



PLANNING APPEAL

LONDON

Planning Appeal Statement on behalf of the Appellant

38 Hazeldene Gardens Uxbridge UB10 9DJ

“Erection of an attached two storey, 2-bed dwelling with associated parking and amenity space”

Appellant: Mohamed Bharadia

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21 October 2021

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1 INTRODUCTION

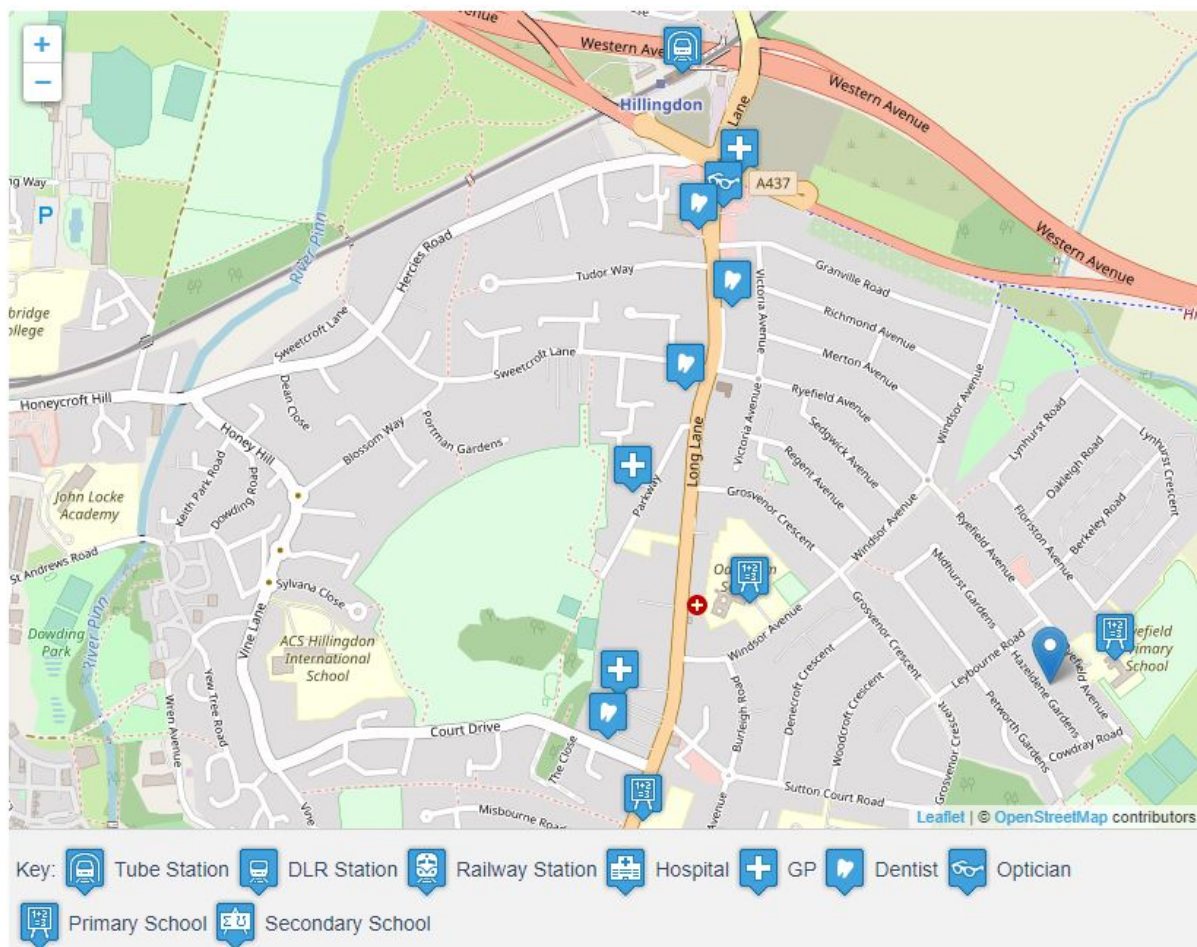
- 1.1. The application which is the subject of this appeal was deemed valid by the local planning authority ("the LPA") from 01 March 2021 with a statutory determination deadline of 26 April 2021.
- 1.2. Given the extant granny annexe 2 storey side extension permission (under 57039/APP/2018/664), the Appellant submitted on 1 March 2021 the instant planning application for a new 2-bedroom house that replicates the external appearance, bulk and massing of the extant permission. The Appellant was advised by the LPA case officer that a "conversion into new dwelling" proposal would be considered only subject to the commencement of physical on site build of the external foundations/frame/structure that evidenced implementation of the extant permission. He was requested to then submit revised plans and elevations reflect the new status quo. Following build progress, provision of this evidence has resulted in acceptance by officers who have advised the Appellant that they are recommending the revised proposal for approval to councillors at a future planning committee meeting.¹ The Appellant was requested to agree to pre-commencement conditions for the report to be presented at a future committee meeting.²
- 1.3. The LPA has failed to determine the application. As the statutory deadline for submitting a section 78 appeal is due to expire and the proposal has yet to be considered by the committee, out of an abundance of caution, the Appellant lodges this appeal.
- 1.4. This statement should be read in conjunction with the documentation and plans submitted to the LPA as part of the formal application together with ALL the evidence and case law now being submitted. From the Appellant's viewpoint, given the officer recommendation to approve, no areas of difference remain between the parties.
- 1.5. The site in this non-conservation, quiet, suburban residential area of Uxbridge is a semi-detached house with a sizeable piece of land to the side that previously hosted single storey structures built upon it. It is the only house in the immediate area that with such land that benefits from such an incremental new dwelling development opportunity. An overview summary of the area providing information on housing types, tenure, occupancy, demographics and nearby amenities/facilities such as schools, public transport and services is helpfully provided from census data collated together at

¹ See email exchange between Appellant and case officer at Appendix 1

² See the exchanges of emails between case officer and Appellant at Appendix 2

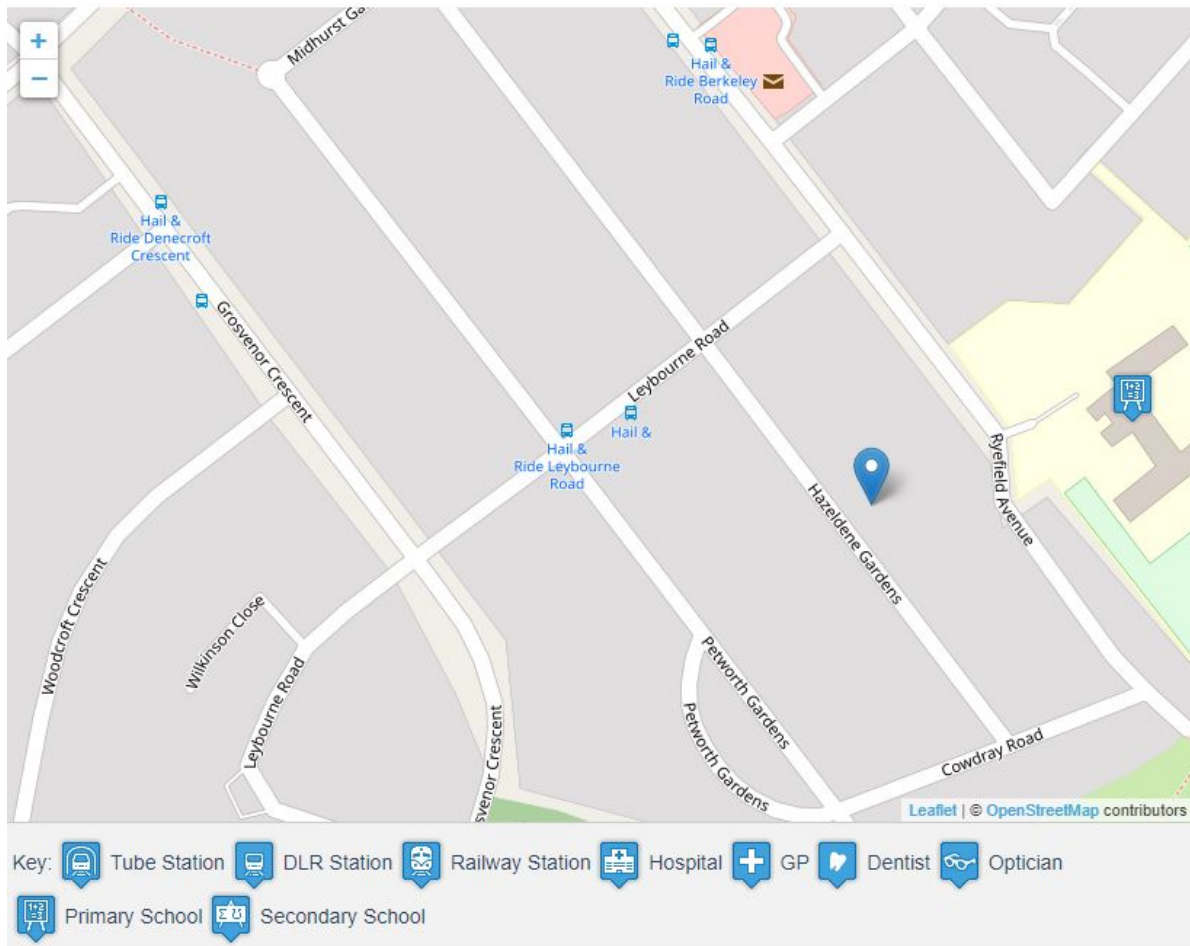
<https://www.streetcheck.co.uk/postcode/ub109dj>.³ The instant proposal, under the backdrop of a changing policy context, is build an attached 2 bedroom 4 person new dwelling on two levels with adequate vehicle parking and amenity provision. Adequate external amenity space is to be provided both for the existing property and the new dwelling. Sustainable transport is to be promoted via walking and cycling and use of public transport where possible.

- 1.6. The photographs and maps below capture the site in context with its neighbours and depict the mix of property types, the street scene together with the nearby amenities and public transport.



Site location in context of nearby tube station, amenities and facilities

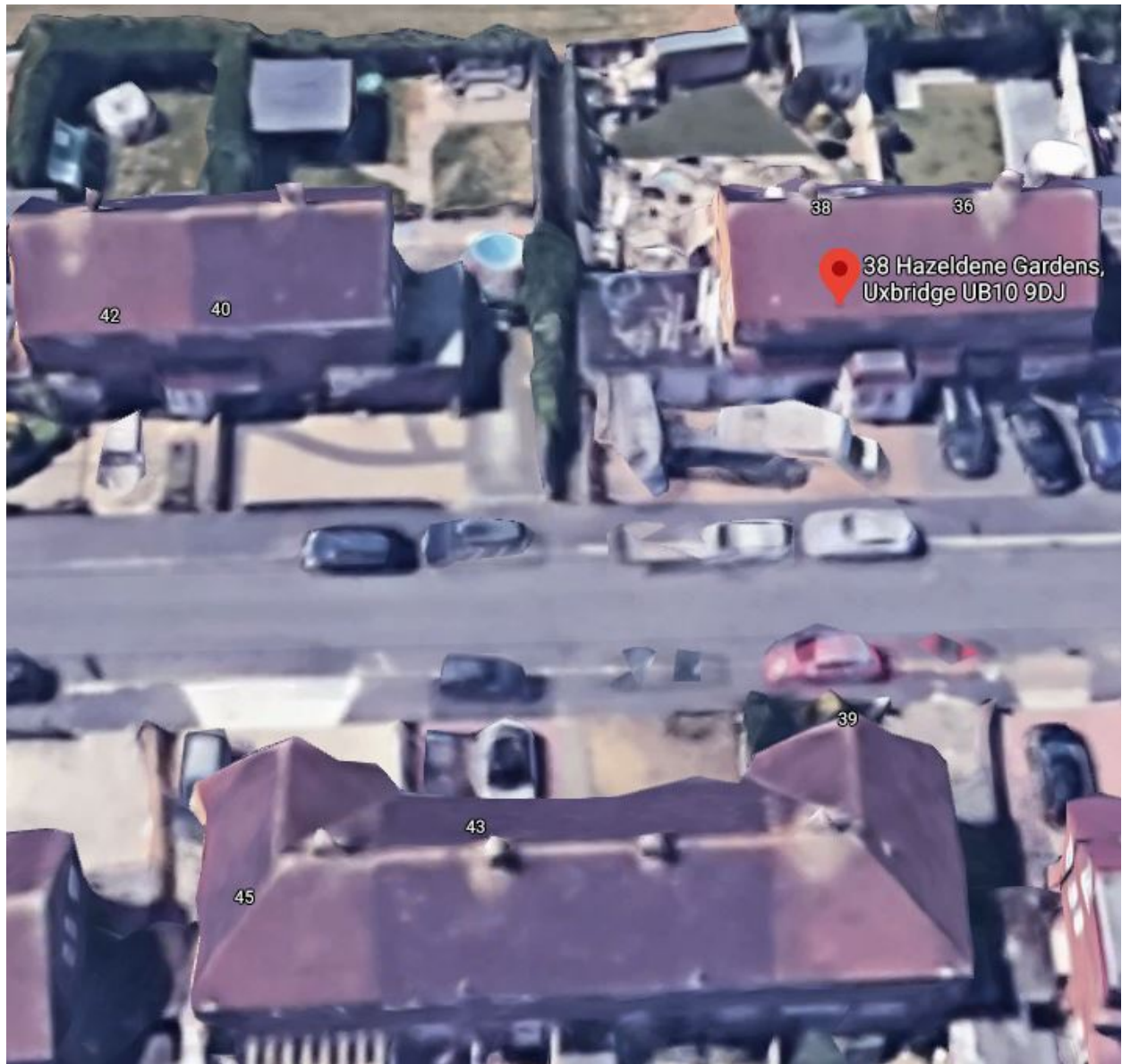
³ See Appendix 3



Site location in context of nearby bus routes, school and shopping parade



Aerial view showing mixture of semi-detached and terraced housing with predominantly gable end roofs



Frontal aerial of site with side land opposite a terraced block



Rear aerial view of site opposite terrace housing numbers 39-45



Street view showing quiet, serene, low vehicle traffic setting with available sparse use of road parking



Street view showing quiet, serene setting with available sparse use of permit free road parking



Plan showing mixture of dwelling types with the land in blue in Council ownership for social/affordable/rental housing tenures

- 1.7. During the time the LPA considered the application there had already been a significant change in the policy context with the Spatial Development Strategy

part of the Development Plan, the London Plan 2021 ("NLP"), having been adopted in March 2021. This appeal will mainly highlight the new supportive policies from the NLP part of the development plan.

- 1.8. For brevity, the Inspector is referred to the Planning Design and Access Statement submitted to the LPA as part of the application.
- 1.9. The structure of this statement is as follows: Section 2 will state the planning history of the site and section 3 will highlight recent significant policy 'big bang' developments. Section 4 then will then delve into the Development Plan in particular the NLP and policies from the local plans to point out the pertinent and important policies and reasoned justifications in support of the proposal under the statutory framework of s38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004"). Section 5 will then discuss several other material considerations including national policies in backing the proposal. Section 6 will provide concluding remarks.

2 RELEVANT PLANNING HISTORY

- 2.1. 57039/APP/2018/664: "Part two storey, part single storey side/rear extension." Permission was granted. The decision notice, officer report and approved plans are being submitted in evidence with relevant parts highlighted.⁴ Under the extant permission, a granny annexe with independent access on the same footprint as in the instant proposal has been allowed; however the annexe was a specific requirement for the previous owner/occupier's circumstances which are not necessarily translatable now or in the future. The part implementation of this approval is presently underway as explained at paragraph 1.2 above.
- 2.2. 57039/APP/2020/4080: "Demolition of existing garage and construction of a 2 storey 2 bedroom home." Permission was refused. The submitted plans under this application varied slightly from the instant proposal by removal of the first-floor setback and continuing the existing roof ridge line. This is the subject of a planning appeal under reference APP/R5510/W/21/3268811 and a decision is pending.

3 RECENT SIGNIFICANT POLICY DEVELOPMENTS

- 3.1. The NLP⁵ was adopted on 2 March 2021 and its policies supersede the 2016 London Plan. It is also the most recent part of the development plan to be adopted.
- 3.2. With that background, amongst the relevant and important policies applicable

⁴ See Appendix 4

⁵ See Appendix 5 for London Plan 2021 – relevant extracts

from the NLP include Design Policies **D1 (London's form, character, capacity for growth), D3 (Optimising site capacity through a design led approach), D4 (Delivering Good Design), D6 (Housing Quality and Standards), D7 (Accessible housing)** Housing Policies **H1 (Increasing Housing Supply), H2 (Small Sites), Policy H10 (Housing Size Mix),** Transport Policies **T1 (Strategic approach to transport), T2 (Healthy streets), T5 (Cycling), T6 (Car parking), T6.1 (Residential parking).**

4 DEVELOPMENT PLAN

4.1. Lord Reed said in *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13:

"It has long been established that a planning authority must proceed upon a proper understanding of the development plan: see, for example, *Gransden & Co Ltd v Secretary of State for the Environment* (1985) 54 P & CR 86, 94 per Woolf J, *affd* (1986) 54 P & CR 361; *Horsham DC v Secretary of State for the Environment* (1991) 63 P & CR 219, 225-226 per Nolan LJ. The need for a proper understanding follows, in the first place, from the fact that the planning authority is required by statute to have regard to the provisions of the development plan: it cannot have regard to the provisions of the plan if it fails to understand them. It also follows from the legal status given to the development plan..."

4.2. Under section 38(6) of the PCPA 2004 and section 70(2) of the Town and Country Planning Act 1990, the statutory development plan polices from the whole plan are deserving of primacy with relevant material considerations to be taken into account.

4.3. The development plan is tiered and comprises: 1) the regional spatial strategy or the NLP, and 2) the development plan documents making the London Borough of Hillingdon Local Plan ("LP") comprising Local Plan Part 1 adopted 2012 and Local Plan Part 2 adopted January 2020.

4.4. The LPA had made the following commitment to the examining inspector of the Local Plan Part 2 as stated at paragraph 14 of the examination report dated 22 October 2019:⁶ "The HLPP2 is a plan that is intended to implement the strategy and objectives of HLPP1. It was widely accepted at the hearings that during the course of plan preparation there had been material changes in both national and London-wide policy along with a significant increase in growth in the Borough. Therefore, the Council have committed

⁶ See Appendix 6

to an early review of the Local Plan in response to the emerging new London Plan...".

NLP – London Plan 2021

- 4.5. Paragraph 0.0.8 talks to the import of the NLP in decision making and the requirement of development plan documents to be 'in general conformity' with it. Paragraph 0.0.10 advises that the NLP is an integrated policy framework that must be read as a whole. Paragraph 0.0.11 confirms that the policies and reasoned justifications take account of the evidence that underpins the plan. Paragraph 0.0.14 makes it clear that this NLP relies on the 2017 Strategic Housing Market Assessment (SHMA) for its evidence of housing needs that takes full account of the diversity of London's housing needs.
- 4.6. Paragraph 0.0.18 confirms how the NLP is different and more ambitious than previous London plans and introduces the concept of Good Growth objectives for sustainable development.
- 4.7. Paragraph 0.0.23 stresses the London wide strategic reach of its policies that need not be repeated at the LPA level and at paragraph 0.0.26 explains the tiered structure of the Development Plan to avoid duplication of policy and evidence.

Good Growth Objective GG1: Building Strong and Inclusive Communities

- 4.8. The Appellant's proposal derives support from this Good Growth Objective (not Policy as misconstrued by the LPA) and in particular part H where the needs of downsizers can be met to release family housing.

Good Growth Objective GG2: Making the Best Use of Land

- 4.9. The Appellant's proposal derives support from this Good Growth Objective and in particular parts A, B, C, D, E and G. Paragraphs 1.2.1 to 1.2.8 provide the reasoned justifications and how the proposal site fits into this category of redeveloping surplus land sites and efficiently utilizing existing places for intensification in outer London while respecting local character.

Good Growth Objective GG4: Delivering the Homes Londoners Need

- 4.10. The Appellant's proposal derives support from this Good Growth Objective via parts A - E. Paragraphs 1.4.1 to 1.4.6 provide the reasoned justifications; in particular at 1.4.4 the telescopic reach of the NLP in addressing the housing needs of all Londoners explains the treatment of London as a single housing market in

a manner not possible at the local level. The instant site fits into this category of a small site that delivers much needed 2-bedroom home at the affordable end of the market or for downsizing by the elderly population thereby releasing under-occupied family sized dwellings of 3 bedrooms or more. Furthermore, rapid construction and delivery of housing can take place by a small and nimble developer.

Chapter 2: Spatial Development Patterns

- 4.11. Paragraph 2.0.3 (emphasis added): *"If London is to meet the challenges of the future, all parts of London will need to embrace and manage change. Not all change will be transformative – in many places, change will occur incrementally. This is especially the case in **outer London**, where the suburban pattern of development has significant potential for appropriate intensification over time, particularly for additional housing."*
- 4.12. Paragraph 2.0.6 (emphasis added): *"Many town centres and the surrounding areas have potential to accommodate significant quantities of new housing, making the most of walking, cycling and public transport connectivity and complementing their commercial role."*

Chapter 3: Design

- 4.13. **Policy D1** London's form, character and capacity for growth. Defining an area's character to understand its capacity for growth.
- A.** Boroughs should undertake area assessments to define the characteristics, qualities and value of different places within the plan area to develop an understanding of different areas' capacity for growth.
- B.** In preparing Development Plans, boroughs should plan to meet borough-wide growth requirements, including their overall housing targets, by:
- 1) using the findings of area assessments (as required in Part A) to identify suitable locations for growth, and the potential scale of that growth (e.g. opportunities for extensive, moderate or limited growth) consistent with the spatial approach set out in this Plan; and
 - 2) assessing the capacity of existing and planned physical, environmental and social infrastructure to support the required level of growth and, where necessary, improvements to infrastructure capacity should be planned in infrastructure delivery plans or programmes to support growth.

- 4.14. Paragraph 3.1.1 (emphasis added): *"This Plan provides a policy framework for delivering Good Growth through good design. Part A of this policy sets out the requirements for assessing an area's characteristics and Part B sets out the steps for using this information to establish the capacity for growth of different areas and ensure that sites are developed to an optimum capacity that is responsive to the site's context and supporting infrastructure."*
- 4.15. Paragraph 3.1.2 (emphasis added): *"Understanding the existing character and context of individual areas is essential in determining how different places may best develop in the future. An evaluation of the current characteristics of a place, how its past social, cultural, physical and environmental influences have shaped it and what the potential opportunities are for it to change will help inform an understanding of an area's capacity for growth and is crucial for ensuring that growth and development is inclusive."*
- 4.16. Paragraph 3.1.3 (emphasis added): *"It is important to understand how places are perceived, experienced and valued."*
- 4.17. Paragraph 3.1.5 (emphasis added): *"When identifying the growth potential of areas and sites the sequential spatial approach to making the best use of land set out in GG2 Parts A to C should be followed."*
- 4.18. Paragraph 3.1.7 (emphasis added): *"As change is a fundamental characteristic of London, respecting character and accommodating change should not be seen as mutually exclusive. Understanding of the character of a place should not seek to preserve things in a static way but should ensure an appropriate balance is struck between existing fabric and any proposed change. Opportunities for change and transformation, through new building forms and typologies, should be informed by an understanding of a place's distinctive character, recognising that not all elements of a place are special and valued."*
- 4.19. **Policy D3** Optimising site capacity through the design-led approach. Note in particular the link to Policy H2 at C fitting the locational context of the appeal site.
- A.** All development must make the best use of land by following a design led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth, and existing and planned supporting infrastructure capacity (as set out in Policy D2 Infrastructure requirements for sustainable densities), and that best

delivers the requirements set out in Part D.

B. ...

C. In other areas, incremental densification should be actively encouraged by Boroughs to achieve a change in densities in the most appropriate way. This should be interpreted in the context of Policy H2.

D. Development proposals should: 1) enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions; 2) encourage and facilitate active travel with convenient and inclusive pedestrian and cycling routes, crossing points, cycle parking, and legible entrances to buildings, that are aligned with peoples' movement patterns and desire lines in the area; 3) be street-based with clearly defined public and private environments; 4) facilitate efficient servicing and maintenance of buildings and the public realm, as well as deliveries, that minimise negative impacts on the environment, public realm and vulnerable road users; 5) achieve safe, secure and inclusive environments; 6) provide active frontages and positive reciprocal relationships between what happens inside the buildings and outside in the public realm to generate liveliness and interest; 7) deliver appropriate outlook, privacy and amenity; 8) provide conveniently located green and open spaces for social interaction, play, relaxation and physical activity; 9) help prevent or mitigate the impacts of noise and poor air quality; 10) achieve indoor and outdoor environments that are comfortable and inviting for people to use; 11) respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character; 12) be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well; 13) aim for high sustainability standards (with reference to the policies within London Plan Chapter's 8 and 9) and take into account the principles of the circular economy; 14) provide spaces and buildings that maximise opportunities for urban greening to create attractive resilient places that can also help the management of surface water.

4.20. Paragraph 3.3.1: "For London to accommodate the growth identified in this Plan in an inclusive and responsible way every new development needs to make the most efficient use of land by optimizing site capacity."

- 4.21. Paragraph 3.3.2 (emphasis added): "A *design-led approach to optimising site capacity should be based on an evaluation of the site's attributes, its surrounding context and its capacity for growth to determine the appropriate form of development for that site.*"
- 4.22. Paragraph 3.3.6 (emphasis added): "Good design and good planning are intrinsically linked. The form and character of London's buildings and spaces must be appropriate for their location, fit for purpose, respond to changing needs of Londoners, be inclusive, and make the best use the city's finite supply of land. The efficient use of land requires optimisation of density. This means coordinating the layout of the development with the form and scale of the buildings and the location of the different land uses, and facilitating convenient pedestrian connectivity to activities and services."

Chapter 4: Housing

4.23. **Policy H1** Increasing housing supply

A Table 4.1 sets the ten-year targets for net housing completions that each local planning authority should plan for. Boroughs must include these targets in their Development Plan Documents.

B To ensure that ten-year housing targets are achieved, boroughs should:

1) prepare delivery-focused Development Plans which:

...

b) encourage development on other appropriate windfall sites not identified in Development Plans through the Plan period, especially from the sources of supply listed in **B2)**

2) optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially the following sources of capacity:

a) sites with existing or planned public transport access levels (PTALs) 3-6 or which are located within 800m distance of a station or town centre boundary.

...

e) small sites (see Policy H2 Small sites)

- 4.24. Paragraph 4.1.2 (emphasis added): "For the purposes of the Plan, *London is considered as a single housing market area, with a series of complex and interlinked sub-markets. The advantage of strategic planning is that it allows*

London to focus development in the most sustainable locations, allowing all of London's land use needs to be planned for with an understanding of how best to deliver them across the capital. Because of London's ability to plan strategically, boroughs are not required to carry out their own housing needs assessment but must plan for, and seek to deliver, the housing targets in this Plan. These have been informed by the SHLAA and the SHMA.

- 4.25. Paragraph 4.1.3 (emphasis added): *"The Mayor recognises that development of this scale will require not just an increase in the number of homes approved but also a fundamental transformation in how new homes are delivered."*
- 4.26. Paragraph 4.1.4 (emphasis added): *"In particular, the London Housing Strategy sets out the Mayor's proposals for working with boroughs and other partners to deliver the step change in housing supply required, through: diversification of the housebuilding industry through ... more support for small and medium-sized builders..."*
- 4.27. Paragraph 4.1.7 (emphasis added): *"The ten-year housing targets in Table 4.1 are based on the 2017 London SHLAA. This includes an assessment of large housing sites (0.25 hectares and above) undertaken in partnership with boroughs, which provides the most comprehensive study available of the capital's capacity for housing delivery based on a consistent pan-London methodology. In addition, the SHLAA includes an assessment of small site capacity using a combination of trend data for certain types of development and an estimate of potential for intensification in existing residential areas. The differences between borough housing targets are a reflection of the variations in the constraints and opportunities affecting development on large sites and the capacity for development on small sites."*
- 4.28. Paragraph 4.1.8 (emphasis added): *"...Modelling in the SHLAA also shows that there is capacity for development on small sites for 12,000 new homes a year. The allowance for windfall sites (that are not specifically identified) is considered appropriate given the policy framework set out in the London Plan; the capital's reliance on recycled brownfield sites in other active land uses; and the number of additional homes expected to be provided via incremental intensification of existing residential areas. Boroughs should identify as many sites, including small sites, as possible via their Development Plan Documents. However, because of the nature of some sites (as set out above), including the particular incremental characteristics of small sites, boroughs are supported in using windfall assumptions in their five-year housing trajectories based on the numbers set out in Table 4.2. This is because, in contrast with recent annual trends on small sites, the figures in Table 4.2 are considered to better reflect a minimum baseline for*

housing delivery given the policy focus on developing small sites for housing in this Plan (Policy H2 Small sites) and the package of measures outlined in the London Housing Strategy."

4.29. **Policy H2 Small sites**

A. 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 as a component of the overall housing targets set out in Table 4.1.

B. Boroughs should:

- 1) recognise in their Development Plans that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites
- 3) identify and allocate appropriate small sites for residential development

4.30. Paragraph 4.2.1 (emphasis added): "*For London to deliver more of the housing it needs, small sites below 0.25 hectares in size must make a substantially greater contribution to new supply across the city. Therefore, increasing the rate of housing delivery from small sites is a strategic priority. Achieving this objective will require positive and proactive planning by boroughs both in terms of planning decisions and plan-making.*"

4.31. Paragraph 4.2.2 (emphasis added): "*Increasing housing output of this scale can also help to support a number of related housing and planning policy objectives. This includes: • reviving the role of small and medium-sized developers in delivering new homes in London • diversifying the sources, locations, type and mix of housing supply and the type of sites available in addition to large brownfield sites • increasing housing provision in accessible parts of outer London to help address the substantial housing need in these areas and deliver market homes in more affordable price brackets • providing opportunities for custom-build housing and community-led housing projects • supporting town centre economies • as with large sites, providing opportunities to support the use of modern methods of construction."*

- 4.32. Paragraph 4.2.3 (emphasis added): *"The small sites minimum targets in Table 4.2⁷ are informed by the 2017 London SHLAA and show the potential capacity for additional housing on sites of less than 0.25 hectares in size. The targets are based on trends in housing completions on sites of this size and the estimated capacity for net additional housing supply from intensification in existing residential areas, taking into account PTAL, proximity to stations and town centres, and heritage constraints. The small sites targets are a component of, and not additional to, the overall housing targets. The relative contribution from large and small sites in each borough may fluctuate across the target period, providing the overall 10 year borough target is met in a way that is consistent with the policies in the Plan. The small sites target can be taken to amount to a reliable source of windfall sites which contributes to anticipated supply and so provides the compelling evidence in this respect required by paragraph 70 of the National Planning Policy Framework of 2019."*
- 4.33. Paragraph 4.2.6 (emphasis added): *"The small sites target represents a small amount of the potential for intensification in existing residential areas, particularly in Outer London, therefore, they should be treated as minimums. To proactively increase housing provision on small sites through incremental development, Boroughs are encouraged to prepare area-wide housing design codes, in particular, for the following forms of development: residential conversions, redevelopment, extensions of houses and/or ancillary residential buildings."*
- 4.34. Paragraph 4.2.8 (emphasis added): *"When assessing the benefits of additional housing provision, boroughs should recognise that schemes that provide relatively low numbers of new homes play an important cumulative role in helping to deliver housing targets alongside larger developments, subject to the scheme in question making the most efficient use of land."*
- 4.35. **Policy H10** Housing Mix: Housing potential is optimized through the incremental delivery of one new dwelling to reduce pressure on conversions.
- 4.36. Paragraph 4.10.1 (emphasis added): *The 2017 London Strategic Housing Market Assessment (SHMA) estimated the unit size mix of new homes required to meet London's current and projected housing needs using three different scenarios, the results of which are set out in the SHMA report addendum. The main factors influencing this size mix include the projected growth in different household types, assumptions about under-occupation, and the substantial number of overcrowded households in London, whose needs can be addressed by providing family-sized homes but also smaller homes for concealed households to move into.*

⁷ Hillingdon's minimum target from small sites is 295 homes per annum for 10 years equivalent to 27.2% of the overall 10,830 homes minimum 10-year target

- 4.37. Paragraph 4.10.3 (emphasis added): Well-designed **one- and two- bedroom units** in suitable locations can attract those wanting to downsize from their existing homes, and this ability to free up existing family stock should be considered...
- 4.38. **Policy T1** (Strategic approach to transport)
- A** Development Plans should support, and development proposals should facilitate: 1) the delivery of the Mayor's strategic target of 80 per cent of all trips in London to be made by foot, cycle or public transport by 2041.
- B** All development should make the most effective use of land, reflecting its connectivity and accessibility by existing and future public transport, walking and cycling routes...
- 4.39. Paragraph 10.1.1: "...In order to help facilitate this, an integrated **strategic approach to transport** is needed, with an ambitious aim to reduce Londoners' dependency on cars in favour of increased walking, cycling and public transport use. Without this shift away from car use, which the policies in the Plan and the Mayor's Transport Strategy seek to deliver, London cannot continue to grow sustainably. To achieve sustainable growth, Development Plans should support walking, cycling and public transport through policies that support mode shift and the schemes in Table 10.1. Development proposals should facilitate sustainable travel through their location and design and by not precluding the implementation of the schemes in Table 10.1."
- 4.40. Paragraph 10.1.2: "A shift from car use to more space-efficient travel also provides the only long-term solution to the road congestion challenges that threaten London's status as an efficient, well-functioning globally competitive city."
- 4.41. Paragraph 10.1.4: "Rebalancing the transport system towards walking, cycling and public transport, including ensuring high quality interchanges, will require sustained investment including improving street environments to make walking and cycling safer and more attractive, and providing more, better-quality public transport services to ensure that alternatives to the car are accessible, affordable and appealing. Achieving this is expected to result in different outcomes in different places, including modal splits in central, inner and outer London, as shown by Figure 10.1." In outer London figure 10.1 shows the increase from 60% to 75% in mode share for active and sustainable transport.

4.42. **Policy T2 (Healthy Streets)**

A Development proposals and Development Plans should deliver patterns of land use that facilitate residents making shorter, regular trips by walking or cycling.

B Development Plans should: 1) promote and demonstrate the application of the Mayor's Healthy Streets Approach to: improve health and reduce health inequalities; reduce car dominance, ownership and use, road danger, severance, vehicle emissions and noise; increase walking, cycling and public transport use; 2) identify opportunities to improve the balance of space given to people to dwell, walk, cycle, and travel on public transport and in essential vehicles, so space is used more efficiently and streets are greener and more pleasant.

D Development proposals should: 1) demonstrate how they will deliver improvements that support the ten Healthy Streets Indicators in line with Transport for London guidance 2) reduce the dominance of vehicles on London's streets whether stationary or moving 3) be permeable by foot and cycle and connect to local walking and cycling networks as well as public transport.

4.43. Paragraph 10.2.2: "This Plan supports the implementation of the Mayor's Transport Strategy which aims to deliver the infrastructure and public realm required to **significantly increase levels of walking, cycling and public transport use** throughout London."

4.44. Paragraph 10.2.3: "The **Healthy Streets Approach** is an evidence-based approach to improve health and reduce health inequalities, which will help Londoners use cars less, and walk, cycle and use public transport more. It supports the delivery of the Mayor's aim that by 2041 all Londoners will be able to undertake at least the 20 minutes of active travel each day needed to stay healthy." "To apply the Healthy Streets Approach, changes are required at a strategic, network and street level."

4.45. Paragraph 10.2.6: London's rapid growth means people need to travel more efficiently to keep the city functioning and to maintain and improve the quality of life for residents. **Strategic-level planning** to ensure walking, cycling and public transport are the first choices for travel is the only way to achieve this. Developing new housing around stations and improving connections to town centres will mean more people have the things they need within walking or cycling distance, while destinations further afield will be easily accessible by public transport."

4.46. Paragraph 10.2.3: "The Mayor has a long-term vision to reduce road danger so that no deaths or serious injuries occur on London's streets." "This will require reducing the dominance of motor vehicles and targeting danger at source."

4.47. **Policy T5 (Cycling)**

A Development Plans and development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. This will be achieved through: 2) securing the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located. Developments should provide cycle parking at least in accordance with the minimum standards set out in Table 10.2 and Figure 10.2." Table 10.2 indicates that the minimum requirement is 2 spaces for dwellings of 2 bedrooms or more.

4.48. Paragraph 10.5.1: "Development should **facilitate and encourage cycling**, and reduce car dependency and the health problems it creates. Cycling is a space efficient mode compared to cars so making streets attractive for cycling can bring benefits to all road users while also improving the experience of living, working and spending time in the city."

4.49. **Policy T6 (Car parking)**

A Car parking should be restricted in line with levels of existing and future public transport accessibility and connectivity.

B Car-free development should be the starting point for all development proposals in places that are (or are planned to be) well connected by public transport, with developments elsewhere designed to provide the minimum necessary parking ('car-lite').

C An absence of local on-street parking controls should not be a barrier to new development.

D The maximum car parking standards set out in Policy T6.1 Residential parking should be applied to development proposals and used to set local standards within Development Plans.

F Where provided, each motorcycle parking space should count towards the maximum for car parking spaces at all use classes.

G Where car parking is provided in new developments, provision should be made for infrastructure for electric or other Ultra-Low Emission vehicles in line with Policy T6.1 Residential parking.

4.50. Paragraph 10.6.1: "To manage London's road network and ensure that people and businesses can move about the city as the population grows and housing delivery increases significantly, new parking provision must be carefully

controlled. The **dominance of vehicles on streets** is a significant barrier to walking and cycling, reduces the appeal of streets as public places and has an impact on the reliability and journey times of bus services. Reduced parking provision can facilitate higher density development and support the creation of mixed and vibrant places that are designed for people rather than vehicles. As the population grows, a fixed road network cannot absorb the additional cars that would result from a continuation of current levels of car ownership and use. Implementing the parking standards in this Plan is therefore an essential measure to support the delivery of new housing across the city. In some areas, it will be necessary for boroughs to introduce additional parking controls to ensure new development is sustainable and existing residents can continue to park safely and efficiently.”

- 4.51. Paragraph 10.6.2: “Maximum standards for car parking take account of PTAL as well as London Plan spatial designations and use classes... Opportunity Areas offer the potential to coordinate new transport investment with development proposals to embed car-free or car-lite lifestyles from the outset. Differences in car use and ownership between inner and outer London are recognised, with trip distances and trip patterns sometimes making walking and cycling difficult in outer London.”
- 4.52. Paragraph 10.6.3: “The approach to parking in **outer London Opportunity Areas** should be set out in Opportunity Area Planning Frameworks, complementing the OA mode share target. Through OAPFs, parking provision can vary within an outer London OA to reflect PTAL, but the overall quantum must not exceed the relevant maximum standard.”
- 4.53. Paragraph 10.6.4: “When **calculating general parking provision within the relevant standards**, the starting point for discussions should be the highest existing or planned PTAL at the site, although consideration should be given to local circumstances and the quality of public transport provision, as well as conditions for walking and cycling.”
- 4.54. Paragraph 10.6.6: “The quantum of any parking provision, as well as its design and implementation, should have regard to the need to promote active modes and public transport use. Provision should be **flexible for different users and adaptable** to future re-purposing in the context of changing requirements, including technological change.”
- 4.55. Paragraph 10.6.7: “The general principles outlined in paragraphs 10.6.4 to 10.6.6 above apply to the parking standards set for residential uses under Policy T6.1 Residential parking.”

4.56. **Policy T6.1** (Residential parking)

A New residential development should not exceed the maximum parking standards set out in Table 10.3.

C All residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles.

D Outside of the CAZ, and to cater for infrequent trips, car club spaces may be considered appropriate in lieu of private parking.

4.57. Paragraph 10.6.13: "Given the aims of this Plan and the Mayor's Transport Strategy in reducing car use..."

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4.58. Policy **DMEI 14** on **Air Quality** and its supporting paragraph 6.63, Policy **DMT 1** on **Managing Transport Impacts** and its supporting paragraphs 8.1, 8.3, 8.6, 8.8 (reducing private car dependency to manage challenges and impact, encouraging active travel), Policy **DMT 2** on **Highway Impacts** and its supporting paragraphs 8.10, 8.11 (reducing congestion and environmental impact through reduced car use), Policy **DMT 4** on **Public Transport** and its supporting paragraph 8.19 (reduce private car use, public transport, integrating walking and cycling), Policy **DMT 5** on **Pedestrians and Cyclists** and its supporting paragraph 8.22-8.26 (free up road space, improve air quality, increase modal share of active travel, etc) are all relevant and important and inherently linked to the application of policy **DMT 6** in decision making.

5 MATERIAL CONSIDERATIONS (MC)

MC1. National Planning Policy Framework ("Framework", "NPPF") July 2021

5.1. The Framework has no force of statute, it is no more than guidance but it and its policies amount to material considerations to be taken into account under the section 38(6) decision-making process primacy being accorded to the Development Plan as the starting point of decision making (paragraphs 2 and 12).

5.2. Paragraph 8 stresses the three objectives of sustainable development that the planning system seeks to achieve: economical, social and environmental.

5.3. Paragraph 20: The NLP policies such as for housing discussed in Section 4 are strategic policies for London.

5.4. Paragraph 38 encourages positive and creative decision making to achieve sustainable development especially in areas strategically earmarked for

development and regeneration.

- 5.5. Paragraph 60: To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 5.6. Paragraph 61: To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment...which also reflects current and future demographic trends and market signals.
- 5.7. Paragraph 62 speaks to the housing mix assessment and the importance of catering to provision for newly forming households or homes for older people downsizing to free up under-occupied family housing for example.
- 5.8. Paragraph 69: 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; and
 - d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.
- 5.9. Section 6 entitled Building a strong, competitive economy takes on a renewed and stronger focus as the country starts to re-power the engine of economic growth and development from the grassroots level after the effects of the Covid-19 pandemic on unemployment and the depth and extent of recession become apparent. Paragraph 82 d) guides on how planning policies need to be flexible to allow for new working practices and to enable a rapid response to changes in economic circumstances.
- 5.10. Paragraph 88: When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 5.11. Paragraph 104 encourages opportunities for the promotion of walking, cycling and use of public transport. The adverse environmental impacts of traffic and the use

of cars has come into sharper focus during the Covid-19 pandemic. To that end the Secretary of State for Transport issued additional statutory guidance (Traffic Management Act 2004: network management in response to Covid-19) updated on 23 May 2020. The Mayor and Transport for London have consequently issued guidance to London Boroughs to implement this new policy.⁸ The introduction contains the link to the statutory guidance where the Secretary of State for Transport says in the Foreword: *"The coronavirus (COVID-19) crisis has had a terrible impact on the lives and health of many UK citizens, as well as severe economic consequences. But it has also resulted in cleaner air and quieter streets, transforming the environment in many of our towns and cities... We recognise this moment for what it is: a once in a generation opportunity to deliver a lasting transformative change in how we make short journeys in our towns and cities. According to the National Travel Survey, in 2017-18 over 40% of urban journeys were under 2 miles – perfectly suited to walking and cycling. Active travel is affordable, delivers significant health benefits, has been shown to improve wellbeing, mitigates congestion, improves air quality and has no carbon emissions at the point of use. Towns and cities based around active travel will have happier and healthier citizens as well as lasting local economic benefits. The government therefore expects local authorities to make significant changes to their road layouts to give more space to cyclists and pedestrians. Such changes will help embed altered behaviours and demonstrate the positive effects of active travel. I'm pleased to see that many authorities have already begun to do this, and I urge you all to consider how you can begin to make use of the tools in this guidance, to make sure you do what is necessary to ensure transport networks support recovery from the COVID-19 emergency and provide a lasting legacy of greener, safer transport."* This guidance points away from the use of cars and undue requirements for car parking especially for smaller units.

- 5.12. As an aside from the NPPF, the Appellant also draws attention to the Department of Transport which in March 2020 issued a document titled Decarbonising Transport – Setting the Challenge.⁹ In the Ministerial Foreword, the SoS for Transport sets out a vision of a beneficial transport system thus: *"Public transport and active travel will be the natural first choice for our daily activities. We will use our cars less and be able to rely on a convenient, cost-effective and coherent public transport network."* This was followed up in August 2020 by "a toolkit of seven evidence-based policy briefings prepared for the Local Government Association." The Appellant submits in evidence three of those briefings namely 'Climate smart parking policies', 'The role of buses' and 'Growing cycle use' which highlight the strategic metamorphosis to active modes of transport to achieve a

⁸ See Appendix 7

⁹ See Appendix 8

number of objectives.¹⁰

- 5.13. Section 11 is titled Making effective use of land; the Good Growth Objectives and Housing policies of the NLP align with these national aims. Paragraph 124 d) speaks to planning policies and decisions supporting development that supports the efficient use of land through promotion of regeneration and change while respecting local character. This is what strategic policies **D1** (and paragraph 3.1.7), **D3** and **H2 B 1**) of the NLP are trying to achieve. Paragraph 125 supports development that makes optimal use of the potential of available sites while creating beautiful and sustainable places – the re-instatement of symmetry as a result of instant proposed development comes under that ambit of aesthetic beauty in the street scene.
- 5.14. Section 12 seeks to achieve good design and paragraph 130 c) seeks planning decisions to ensure developments 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). (emphasis added).

MC2. Past appeal decisions and the principle of consistency

- 5.15. In *Tesco Stores Ltd*, Lord Reed also said the following at [18] and [19]:

[18] "...In order to carry out that exercise, the planning authority required to proceed on the basis of what Lord Clyde described as "a proper interpretation" of the relevant provisions of the plan...The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context."

¹⁰ See Appendix 9

[19] "...As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, 780 per Lord Hoffmann). Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean."

- 5.16. In *DLA Delivery Ltd v Baroness Cumberlege of Newick and SSCLG* [2018] EWCA Civ 1305, the Court of Appeal tackled the principle of consistency in planning decision making. The Appellant refers the inspector to paragraphs [28], [29] and [34] of the judgement (per Lord Justice Lindblom).
- 5.17. The Appellant presents a selection of recent appeal decisions where Local Plan policies DMHD 1 and DMT 6 have been considered.¹¹ They are self-explanatory and for ease, the Appellant has highlighted the relevant remarks within the decision letters showing the correct interpretation and consistent approach which the planning inspectors have adopted in decision making. In particular, reference is made to paragraphs 17-20 of APP/R5510/W/20/3250434 and paragraphs 8-9 of APP/R5510/W/20/3247712.

6 CONCLUSION

- 6.1. The LPA has not determined the application within the statutory timeframe notwithstanding as advised by the case officer to the Appellant, the proposal was to be put to the planning committee with a recommendation for approval. Under this re-submitted proposal that case officers have advised they will recommend approval to planning committee, the ground floor is flush with the existing wall but there is to be a set-back at first floor similar to that under the extant permission. Hence, there are no issues of difference the Appellant needs to address.
- 6.2. The Appellant submits that the words of Lord Clyde in his speech in ***City of Edinburgh Council v Secretary of State for Scotland 1998 SC (HL) 33, [1997 1 WLR 1447*** are relevant in sound decision making (emphasis added):

¹¹ see Appendix 10

"In the practical application of section 18A it will obviously be necessary for the decision maker to consider the development plan, **identify any provisions in it which are relevant to the question before him and make a proper interpretation of them.** His decision will be open to challenge if he **fails to have regard to a policy in the development plan which is relevant to the application or fails to properly interpret it.** He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. **There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will require to assess all of these and then decide whether in the light of the whole plan the proposal does or does not accord with it. He will also have to identify all the other material considerations which are relevant to the application and to which he should have regard. He will then have to note which of them support the application and which of them do not, and he will have to assess the weight to be given to all of these considerations [...]."**

- 6.3. After the inspector has taken all the above matters and the accompanying evidence submitted in the overall planning balance, it is respectfully requested that this appeal be allowed and planning permission for the application be granted for this incremental housing proposal in this location and which the Appellant submits accords with the development plan taken as a whole and/or the material considerations discussed in this statement.
- 6.4. It is submitted that the Framework has the same policy aims variously as highlighted in this statement.

7 LIST OF APPENDICES

1. email exchange between Appellant and case officer
2. email exchange between case officer and Appellant
3. Streetcheck census data for UB10 9DJ
4. 2018 Approved planning permission, report and plans
5. New London Plan March 2021 (extracts)
6. Inspector's_Report_on Hillingdon Local Plan Part 2
7. London Streetspace Plan – Guidance for Boroughs May 2020
8. Decarbonising transport: setting the challenge
9. Decarbonising: parking, buses and cycle use
10. Past PINS Appeal Decision Letters involving the LPA