/2019/3096) was submitted in September 2019. The planning application provides the basis to this appeal. The proposal has undergone a single revision to accommodate a minor change to the proposed layout of Plot 1. The iterations are summarised in Table 3.1.

Table 3.1: Summary of changes leading to the appeal proposal

Revision No.	Submission Date	Drawing Ref	Description of change
0	Sept 19	19-2752-100_A	N/A
1	Dec 19	19-2752-100_B	Site layout revised by removing the garage on Plot 1. Accesses maintained.

The Original Proposal (Revision 0)

- 3.15 The original proposal as submitted in September 2019 includes two access points, each serving two plots respectively. One access serves the retained No. 6 Firs Walk property and Plot 1 from Firs Walk. The other access serves Plots 2 and 3 from Foxdell. As has been set out before, the number of proposed dwellings is 3. All proposed dwellings had included an integral garage. The dwellings will be located on the site currently occupied by No. 5 Firs Walk and part of the garden of No. 6 Firs Walk. The property at No. 6 Firs Walk will be retained.
- 3.16 The decision to split the development and serve with two separate accesses was in response to the Inspector's findings over vehicle-related impact. The proposed separate access points mean fewer vehicles affecting all properties thus resulting in no need for a vehicle turning head. Thus, the ground of the dismissed appeal proposal relating to the impact on residents' living conditions would be rectified.
- 3.17 In overcoming the Inspector's reasons pertaining to his judgement of harm that the dismissed appeal proposal would have had on the character and appearance of the locality, the total number of new dwellings have been reduced from 6 to 3. Including the retained No. 6 Firs Walk dwelling, inclusive of a garden extension incorporating land at 25 Dene Road, the total number of dwellings on the same site area is 4. When read as a whole, and, when compared with the dismissed appeal proposal, the layout can no longer be interpreted as cramped but more respectful of its character setting.
- 3.18 Furthermore, Plots 1-3 are on a fixed axis from west to east. These replaced the previous four plots of the dismissed appeal. Despite Plot 1 being split from Plots 2 and 3 in access only, their regular and uniformed sizes and building footprint sizes are in character with neighbouring plots on Foxdell. This component of the scheme contributes to a less cumulative building footprint and thus bulk. With plot sizes commensurate with Foxdell it is considered that the dwellings would be read within this context. The issue of the streetscene taking on a built-up appearance has therefore addressed.

The Revised Proposal (Revision 1)

- 3.19 A revised proposal was submitted in December 2019 and is shown in Site Layout Plan (Ref: 19-2752-100 Rev B).
- 3.20 A single change to the proposal resulted in the removal of the integral garage on Plot 1. Its removal was owing to the building footprint, which projected the garage into the streetscene when looking east along Firs Walk. Inclusive of the garage, the footprint essentially detached the building from the new cul-de-sac layout of Firs Walk. It was acknowledged that this was not quite in-character with the rest of the cul-de-sac and that it could create an anomaly in the streetscene.
- 3.21 Revision 1 is the appeal proposal.

Communication with the Council

- 3.22 After the submission of Revision 1, the appellant began to receive and exchange correspondence with the Council's planning officers. This is documented, in summary, below. The full emails can be found in **Appendix B - I**.

2nd January 2020: Case officer emails to appellant's agent (Appendix B)

- 3.23 In the first email the case officer confirms recommendation for approval, subject to manager sign off. A concern over an inconsistent development rhythm with Firs Walk is cited, accepting its consistency with Foxdell.
- 3.24 In the second email, reference is drawn to Policy DMHB 11: Design of New Development, and more information provided over the officer's development rhythm comment. Here comparison is drawn to the proposed three plots' resemblance to the regular and compact plots of Foxdell as opposed to the verdant plots and larger properties at Firs Walk.
- 3.25 It is concluded by the assessment that *"...the proposal adequately demonstrates that there is sufficient room to accommodate 3 dwellings within this plot, which would comparably relate to the built form along Foxdell..."*

14th January 2020: Case officer email to appellant's agent (Appendix C)

- 3.26 In this email, a new matter is raised. This relates to a land dispute with a neighbour at Foxdell who claimed ownership of the small piece of land that will accommodate the vehicle crossover. This has been resolved. The land is owned by LBH as the Highway Authority. An Article 13 notice has been served on LBH under Certificate B of the planning application.
- 3.27 The matter concerning development rhythm was returned to. The officer confirms agreement from her manager that the rhythm would be inconsistent with that at Firs Walk. As a result, it is recommended that two plots rather than the proposed three may address this.

29th January 2020: Planning Team Leader email to appellant (Appendix D)

- 3.28 In this email, the Planning Team Leader explained to the appellant that he was in disagreement with the case officer's positive recommendation. He claims that this is due to the proposal being *"very similar"* to the previous dismissed appeal proposal.
- 3.29 The appellant subsequently objected to this assertion (and maintains this objection) in a reply email on the following grounds:

1. There are fewer units proposed overall - 3 instead of 6, which is a 50% reduction in development quantum and thus a substantial reduction which clearly isn't *very similar* to the previous scheme;
2. The proposed retention of No. 6 Firs Walk - maintaining part of the existing streetscene and partly addressing the 'cramped' and 'overdevelopment' concerns;
3. At No. 5 Firs Walk (the current 'appeal site') there are three proposed detached properties rather than four - addressing the 'cramped' and 'overdevelopment' comments and being more consistent with the general character of the area's plot sizes, particularly at Foxdell; and
4. Access coming in via two routes as opposed to one removing the concerns of the Inspector over impact on living conditions of what was the proposed Plot 1.

3.30 Although not addressed in the reply email, it should also be noted that the redline was changed taking the majority of No. 6 Firs Walk's curtilage out of the site plan and thus removing the scheme from the Area of Special Local Character (ASLC) to the North.

3.31 The Team Leader also raised a new issue, expressing it as his main concern. The issue was that of 'backland development'. He said:

"You will note that the Council adopted a new Local Plan on 17th January 2020, which has a specific Policy (DMH 6) that emphasis the fact that there is a presumption against backland development, although in exceptional cases limited backland development could be acceptable subject to a number of criteria. My concern is that, in my view your current scheme, is not to my mind, that different to the previous scheme dismissed at appeal and does not address all the previous refusal reasons or the findings of the Inspector.

3rd February 2020: Planning Team Leader email to appellant's agent enclosing Planning Policy Team Objection (Appendix E)

3.32 The Planning Team Leader subsequently provided the Council's Policy Team's objection statement (see **Appendix F**). The main part of the statement is provided here:

3.33 *Policy BE1 of the Local Plan Part 1 (2012) and Policy DMH 6: Garden and Backland Development of the Local Plan Part 2 (2020) set out a presumption against the loss of gardens due to the need to maintain local character, amenity space and biodiversity. The Council's approach to housing as set out in the implementation of policy H1 of the Local Plan Part 1 is to ensure new housing development makes the most efficient use of brownfield field land. The NPPF, in para. 70 also highlights the issue of protecting against the inappropriate development of residential gardens where this would cause harm to the local area. This is also reflected in the London Plan. The proposed development would therefore be contrary to Local Plan policies BE1 and DMH 6 and should be refused unless there are material considerations which outweigh this in principle objection.*

3.34 Attention is drawn to there being no express reference to 'backland development' as per the Team Leader's email of the 29th January. Instead, the objection is made on the grounds of developing residential garden space. This is an inconsistency between the Council's response to the appellant and is discussed in greater detail in Section 6.0 – Appeal Proposal Assessment.

3.35 Confirmation is also provided that as a result of the objection, the recommendation will be carried forward for refusal and heard at planning committee.

6th February 2022: Appellant's Agent's email to Planning Team Leader (Appendix G)

- 3.36 The appellant's agent responded to the email of the 3rd February to rebut the Council's position.
- 3.37 In the email, the agent expresses confusion over the inconsistency of the use between 'backland development' and the 'loss of residential garden'. More importantly, however, reference is made to the Council's historic indication over the acceptance of the principle of the site's redevelopment under two separate applications. First, in the case of the site having capacity to accommodate 4 units as documented in the Committee Report (dated 14th November 2018) for what became the dismissed appeal (see **Appendix A**). Note the application did not advance to being heard at committee. Second, by reference to 2 units in the email from the Case Officer dated 14th January 2019. Clarification was sought over the inconsistencies.
- 3.38 It was also asserted that the Inspector of the dismissed appeal did not expressly or implicitly cite 'backland development' as a matter of concern let alone ground for dismissal. This is despite the Council referring to backland and tandem development in the report's main body and stating in the non-standard reason for refusal 1:
- "The principle of intensifying the residential use of the site to the level proposed, **as well as the proposed loss of existing private rear garden area** would have a detrimental impact on the Dene Road Area of Special Local Character character and appearance of the area as a whole."*
- 3.39 Notwithstanding the proposed development no longer falls within an ASLC, clearly the Inspector was directed by the Council over the loss of garden space but fell silent on the matter.
- 3.40 Further still, the Council published its Local Plan Part 2 Modifications document in March 2019, one month after the appeal was lodged (the Appeal decision being issued in July 2019). The Inspector thus had ample time to consider the proposed policies, including DMH 6. DMH 6 was not modified as a result of the Examination-in-Public (EiP) and thus has been in its adopted form since the Local Plan was submitted to the Secretary of State in 2015. Despite the discretion given by Para 48 of the NPPF, the Inspector chose not to give any weight to the policy. This is significant. Clearly, he concluded that as a matter of principle the proposal did not constitute either backland development or loss of garden space.

11th February 2020: Planning Team Leader email to appellant's agent (Appendix H)

- 3.41 The team leader confirmed the application would no longer be heard at February's planning committee.

3rd March 2020: Planning Team Leader email to appellant's agent (Appendix I)

- 3.42 The team leader confirmed the Policy Team's objection would be upheld, citing that Policy DMH 6 had been adopted since the application's submission.
- 3.43 No further correspondence that is pertinent to the appeal proposal has been exchanged.

4.0 Planning History

- 4.1 The planning history in relation to the appeal site relates to the aforementioned outline planning application for the demolition of Nos. 5 and 6 Firs Walk and replacement with 6 dwellings (Ref: 73874/APP/2018/2107). The matters of access and layout were applied for in full whilst all others were reserved.
- 4.2 An appeal (Ref: APP/R5510/W/19/3222609) was lodged with the Planning Inspectorate (PINS) against LBH's failure to determine the application. The appeal was subsequently dismissed. The appeal decision is considered relevant to the current appeal proposal, as has already been referred to and will be discussed more so in Section 6 – Appeal Proposal Assessment.
- 4.3 Many of the neighbouring properties in Firs Walk have been subject to granted planning applications over the last five years for single storey extensions and works to trees that are subject to Tree Preservation Orders.
- 4.4 Only one property in Foxdell has been subject to a planning application in the last five years. This concerned the grant of permission for a two storey extension at No. 5 Foxdell. Other properties were subject to approval for household development in the preceding years and mainly concerned extensions and roof conversions.
- 4.5 None of the planning applications for the neighbouring properties are considered relevant to this appeal.

5.0 Planning Policy Context

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of any planning application shall be in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 The adopted development plan for LBH comprises of:
- Hillingdon Local Plan – Part 1 (2012);
 - Hillingdon Local Plan – Part 2 (2020);
 - Hillingdon Adopted Policies Map (2020); and
 - The London Plan (2016).
- 5.3 Other material planning policy and guidance which are relevant to this application are set out below:
- National Planning Policy Framework (revised June 2019); and
 - Draft New London Plan Intend to publish 2019.

Relevant Policies

Hillingdon Local Plan – Part 1 Policies

- 5.4 Policies H1 (Housing Growth) and BE1 (Built Environment) of the Local Plan are relevant to the consideration of the application. The wording of these policies is set out below.

Policy H1: Housing Growth

- 5.5 The borough's current target is to provide an additional 4,250 dwellings, annualised as 425 dwellings per year, for the ten year period between 2011 and 2021.

Policy BE1: Built Environment

- 5.6 The Council will require all new development to improve and maintain the quality of the built environment in order to create successful and sustainable neighbourhoods, where people enjoy living and working and that serve the long-term needs of all residents. All new developments should:
1. Achieve a high quality of design in all new buildings, alterations, extensions and the public realm which enhances the local distinctiveness of the area, contributes to community cohesion and a sense of place;
 2. Be designed to be appropriate to the identity and context of Hillingdon's buildings, townscapes, landscapes and views, and make a positive contribution to the local area in terms of layout, form, scale and materials and seek to protect the amenity of surrounding land and buildings, particularly residential properties;
 3. Be designed to include "Lifetime Homes" principles so that they can be readily adapted to meet the needs of those with disabilities and the elderly, 10% of these should be wheelchair accessible or easily adaptable to wheelchair accessibility encouraging places of work and leisure, streets, neighbourhoods, parks and open spaces to be designed to meet the needs of the community at all stages of people's lives;

4. In the case of 10 dwellings or over, achieve a satisfactory assessment rating in terms of the latest Building for Life standards (as amended or replaced from time to time);
5. Improve areas of poorer environmental quality, including within the areas of relative disadvantage of Hayes, Yiewsley and West Drayton. All regeneration schemes should ensure that they are appropriate to their historic context, make use of heritage assets and reinforce their significance;
6. Incorporate a clear network of routes that are easy to understand, inclusive, safe, secure and connect positively with interchanges, public transport, community facilities and services;
7. Improve the quality of the public realm and provide for public and private spaces that are attractive, safe, functional, diverse, sustainable, accessible to all, respect the local character and landscape, integrate with the development, enhance and protect biodiversity through the inclusion of living walls, roofs and areas for wildlife, encourage physical activity and where appropriate introduce public art;
8. Create safe and secure environments that reduce crime and fear of crime, anti-social behaviour and risks from fire and arson having regard to Secure by Design standards and address resilience to terrorism in major development proposals;
9. Not result in the inappropriate development of gardens and green spaces that erode the character and biodiversity of suburban areas and increase the risk of flooding through the loss of permeable areas;
10. Maximise the opportunities for all new homes to contribute to tackling and adapting to climate change and reducing emissions of local air quality pollutants. The Council will require all new development to achieve reductions in carbon dioxide emission in line with the London Plan targets through energy efficient design and effective use of low and zero carbon technologies. Where the required reduction from on-site renewable energy is not feasible within major developments, contributions off-site will be sought. The Council will seek to merge a suite of sustainable design goals, such as the use of SUDS, water efficiency, lifetime homes, and energy efficiency into a requirement measured against the Code for Sustainable Homes and BREEAM. These will be set out within the Hillingdon Local Plan: Part 2- Development Management Policies Local Development Document (LDD). All developments should be designed to make the most efficient use of natural resources whilst safeguarding historic assets, their settings and local amenity and include sustainable design and construction techniques to increase the re-use and recycling of construction, demolition and excavation waste and reduce the amount disposed to landfill;
11. In the case of tall buildings, not adversely affect their surroundings including the local character, cause harm to the significance of heritage assets or impact on important views. Appropriate locations for tall buildings will be defined on a Character Study and may include parts of Uxbridge and Hayes subject to considering the Obstacle Limitation Surfaces for Heathrow Airport. Outside of Uxbridge and Hayes town centres, tall buildings will not be supported. The height of all buildings should be based upon an understanding of the local character and be appropriate to the positive qualities of the surrounding townscape.

Support will be given for proposals that are consistent with local strategies, guidelines, supplementary planning documents and Hillingdon Local Plan: Part 2- Development Management Policies.

Hillingdon Local Plan – Part 2 Policies

- 5.7 Policies DMH1 (Safeguarding Existing Housing), DMH2 (Housing Mix), DMH6 (Garden and Backland Development), DMHB11 (Design of New Development) and DMHB 17 (Residential Density) of the Local Plan are relevant to the consideration of the application.

Policy DMH1: Safeguarding Existing Housing

- 5.8 A) The net loss of existing self-contained³ housing, including affordable housing, will be resisted unless the housing is replaced with at least equivalent residential floorspace.

Policy DMH 2: Housing Mix

- 5.9 The Council will require the provision of a mix of housing units of different sizes in schemes of residential development to reflect the Council's latest information on housing need.
- 5.10 Supplementary text says that the "...Council's current information on housing need indicates a substantial borough-wide requirement for larger affordable and private market units, particularly three bedroom properties."

Policy DMH 6: Garden and Backland Development

- 5.11 There is a presumption against the loss of gardens due to the need to maintain local character, amenity space and biodiversity. In exceptional cases a limited scale of backland development may be acceptable, subject to the following criteria:
- i. neighbouring residential amenity and privacy of existing homes and gardens must be maintained and unacceptable light spillage avoided;
 - ii. vehicular access or car parking should not have an adverse impact on neighbours in terms of noise or light. Access roads between dwellings and unnecessarily long access roads will not normally be acceptable;
 - iii. development on backland sites must be more intimate in mass and scale and lower than frontage properties; and
 - iv. features such as trees, shrubs and wildlife habitat must be retained or re-provided.
- 5.12 Supplementary text emphasises that the restrictive approach reflects the direct and indirect value of gardens which contribute to local character, provide safe and secure amenity and play space, support biodiversity, help to reduce flood risk and mitigate the effects of climate change, including the 'heat island' effect.

Policy DMHB 11: Design of New Development

- A. All development, including extensions, alterations and new buildings will be required to be designed to the highest standards and, incorporate principles of good design including:
- i. harmonising with the local context by taking into account the surrounding: •
 - scale of development, considering the height, mass and bulk of adjacent structures;
 - building plot sizes and widths, plot coverage and established street patterns;
 - building lines and setbacks, rooflines, streetscape rhythm, for example, gaps between structures and other streetscape elements, such as degree of enclosure;

- architectural composition and quality of detailing;
 - local topography, views both from and to the site; and
 - impact on neighbouring open spaces and their environment.
- ii. ensuring the use of high quality building materials and finishes;
 - iii. ensuring that the internal design and layout of development maximises sustainability and is adaptable to different activities;
 - iv. protecting features of positive value within and adjacent to the site, including the safeguarding of heritage assets, designated and un-designated, and their settings; and
 - v. landscaping and tree planting to protect and enhance amenity, biodiversity and green infrastructure.
- B. Development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space.
- C. Development will be required to ensure that the design safeguards the satisfactory re-development of any adjoining sites which have development potential. In the case of proposals for major development sites, the Council will expect developers to prepare master plans and design codes and to agree these with the Council before developing detailed designs.
- D. Development proposals should make sufficient provision for well designed internal and external storage space for general, recycling and organic waste, with suitable access for collection. External bins should be located and screened to avoid nuisance and adverse visual impacts to occupiers and neighbours.

Policy DMHB 17: Residential Density

- 5.13 All new residential development should take account of the Residential Density Matrix contained in Table 5.2. Developments will be expected to meet habitable rooms standards.

Table 5.2: Residential Density Matrix

Location	PTAL	Setting	Dwelling Type		
			Detached and linked houses	Terraced houses and flats	Mostly Flats
			Ave. 3.5 hr/unit	Ave. 3.3 hr/unit	Ave. 3 hr/unit
Uxbridge Town Centre	4 - 6	Central	175 - 385 hr/ha	170 - 792 hr/ha	495 - 1,100 hr/ha
			50 - 110 u/ha	55 - 240 u/ha	165 - 405 u/ha
West Drayton/ Hayes Town Centres	3 - 6	Urban	175 - 385 hr/ha	170 - 660 hr/ha	450 - 750 hr/ha
			50 - 110 u/ha	55 - 200 u/ha	150 - 250 u/ha
Other town centres	2 - 3	Suburban /urban	140 - 200 hr/ha	155 - 396 hr/ha	200 - 510 hr/ha
			35 - 65 u/ha	50 - 120 u/ha	80 - 170 u/ha
Residential areas with suburban character within 800m of a town centre*	2 - 3	Suburban /urban	105 - 175 hr/ha	108 - 264 hr/ha	150 - 330 hr/ha
			35 - 50 u/ha	35 - 80 u/ha	50 - 110 u/ha
Other non town centre areas	0 - 2	Suburban /semi rural	105 - 150 hr/ha	105 - 231 hr/ha	105 - 300 hr/ha
			35 - 50 u/ha	35 - 70 u/ha	35 - 100 u/ha

PTAL - Public Transport Accessibility Level hr - habitable room ha - hectare

*Substantial pockets of residential uses within town centres are also likely to fall within this category

- 5.14 Hillingdon will apply the density standards set out in the London Plan 2016 in a flexible manner, according to local circumstances. Large parts of the borough, including many areas in close proximity to town centres, are suburban in character and will lean heavily towards the applications of lower to mid range density scales.

Hillingdon Adopted Policies Map

- 5.15 The appeal site is not covered by any planning designation shown on the adopted policies map. It is located next to the Dene Road Area of Special Landscape Character (Policy DMHB 5) and is within 800m of Northwood Town Centre.

London Plan

Policy 3.3: Increasing Housing Supply

- 5.16 Policy 3.3 requires LBH to achieve and exceed the minimum borough annual average target (for the period 2015-2025 this is 5,593 units) and that additional development capacity should be identified and brought forward to by realising brownfield housing capacity including the sensitive renewal of existing residential areas.

Policy 3.4: Optimising Housing Potential

- 5.17 Development should optimise housing output for different types of location, taking account of local context and character, within the relevant density range shown in Table 3.2 (See Policy DMHB17 above).

Policy 3.5: Optimising Quality & Design of Housing Developments

- 5.18 Housing developments should be of the highest quality internally, externally and in relation to their context and the wider environment. The design should enhance the quality of local places, taking account of physical context, local character and density, amongst other things.

Policy 3.8: Housing Choice

- 5.19 A genuine choice of homes should be provided that meet the requirement for different sizes and types of development in the highest quality environments.

Policy 3.14: Existing Housing

- 5.20 The loss of housing should be resisted unless it is replaced at existing or higher densities with at least equivalent floorspace.

Policy 7.4: Local Character

- 5.21 Buildings, streets and open spaces should provide a high-quality design response that:
- a) has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass;
 - b) contributes to a positive relationship between the urban structure and natural landscape features, including the underlying landform and topography of an area;
 - c) is human in scale, ensuring buildings create a positive relationship with street level activity and people feel comfortable with their surroundings;

- d) allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area;
- e) is informed by the surrounding historic environment.

NPPF (revised July 2018 and updated in February and June 2019)

- 5.22 The NPPF is clear that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7). Paragraph 8 confirms that planning system's overarching objectives are economic, social and environmental.
- 5.23 Paragraph 11 confirms the presumption in favour of sustainable development where in decision making development proposals that accord with an up-to-date development plan should be approved without delay.
- 5.24 In terms of decision-making paragraph 38 advises that local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.
- 5.25 Paragraph 48 says that Local planning authorities may give weight to relevant policies in emerging plans according to:
 - a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)
- 5.26 Chapter 5 addresses the delivery of a sufficient supply of homes. Paragraph 68 says that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:
 - c) *support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes...*
- 5.27 Paragraph 70 states that *plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.*
- 5.28 Chapter 11 sets out Government guidance on making the most efficient use of land. Paragraph 117 advises that planning decisions should promote an effective use of land in meeting the need for homes. Paragraph 118 adds that planning decisions should: encourage multiple benefits from urban land; and promote and support the development of under-utilised land and buildings.
- 5.29 Paragraph 122 advises that planning decisions should support development that makes efficient use of land.
- 5.30 Paragraph 127 requires planning decisions to ensure that developments:

- a) *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *Establish or maintain a strong sense of place, using the arrangements of streets, spaces, building types and material to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *Optimise the potential of the site accommodate and sustain an appropriate amount of mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Draft New London Plan (Intend to Publish 2019)

Policy GG2: Making the best use of land

- 5.31 To create successful sustainable mixed-use places that make the best use of land, those involved in planning and development must, amongst other things, enable the development of brownfield land as well as utilising small sites, proactively explore the potential to intensify the use of land to support additional homes, promoting higher density development, and applying a design-led approach to determine the optimum development capacity of sites.

Policy D3 Optimising site capacity through the design-led approach

- 5.32 All development must make the best use of land by following a designed approach that optimises the capacity of sites. Development proposals should take account of form and layout, experience and quality and character.

Policy H1: Increasing housing supply

- 5.33 Table 4.1 sets the ten-year targets for net housing completions that each local planning authority should plan for (LBH is 10,830 units). Boroughs must include these targets in their Development Plan Documents.
- 5.34 Optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially by a range of sources of capacity including small sites.

Policy H2: Small sites

- 5.35 Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to:

- 1) significantly increase the contribution of small sites to meeting London's housing needs;
- 2) diversify the sources, locations, type and mix of housing supply;
- 3) support small and medium-sized housebuilder;
- 4) support those wishing to bring forward custom, self-build and community-led housing
- 5) achieve the minimum targets for small sites set out in Table 4.2 (LBH is 2,950 units) as a component of the overall housing targets set out in Table 4.1.

Policy H8: Loss of existing housing and estate redevelopment

- 5.36 Loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace.

6.0 Assessment of Appeal Proposal

- 6.1 The key matters considered relevant to the determination of this appeal relate to:
- Backland development or residential garden development;
 - Impact on the character and appearance of the area;
 - Access;
 - Amenity; and
 - Overarching principle of redevelopment for housing.
- 6.2 The appellant has not received any statement that explicitly sets out potential grounds for refusal. LBH has indicated through the various email correspondence documented in Section 3.0 that the key issues relate to either backland or residential garden development and the appeal proposal's relationship to the character and appearance of the area by reference to 'development rhythm' and streetscape. The appellant therefore expects these matters to be maintained by LBH.
- 6.3 Notwithstanding the first two matters, a third key matter is access, given it is being applied for in detail as well as being a ground for dismissal of the previous appeal.
- 6.4 The appellant considers amenity to be of importance to the appeal's determination. Although the appeal proposal is in outline, except for access, the proposed dwellings' relationship with one another and the existing neighbouring properties is material to the acceptability of the scheme's principle.
- 6.5 To conclude the relevant key matters, the overarching principle of the appeal site's redevelopment is drawn upon. This will bring together the preceding matters discussed with the more strategic aims of the Development Plan and the NPPF.

Backland Development or Residential Garden Development

- 6.6 It is the Development Management officers' views that the appeal proposal amounts to backland development (see emails dated 29/01/20 and 03/02/20 in **Appendix D & E**). However, the objection statement from the Planning Policy Team makes no reference to backland development but to residential garden development only, citing the content of Policy DMHB 6: Garden and Backland Development. Therefore, there is a lack of consistency as to how the Council views the status of the development. Notwithstanding this, it is the appellant's view that the appeal proposal amounts to neither.
- 6.7 The Local Plan does not contain a definition of 'backland development'. The only indication is in Policy DMH6 (iii), which says the "...development on backland sites must be more intimate in mass and scale and lower **than frontage properties**". In effect, this is reference to tandem development.
- 6.8 Notwithstanding, in such absence, the appellant asserts that it is normally reserved for the development of sites that are located behind existing buildings or detached from street frontages or spaces, and where access is often secondary to an area's prevailing access hierarchy. The appeal site does not fit this definition. The appeal proposal is an extension of a street frontage. Policy DMHB 6 should therefore be disapplied.

- 6.9 Nor can the appeal site be accepted as a residential garden. It is clearly a composite site that falls under the NPPF's definition of Previously Developed Land¹. That is "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*"
- 6.10 The appeal site is made up of an established property plot (No. 5) and part of the garden of No.6. The appeal proposal includes the demolition of No. 5 (*a permeant structure*) and reconfiguration of the access from Firs Walk (*associated fixed infrastructure*) to include Foxdell also. Proposed Plots 1 and 2 and the majority part of Plot 3 will replace the demolished building and will incorporate good levels of private amenity garden space. Hence the *whole of the curtilage* of No. 5 will not be developed.
- 6.11 Although a smaller part of proposed Plot 3's building footprint and the proposed access from Foxdell will encroach a small proportion of No. 6's existing garden space, it is not considered an absolute redevelopment of residential garden space. Besides, this is being compensated by the extension of No. 6's plot into No. 25 Dene Road thus resulting in the maintenance of a good level of amenity space for both the respective properties. Again, the application of Policy DMHB 6 should therefore be disapplied.
- 6.12 The demolition of No. 5 and inclusion of part of the garden of No.6 will open up an area of land which has the capacity, in terms of size and design, to accommodate a greater number of units; in this case three. It is the redevelopment of an underutilised piece of land, the redevelopment of which will achieve site optimisation. This is given more consideration in the next section (impact on the character and appearance of the area).
- 6.13 A parallel can be drawn to an approved planning application for the redevelopment of a site by demolition of a property to provide 4 dwellings at 10 Jackets Lane, Northwood (Ref: 70543/APP/2017/1650) (see **Appendix J**). Here the demolition of the property opened up the site to enable the development of 4 new detached houses on the former property's footprint and the back garden, inclusive of good private amenity provision and a layout that was in keeping with the prevailing residential character.
- 6.14 Although determined under the previous policy framework that was without Local Plan – Part 2, the former Policy H12: Backland and Tandem Development, which principles reflected that of the current Policy DMH6: Garden and Backland Development, was not cited at all in the case officer's report. Indeed, nor were other relevant Development Plan policies (i.e. Local Plan – Part 1 BE1 or London Plan Policy 3.5) or the Mayor's Housing SPG (2016) which resist garden development. Indeed, at planning committee, Members sought to refuse it on backland development grounds but were advised by officers and the Council's solicitor that the proposal was not backland development. This exchange can be viewed here: <https://www.youtube.com/watch?v=XMQrvk1IXB4> (at 1hr 03 minutes).
- 6.15 It is also a material point that in his findings, the previous appeal Inspector found no reason as to dismiss the appeal on grounds of either backland or residential garden development. Although Policy DMHB 6 had not been adopted at the time of the appeal (summer of 2019), it had advanced through the Local Plan EiP without challenge or modification. In line with NPPF Paragraph 48, the Inspector had discretion to apply any amount of weight as he saw proper to this policy. He remained silent on the matter. It is therefore reasonable to expect a consistent approach to be maintained.

¹ MHCLG, 2019, National Planning Policy Framework, London, Pg 70

- 6.16 Should the Inspector take a different view to that of the appellant or the previous appeal Inspector, then it is put forward that the criteria of Policy DMH6 is met by the appeal proposal. The Policy reads:

There is a presumption against the loss of gardens due to the need to maintain local character, amenity space and biodiversity. In exceptional cases a limited scale of backland development may be acceptable, subject to the following criteria:

- i) neighbouring residential amenity and privacy of existing homes and gardens must be maintained and unacceptable light spillage avoided;*
- ii) vehicular access or car parking should not have an adverse impact on neighbours in terms of noise or light. Access roads between dwellings and unnecessarily long access roads will not normally be acceptable;*
- iii) development on backland sites must be more intimate in mass and scale and lower than frontage properties; and*
- iv) features such as trees, shrubs and wildlife habitat must be retained or re-provided.*

- 6.17 Points i and ii are discussed in more detail below. However, neither are breached by the appeal proposal. Point iii does not apply as the proposed dwellings are not sited behind principal buildings within a streetscape. The appeal proposal is an extension of the street scenes of Firs Walk and Foxdell, respectively. Point iv will be dealt with under the reserved matter of landscape. However, the indicative site layout plan demonstrates that existing planting can be retained, and new planting provided to replace the loss of any that cannot.

- 6.18 Further to this assertion, and should the Inspector consider Policy DMH 6 to be applicable, the appellant draws on various allowed appeals (**see Appendix K**) in Hillingdon that comprised proposals that were garden development in nature. In appeals APP/R5510/W/17/3171932 (2 Woodside Road) and APP/R5510/W/16/3152126 (Land to the rear of 115-117 Hallowell Road) the Inspectors allowed them partly on the basis that the proposed units were located on road frontages and therefore formed part of the street scenes. On both occasions, it was cited that they were not *typical tandem or backland development* (in response to the superseded Policy H12: Backland and Tandem Development). The appellant re-emphasises the appeal proposal's extension of the street scenes of Firs Walk and Foxdell.

Impact on the character and appearance of the area

- 6.19 The appellant has addressed the reason for dismissal of the previous appeal by:
- Reducing the site area. No. 6 Firs Walk will now be retained, and the scheme no longer takes in part of the rear garden of No. 25 Dene Road. Accordingly, no part of the site falls within the ASLC which lies to the north of the site, beyond No.6 Firs Walk
 - The number of dwellings on the part of the site currently occupied by No.5 (i.e. to the south of the access) has been reduced from 4 to 3 dwellings. This significant reduction in built form enables a far more spacious layout to be provided which closely reflects the character and spacing of adjoining dwellings. The proposed 3 dwellings would be spaciouly located within their plots, with generous separation distances between the dwellings themselves and to side boundaries. As such, the proposal would introduce less building bulk into the locality and the dwellings would not be an overpowering element in the street scene. The proposed new dwellings would assimilate into the street scene and would fully respect the character and

appearance of the surrounding area. In addition, the proposal would introduce less hardsurfacing within the site layout.

6.20 In an email dated 29th January 2020 (**see Appendix D**), the Team Leader expresses his opinion that the proposal does not address the reasons for dismissal of the previous appeal. This marries up with other correspondence received from the case officer on 2nd January 2020 (**see Appendix B**). In this earlier email, reference was made to the design rhythm of the plots insofar as Plots 2 and 3 three reflecting the development grain of Foxdell whilst Plot 1 was not in-keeping with that of Firs Walk.

6.21 In the email, it was identified to the appellant that:

Within emerging policy DMHB 11 it advises that all development will be required to be designed to the highest standards and incorporate principles of good design. It should take into account... building plot sizes and established street patterns; building lines and streetscape rhythm and landscaping.

The development along Firs Walk is characterised by large detached properties in spacious verdant plots whilst Foxdell is more regular and compact in comparison. Whilst the proposal appears to be more in keeping with Foxdell and plots 2 and 3 relate accordingly, plot 1 accessed from Firs Walk does not relate so well to the form and spaciousness of those properties.

As this is only outline for consideration of the access I have taken the view that the proposal adequately demonstrates that there is sufficient room to accommodate 3 dwellings within this plot, which would comparably relate to the built form along Foxdell, but until this is assessed by the Managers I am unable to confirm if they will agree. Therefore at this time there is nothing for the applicant to address.

6.22 The officer correctly applied her judgment based on the application submitted; an outline application with all matters reserved except for access.

6.23 However, a later email dated 14th January 2020 (**see Appendix C**) from the officer superseded the above advice stating "...whilst plots 2 and 3 would relate to the rhythm of Foxdell, the scale of plot 1 would be out of keeping with Firs Walk. They have suggested that 2 properties rather than 3 may address this."

6.24 The appellant does not agree with this conclusion; either on development rhythm or on development quantum.

6.25 By reference to Policy DMHB11: Design of New Development, the following extract is relevant to the appeal proposal (given its outline status):

"A) All development, including extensions, alterations and new buildings will be required to be designed to the highest standards and, incorporate principles of good design including:

i) harmonising with the local context by taking into account the surrounding:

- *scale of development, considering the height, mass and bulk of adjacent structures;*
- *building plot sizes and widths, plot coverage and established street patterns;*
- *building lines and setbacks, rooflines, streetscape rhythm, for example, gaps between structures and other streetscape elements, such as degree of enclosure;..."*

6.26 Policy DMHB11 is the primary policy upon which officers base their 'development rhythm' comments. The appeal site represents the meeting of two distinct areas of sub-character with reference to plot

size, coverage and established street patterns. The appeal proposal successfully shows a transition between the two areas by sewing them together as opposed to the stark contrast of the existing plots being an abrupt anomaly in the urban grain. The building lines, front and rear, and gaps between dwellings reflect those of the adjacent properties, whilst the proposed housing typologies are consistent with the area. The removal of the integral garage from Plot 1 to provide an open frontage is consistent with that of the neighbouring properties on Firs Walk. Indeed, the extension of both cul-de-sacs and thus the street scenes is also a contributing factor towards harmonising the appeal proposal with the local character. Therefore, the appeal proposal brings the site to flow with the development rhythm of the area and does not disrupt it.

- 6.27 The Council's assertion that two plots would be better provided than the proposed three is dismissed by the appellant. Policy DMHB17: Residential Density requires all new residential development to take account of the Residential Density Matrix contained in Table 5.2, with supplementary text caveating that the standards can be applied flexibly. The appeal site falls within PTAL 2 and is located in a suburban area. Regardless of the matrix category that it might fall in (other non-town centre area or residential areas with suburban character within 800m of a town centre), the corresponding density range for detached houses is 35-50 per hectare (ha).
- 6.28 The site area is 0.16ha per the redline. The proposed three properties within this area equates to 18.75 units per hectare. When taking account of the extended rear boundary to No. 6 Firs Walk and bringing this property into the equation, the site area is approximately 0.25 ha. Four plots located within this area equates to 16 units per hectare. Either density is nearly half of the lower end of the density range promoted by the Local Plan's density matrix. The appellant accepts the policy's caveat that flexibility should be applied and that the appeal proposal is one such case where this should be undertaken given the character context. Clearly, the scheme's density is appropriate for the appeal site.
- 6.29 This point is strengthened by NPPF paragraph 122 (d), which states that:
- "...decisions should support development that makes efficient use of land taking into account:*
- ...*
- (d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change..."*
- 6.30 The net gain of 2, 4 bed dwellings which do not materially affect the area's prevailing character and setting clearly falls within the ambit of paragraph 122 (d).
- 6.31 When read as a whole, the appeal proposal clearly deals with the 'cramped' and 'over development' concerns of the previous appeal Inspector and complies with Policies BE1, DMHB 11 and DMHB 17 which are the principal policies at the Local Plan level. The Council's issues of development rhythm and development quantum together, whichever way they are considered, are successfully dealt with and the requirements of the Local Plan and NPPF are met.

Access

- 6.32 Proposed Plot 1 would be accessed via the existing access from Firs Walk which will also continue to provide access to No.6 Firs Walk. There would be no intensification in the use of this access which currently serves both Nos 5 & 6 Firs Walk. Plots 2 and 3 would be served from Foxdell to the east. It should be noted that the neither the Council or the appeal Inspector raised any concerns with the

previous scheme where 6 dwellings were proposed to be accessed from Foxdell. Each dwelling would be provided with garaging and driveway parking, in accordance with the adopted standards per Policy DMT 6: Vehicle Parking.

- 6.33 Policy DMT 2: Highways Impact requires safe and efficient access to the highway network. The proposed access satisfies this requirement.
- 6.34 In terms of servicing and refuse collection, arrangements from Firs Walk will continue in-principle as they do now. For the new access from Foxdell, a vehicle turning ahead currently exists at the end of the cul-de-sac. Again, arrangements will continue in-principle as they do now, with vehicles able to utilise this turning head.

Amenity

- 6.35 The indicative site layout plan (ref: 19-2752-100 Rev B) demonstrates a layout whereby the relationships between the proposed buildings and with existing buildings are such that good levels of amenity will be provided. The living conditions of the existing and future residents therefore will not be harmed.
- 6.36 In relation to the previous scheme, the Inspector identified a conflict between the access road and turning head in relation to habitable room windows on plot 1. No new dwellings are now proposed on the northern side of the access, with No.6 Firs Walk and its existing access arrangement retained in its current form. The reduced number of dwellings together with the revised access arrangement with Plot 1 being accessed from Firs Walk and Plots 2 & 3 accessed from Foxdell, removes the need for a turning head, thus removing this conflict.
- 6.37 Policy DMHB 11: Design of New Development requires new development not to adversely impact on the amenity, daylight and sunlight of adjacent properties and that landscaping be used to protect and enhance amenity.
- 6.38 The rear building elevations run in line with the adjacent properties at Firs Walk and Foxdell, whereas the gaps between the buildings are in excess of those existing between properties along Foxdell. Here a satisfactory level of amenity is experienced by existing residents. In the case of the appeal proposal, the spatial relationship between the proposed buildings and with the adjacent existing properties will be improved. Thus, a better level of amenity protection will be provided. This can be strengthened further by the accommodation of an appropriate landscaping scheme that could propose established planting along boundaries.
- 6.39 The 45 degree rule, applied horizontally from the furthest corner of the building (front and rear) to test for encroachment of neighbouring properties' amenity is largely complied with. The exception is between Plot 3 and No. 9 Foxdell. Here, a small corner of the integral garage exceeds the 45 degree angle of No. 9. This is not expected to give rise to amenity impacts either by loss of privacy, outlook or sense of overbearing owing to the garage being single storey and crowned with a hip-to-gable roof, which will reduce its appearance when viewed from the front windows of No. 9.
- 6.40 The proposed plots will all have a range of approximately 170-200 sqm of private amenity space to the rear. The garden areas will be commensurate to the character of the area, particularly that of Foxdell. DMHB18: Private Outdoor Amenity Space requires 4 bed houses to provide at least 100sqm.

- 6.41 The Inspector did not raise any concerns relating to the living conditions of the occupiers of existing dwellings in relation to the previous appeal. The appellant expects this to be maintained on the basis of the improved layout and compliance with Policy DMHB 11.

Overarching principle of redevelopment for housing

- 6.42 The preceding assessment of planning matters demonstrates that it more than satisfactorily meets the associated policy considerations and, critically, that it is a suitable development site for the appeal proposal. The constituent parts of the assessment are brought together to contribute towards supporting the principle of increasing housing development in this location.
- 6.43 The previous appeal Inspector accepted that “...*the appeal site lies within an established urban area and a proposed housing scheme would make a useful addition to the housing stock*” whilst the Case Officer held no objection to the accommodation of new housing, as set out in emails sent in January. Notwithstanding this, the appellant draws on a range of policy support for the over-arching principle of the appeal site’s suitability for its redevelopment.
- 6.44 The provision of a net increase of 2 x 4 bed units responds positively to the need for larger, family sized units, as reported in the supporting text of Policy DMH2, and the following policy requirements and considerations:
- NPPF paragraph 68 recognises that small sites can make an important contribution to meeting the housing requirement of an area and that LPAs should support the development of windfall sites by “...*giving great weight to the benefits of using suitable sites within existing settlements for homes.*”
 - NPPF paragraph 118(c) states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes.
 - NPPF paragraph 122(c) states that planning decisions should support development that makes efficient use of land by taking account of the identified need for different types of housing and the availability of land suitable for accommodating it.
 - Draft New London Plan Policy GG2 (Making the best use of land) requires the enablement of brownfield land and utilisation of small sites, and applying a design-led approach to establish optimum capacity, inter alia, to create successful sustainable places.
 - Draft New London Plan Policy H1 (Increasing housing supply) requires LBH to deliver 10,830 new homes over a ten year period from 2018/19 and to optimise potential delivery on suitable and available brownfield sites through sources such as small sites.
 - Draft New London Plan Policy H2 (Small sites) requires LBH to pro-actively support well-designed homes on small sites in order to, inter alia:
 - significantly increase the contribution of small sites to meeting London’s housing needs;
 - support small housebuilders; and
 - achieve the minimum ten-year targets for small sites set out in Table 4.2 (for LBH this is 2,950 or 295 per annum).

- Local Plan Part 1 Policy H1 (Housing Growth) commits the Council to meeting and exceeding its minimum strategic dwelling requirement which is 425 dwellings per annum up to 2021 (which is rolled forward up to 2026).
- Local Plan Part 2 Policy DMH1 (Safeguarding Existing Housing) resists the loss of existing self-contained housing unless the housing is replaced with at least equivalent residential floorspace.
- Local Plan Part 2 Policy DMH2 (Housing Mix) requires the provision of a mix of housing units of different sizes to reflect the Council's latest information on housing need. This currently indicates a high need for larger, family sized units.

6.45 Clearly there is compelling and robust support for the principle of the appeal proposal throughout local, regional and national policy.

7.0 Conclusions

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The Planning case set out in this appeal statement provides a compelling demonstration of the appeal proposal complying with the Development Plan and other material planning considerations.
- 7.2 The appeal proposal has been informed by comments from the Inspector of the appeal dismissed in July 2019 (ref: APP/R5510/W/19/3222609) and from the Council officers on the non-determined outline planning application. The key matters raised have been impact on the character of the area, specifically relating to respecting the street scene and 'development rhythm' of adjacent plots, and protecting the living conditions of the existing and future residents. The proposal successfully addresses these issues and thus is in a position that is acceptable in Planning terms.
- 7.3 The matter of the appeal proposal's status of backland or residential garden development, as alleged by the Council, is dismissed by the appellant. The appeal proposal represents an extension of street scenes comprising the cul-de-sacs of Firs Walk and Foxdell and the redevelopment of a site leading to the optimisation of its development capacity.
- 7.4 The other matter relevant to the appeal proposal's decision is that of access, which is applied for in full. This is shown to be acceptable and was not objected to previously.
- 7.5 The principle of the development was accepted by the appeal Inspector of the dismissed appeal and has been demonstrated to have robust policy support. By making better use of the site area and optimising the development capacity with a density that is appropriate to the local character, a net addition of two family-sized dwellings will be gained. This will contribute to the small sites target required by the Draft New London Plan whilst it is recognised in the Local Plan that larger dwellings are in need in the borough.
- 7.6 The planning application is in accordance with the Development Plan and other material planning considerations. The appeal should be allowed.



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