



## Appeal Decision

Hearing held on 22 and 23 March 2022

Site visit made on 23 March 2022

**by J Bowyer BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 April 2022**

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**Appeal Ref: APP/T5150/W/21/3272201**

**96 High Road, London NW10 2PP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Gargreen Limited against the decision of the Council of the London Borough of Brent.
  - The application Ref 18/4904, dated 21 December 2018, was refused by notice dated 19 October 2020.
  - The development proposed is 'part demolition of existing buildings and retention of the original police station building comprising flexible commercial space (Class A1, D1, B1a, B1b, B1c) and redevelopment of the site to provide 28 residential units within a building extending up to 4 storeys together with private and communal space, waste/cycle storage, associated landscaping and public realm (amended scheme)'.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Gargreen Limited against the Council of the London Borough of Brent. This application is the subject of a separate Decision.

### Preliminary Matters

3. As set out on the planning application form, the proposal originally included 30 residential units. However, the scheme was amended prior to the Council's decision, with alterations including a reduction in the number of dwellings proposed to 28. The revised description of development entered on the appeal form and stated on the Council's decision notice reflects the amendments made, and I have therefore used this description in the banner heading above.
4. The appeal submission included a set of revised plans which were not before the Council at the time of its decision. These include an updated ground floor plan which would alter dwelling 00\_07 from a two-bedroom to a three-bedroom dwelling. The Council indicated that this would address the conflict with policies of the development plan cited within its fourth reason for refusal. However, the plan shows associated changes to the allocation of external amenity space. Although the overall quantum of external space on the site would not change, the area of communal space available would be reduced. I consider that this would exacerbate the harm to the living conditions of the occupiers of other dwellings within the development identified in my reasoning on the third main issue below, and accordingly I do not find that it would be appropriate to consider this updated ground floor plan as part of the appeal.

5. The revised plans also include the addition of balconies to dwellings 03\_01 and 03\_02 and the repositioning of a balcony to unit 01\_08. These changes could have implications in terms of overlooking to neighbouring properties, and would in my view materially alter the development proposed. The appellant confirmed at the Hearing that the revised plans have not been subject to consultation with interested parties, and while representations submitted by some neighbouring occupiers refer to these changes, I cannot therefore be sure that all potentially interested parties have had the opportunity to comment. Furthermore, the appellant accepted at the Hearing that the additional balcony to dwelling 03\_01 is not illustrated on the relevant revised elevation. As a result, I do not consider that the effect of this alteration has been made sufficiently clear. For these reasons, I consider that potentially interested parties could be disadvantaged if I were to have regard to the revised plans. In the interests of fairness and with regard to the 'Wheatcroft' principles<sup>1</sup>, I have therefore determined the appeal on the basis of the plans that were before the Council at the time of its decision.
6. Since the Council determined the application, the Brent Local Plan 2019-2041 (BLP) was adopted and superseded policies of the Core Strategy 2010 and Development Management Policies 2016 referred to within the reasons for refusal. In addition, the London Plan 2021 (LP) has been published, superseding the previous iteration. I have considered the appeal on this basis and in light of comments made by the parties regarding the implications of the BLP and LP for the proposal.
7. Prior to the Hearing, a planning agreement containing obligations intended to address the Council's fifth reason for refusal was submitted. The Council indicated that it was satisfied this would address its requirements, and a signed and executed copy of the agreement was submitted shortly after the Hearing closed. Consequently, these matters are not in dispute, and I have framed the main issues accordingly.
8. Finally, I have noted concerns raised by interested parties regarding discrepancies in the plans and information submitted, including in relation to the representation of neighbouring properties. Nevertheless, having inspected the site and surroundings and taken into account all of the evidence before me, I am satisfied that the plans are sufficiently clear to inform my assessment of the development proposed.

## **Main Issues**

9. The main issues are:
  - i) the effect of the proposal on the character and appearance of the area;
  - ii) the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to privacy; light and outlook for occupiers at 6 and 8 Huddleston Road; and light and outlook for occupiers at 100 High Road;
  - iii) whether or not living conditions for future occupiers of the development would be acceptable with particular regard to the provision of external amenity space; and
  - iv) whether or not the proposal would provide an appropriate mix of housing types having regard to the requirements of the development plan.

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

## Reasons

### ***Character and Appearance***

10. The appeal site is located at the junction of Huddlestone Road with High Road in Willesden Town Centre, and is allocated within the BLP for mixed-use employment and residential development. Close to the junction and fronting High Road, the site includes the former Willesden Police Station building which is dated by the appellant to 1896. There are later additions to the side and rear of the building, and the site also includes a pair of semi-detached dwellings which were built as police accommodation, outbuildings, and a rear yard with a gated access from Huddlestone Road.
11. The site is within the Willesden Green Conservation Area (CA) which has a mostly linear form focussed around High Road and Walm Lane. My observations of this area are consistent with the Willesden Green Conservation Area Appraisal which notes that the CA is generally characterised by late-Victorian architecture, with buildings predominantly comprising parades of ground floor units in mixed-uses with residential and office accommodation above. Although most are three-storeys, overall heights vary, and there are also a number of four-storey buildings present, including marking corners. Institutional buildings including those on the appeal site, the Willesden Green Baptist Church to the opposite side of Huddlestone Road, the Willesden Green Library, and a distinctive cluster of listed buildings at St Andrew's Church, School and Vicarage add some further diversity to the overall layout, form and scale of buildings along the High Road. This variety contrasts with the remainder of Huddlestone Road which is outside the boundary of the CA, and which is generally characterised by two-storey terraced properties of similar appearance which are arranged on consistent building lines, contributing a strong sense of uniformity to much of the street scene.
12. The appeal proposes part-demolition of the police station building, and the demolition of the associated outbuildings and dwellings. The retained part of the police station building would be converted to provide flexible commercial space, while a broadly 'L-shaped' building with frontages along High Road and Huddlestone Road would be positioned to the rear of the retained building as it fronts High Road, and would accommodate 28 dwellings.
13. It is common ground between the main parties that the former police station comprises a non-designated heritage asset under the terms of the National Planning Policy Framework (the Framework), which advises that the effect of the proposal on the significance of this asset should therefore be taken into account. The Council has not raised concerns that the proposed alterations to the police station building or demolition works would unacceptably harm the significance of the asset, nor the character or appearance of the site or area. Based on my observations at my visit and the evidence before me including on the heritage significance of the structures that would be demolished, I agree with the appellant these elements of the proposal would result in only negligible harm to the significance of the asset. In my judgement, this harm would be considerably outweighed by the benefits of the proposal including most notably the delivery of housing. I therefore see no firm reason to reach a different view to the Council on this point.
14. The proposed residential building would span nearly the full width of the site along High Road as well as a fairly significant proportion of the depth along

Huddlestone Road. It would be of larger footprint, bulk and mass than the existing development on the site and the retained police station, and would also be taller, with the majority of the building apart from a two-storey section closest to 6 Huddlestone Road comprising four-storeys.

15. Nevertheless, the building would be positioned to the rear of the police station. This would retain views of the police station building and its presence on the corner, and would be similar to the arrangement at Willesden Green Library nearby where a new library building of significantly greater height and overall scale sits as a backdrop behind the original Arts and Crafts style building. The development would also be set behind the main front elevation of the adjacent building at 100 High Road, and much further back from High Road than the Baptist Church. These set backs would significantly reduce the visual impact of the building in views along the street scene, and its prominence.
16. The Council also conceded at the Hearing that the development would be lower than the main roofs of St Andrew's Church and Willesden Green Baptist Church, and lower still than the spires to these buildings. It would also be lower than Faith Court which sits adjacent to the Baptist Church. While the development would be slightly taller than 100 High Road, the difference would not be large, and it would be a similar height at the eaves. As a result, and having regard to the High Road roofline which is not uniform and which includes other four-storey development, including on corners, I do not find that the height of the building in this street scene would be striking. Irrespective of the overall scale of the development, I further consider that the lower height of the building in combination with its set back from the High Road frontage and relative to adjacent buildings would ensure that it would be appropriately subservient to both the Baptist Church and St Andrew's Church, maintaining their prominence in the street scene.
17. The set back of the building from High Road would also provide for areas of landscaping to the front of the building, including around retained trees, which in my judgement would offer a suitable setting to balance the scale of the building. The varied roofscape and the use of stepped and angled façades would additionally help to break up the building's physical bulk and mass, while the arrangement of balconies and fenestration would provide for further visual relief and texture that would lessen the impression of scale and the visual impact of the development. In my view, the resulting size of the development would not appear out of keeping with the mixed development along High Road, and I am satisfied that the overall coverage of the site would not be excessive or at odds with its surroundings.
18. I acknowledge that there would be more of a distinction in the scale of the development against two-storey dwellings on Huddlestone Road. However, the height of the building would step down to two-storeys adjacent to the closest dwelling at 6 Huddlestone Road providing for a sense of transition to these neighbours. Moreover, the development would be seen in the context of the contrast that already exists between larger buildings on High Road and residential development on streets that branch from it, and would be similar to the opposite side of Huddlestone Road where the Baptist Church is also of notably greater height and scale than neighbouring dwellings. Given these factors, I do not find that the scale of the development would be inappropriate or unduly conspicuous when seen from Huddlestone Road.

19. Although the development would be larger than the existing buildings on the site, there is no firm evidence before me that this would cause harm to the significance of the retained police station building as a non-designated heritage asset. I am further satisfied that the above factors taken together would ensure that the scale of the development would not appear over-large on the site, and that it would not compete with the status or appear unduly dominant or imposing against other buildings in the vicinity of the site including the Baptist Church and St Andrew's Church. I can therefore see no reason that the development would harmfully disrupt the hierarchy or cohesion of the surrounding street scenes.
20. In terms of layout, the proposal would result in the loss of the existing street frontage gap to the side of No 6 which the Council suggests offers a visual buffer to commercial buildings on High Road. There is a similar gap to the side of 3 Huddlestone Road opposite the site. However, I also saw at my visit that there were a few other examples of buildings on corners of High Road which adjoined dwellings on adjacent streets, albeit some at single-storey scale or in the case of 1 Lechmere Road as a first-floor above an undercroft access. While the existing street frontage gap to the side of No 6 may have been long-established, I am not persuaded from the evidence before me that it is a characteristic feature which adds to the distinctiveness of the area, and I do not find that its loss would be out of keeping or harmfully disruptive to the overall pattern of development.
21. The footprint of the building would broadly reflect the front building line along Huddlestone Road, and would be on a similar alignment to the police station and Baptist Church, albeit set back from High Road. While it would be on a different alignment to adjacent development at 100 High Road, the upper part of the High Road façade would include angled sections of comparable orientation, providing for a sympathetic reference and visual connection to the development to the west so that I find that the transition would not be discordant or visually jarring.
22. I have had regard to further concerns raised by the Council and interested parties in relation to the appearance of the building, including that the roof geometry and fenestration would be out of keeping. I acknowledge that the appearance would not directly replicate existing development nearby. However, the appellant's evidence demonstrates how the design responds to the constraints of the site and distinctive elements of local character, including through angled gables, arched windows and use of external materials that would match those of the police station and other buildings in the vicinity. I am satisfied that the arched windows would not compete with or draw unwarranted attention from nearby churches given their more contemporary take without such ornate surrounds, and while the flat sections of the roof would be somewhat unusual at this height, they would not be readily apparent from the street scenes. The reduction in height of development along Huddlestone Road would be achieved through a simple step down in a similar arrangement to development opposite at the Baptist Church, and would not in my view appear contrived or uncharacteristic. In my judgement, the detailing and overall appearance of the building would draw successfully on visual cues from the surrounding area, and I find that it would sit comfortably within its context.
23. For all of these reasons, I find that the development would make effective use of the site while complementing and relating positively to its surroundings.

24. In reaching this view, I have had special regard to the desirability of preserving the setting of nearby listed buildings at St Andrew's Church, Vicarage and School in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act). From the evidence before me, these buildings are listed largely for their architectural and aesthetic interest, and their historic interest as community buildings with the Church occupying a prominent location on a bend in High Road. The appeal site is within the setting of these buildings, but the proposal would not adversely affect the ability of the public to experience or interpret their heritage significance on any of the approaches, and I am satisfied for the reasons above that the development would not compete with or dominate the listed buildings so as to detract from their importance. I therefore find no harm in this regard.
25. I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the Willesden Green CA in accordance with section 72(1) of the LBCA Act. It seems to me that the significance of the Willesden Green CA is informed in large part by the quality of the buildings, including listed buildings which act as landmark buildings within the area, and the pattern and relationships between these as part of a Victorian commercial centre of distinctive character and appearance. For the reasons given above, I find that the proposal would not harmfully erode these qualities or the contribution that the site makes to the significance of the CA. Nor would it undermine the character or features which contribute to the CA's significance including the existing police station as a non-designated heritage asset.
26. Moreover, it seems to me that heritage assets are a key element influencing the context of the site. I do not consider it credible in this case that the proposal could be overly dominant, fail to pay appropriate regard to its context, and unduly detract from the character and appearance of the street scene and area as asserted by the Council without also harming the significance of any of these assets. That the Council has not identified harm to the significance of designated or non-designated heritage assets as a result of the development lends further support to my view that the effect of the proposal on the character and appearance of the area overall would be acceptable.
27. For the reasons set out above, I find that the proposal would be a sympathetic addition that would preserve local distinctiveness, and I conclude on this main issue that there would not be unacceptable harm to the character or appearance of the area. In this regard, the development would comply with Policies BD1 and DMP1 of the BLP and Policy D3 of the LP insofar as they together broadly seek high quality design, development that respects and complements historic character and that responds positively to local distinctiveness and the existing character of a place. It would also comply with the Brent Design Guide Supplementary Planning Document (SPD) 1 2018 which identifies principles for development including that new development height, massing and façade design should positively respond to existing context and scale, facilitating good urban design. For the same reasons, I find no conflict with Section 12 of the Framework which promotes good design, seeking to ensure that developments are visually attractive and sympathetic to local character, adding to the overall quality of an area.

## ***Living Conditions – Neighbouring Occupiers***

### *Privacy*

28. There would be views from windows and balconies to the development's north elevation towards the rear gardens of dwellings on Huddlestone Road. However, windows to these neighbours would not be directly overlooked, and separation to the boundary with the closest garden to 6 Huddlestone Road would exceed the 9m minimum generally sought by the Design Guide SPD. Despite the number of windows and balconies and their relative height, potential views would be similar to those that are often found in built-up areas such as this and that are already available between neighbouring properties and gardens. I find in this context and having regard to the separation to the boundary with No 6 that balconies and windows to the north elevation of the building would not result in a significant loss of existing privacy or intrusive overlooking so as to diminish the quality of life of neighbouring occupiers on Huddlestone Road, even if the balconies were used for prolonged periods.
29. Balconies to the flats closest to the boundary with 100 High Road would project beyond the rear elevation of this neighbour at its first and second-floor levels. I am satisfied though that screening to the closest sides of these balconies could be secured by a planning condition, and would ensure there would not be opportunities for views from the balconies back onto the windows at the rear of No 100 so as to cause a harmful loss of privacy.
30. The main outlook from balconies and windows to the west elevation of the development would not face directly onto neighbouring habitable room windows or amenity spaces. There would be oblique views towards gardens on Huddlestone Road, but for the most part these would be similar to existing views that are present between neighbouring dwellings.
31. However, there would be a large terrace adjacent to the boundary with 6 Huddlestone Road serving the closest second floor flat. The appellant has suggested that 1m deep planters could be provided around the terrace. This would prevent users of the terrace stepping close to the edges, and I appreciate that eyeline-level views from the terrace would largely be outwards over the top of neighbouring properties. Be that as it may, it seems to me that there would still realistically be potential for some views down onto space closest to the rear of 6 and 8 Huddlestone Road in particular, and there is no compelling evidence before me to demonstrate that such views would not be possible. Even if this had been demonstrated however, I consider given the very close proximity of the terrace to the boundary that there would remain a very strong perception from neighbouring sites that such views would be possible and a consequent feeling of being overlooked.
32. The appellant agreed to a planning condition that would require screening to the side of the terrace in accordance with details to be submitted to and approved by the Council. While this could offer scope to restrict outward views to the side of the terrace, neighbouring occupiers would still be likely to have an awareness of people using the terrace in an elevated position very close to the boundary. In addition, there would remain views from the rear of the terrace towards the neighbouring gardens. Although these views would be oblique, I consider that the position of the terrace immediately adjacent to the boundary combined with its projection notably beyond the rear elevation of No 6 would result in an unusual degree of overlooking onto the central part of

the garden to this neighbour. I find that this would be highly intrusive, and that the loss of privacy would tangibly diminish the enjoyment of the space with a material adverse impact on the living conditions of the occupiers of No 6.

*Light and Outlook for Occupiers at 6 and 8 Huddlestone Road*

33. At the Hearing, the Council clarified that its concerns about light and outlook for occupiers on Huddlestone Road primarily related to No 6, but that it also had concerns about overshadowing to the garden of 8 Huddlestone Road. I have also noted concerns raised by interested parties in relation to the effect on light to living spaces within the rear of No 8.
34. The closest part of the development would extend some way beyond the rear of No 6 at two-storey height, and would be contrary to guidance within the Design Guide SPD that new development should not extend further beyond the neighbouring building line than half the distance to the centre of the nearest habitable room. The four-storey part of the development would also result in an additional, albeit relatively slight, breach of guidance in the SPD that the height of new development should normally be set below a line of 45 degrees at the garden edge, measured from a height of 2m.
35. Nevertheless, the SPD states in relation to light that the use of 'Site Layout planning for daylight and sunlight: a guide to good practice' report 209 by BRE (BRE209) is supported. The appeal submission includes an updated Daylight and Sunlight Report March 2021 (DSR) carried out in accordance with BRE209 which assesses measures including 'Vertical Sky Component' (VSC) and 'No Sky Line' (NSL) as indicators of daylight to windows and rooms of neighbouring properties, and 'Annual Probable Sunlight Hours' (APSH) as an indicator of sunlight.
36. The results of the DSR show that all but one of the windows to the rear of Nos 6 and 8 would meet BRE targets for retained VSC. The window to No 6 that would not meet the target is part of a bay with other windows that would maintain VSC levels in excess of the BRE targets. In addition, the NSL assessment indicates that rooms to No 6 would retain good levels of daylight, and the APSH assessment indicates that levels of sunlight to both Nos 6 and 8 would remain good. Despite some reductions in light to the existing windows to Nos 6 and 8, the DSR therefore indicates applying the BRE guidance that this would not be to a level that would be likely to be material to occupiers. I have no compelling evidence disputing the findings of the DSR, and while I appreciate that the affected windows may serve well-used main habitable rooms, I do not find that there would be detriment to the living conditions of the occupiers of Nos 6 or 8 through loss of light to existing windows.
37. I have been advised that there is consent for a loft conversion including glazing to the rear of No 6 which is not considered within the DSR. This glazing was not present at the time of my visit, and I cannot be certain that it will be implemented. Nevertheless, having regard to the assessments included within the DSR and the relationship of the development with the roof level of No 6, I do not consider that the proposal would be likely to result in unacceptable impacts on light.
38. The DSR also includes an assessment of overshadowing to the gardens of Nos 6 and 8 in accordance with the BRE recommended 'two-hour sun contour analysis'. The Council has not challenged this assessment which shows that

while there would be a reduction in the area of the garden of No 8 receiving at least 2 hours of sunlight on 21 March, this would be very slight, and the remaining well-sunlit area would exceed 0.8 times its former value complying with BRE guidelines. I am not therefore persuaded that additional overshadowing would be likely to be noticeable or to constrain the attractiveness of this space in comparison to the existing situation. The DSR further indicates a significant reduction in overshadowing to the garden of No 6 in comparison to the existing situation.

39. The guidance within the Design SPD is just that, and while it may provide an indication of harm, this is not an inevitable conclusion should a proposal not accord with its provisions. Despite some breaches of the guidelines within the Design Guide SPD, I find for the reasons above that the proposal would not in this case cause harmful overshadowing or loss of light to Nos 6 and 8 so as to diminish the quality of life of occupiers of these dwellings.
40. Be that as it may, outlook is a distinct concept, and may still be adversely affected by a development even where there would not be harmful light loss.
41. At present, there is a pitched-roof building on the boundary of the appeal site with No 6 which extends significantly beyond the rear of an outrigger projection to this neighbour. Closest to the boundary, the proposed development would not project quite as deep beyond the rear of No 6 as the existing structure. The two-storey section at the rear of this part of the proposed development would also be lower than the ridge to the existing building on the boundary.
42. However, the ridge to the existing pitched roof building runs perpendicular to the boundary a little to the rear of No 6, and the roof reduces in height towards the eaves at the deepest part relative to the rear of this neighbour and alongside its outrigger. While the rear part of the development would have a lower maximum height, it would be taller than the eaves of the existing building with a flat roof form, and would result in an overall increase in the bulk and mass of the upper part of the development alongside the boundary. This would be particularly noticeable at the deepest part of the development relative to No 6 where there would be a fairly large increase in height over the existing eaves. In addition, the provision of screening or enclosure that would be likely to be necessary around the flat roof in conjunction with its proposed use as a terrace would further increase the overall height of this part of the development. In my judgement, these increases would far offset the benefit of the slightly reduced depth of development along the boundary.
43. The appellant suggested at the Hearing that there would not be a change in outlook for windows to the rear of No 6 at ground and first-floor level. At my visit though, I saw there were views from these windows of open sky above the eaves of the existing development. The additional height and bulk of the deepest part of the development would at least partly close these views resulting in an appreciable increase in the impression of enclosure and a further diminution of outlook. In addition, the partial second-floor level to the closest part of the development would also have a flat roof at the rear which would extend at considerable height along the boundary with No 6 to a similar depth as its outrigger.
44. Taken as a whole, I find that the closest part of the development would be a highly imposing and dominant feature when seen from the garden of No 6. It would also be a significant presence in views from glazing to the consented

dormer at No 6 should this be implemented in future. The main outlook from the dormer may be along the rear garden, but I find that the bulk of the development would still result in a notable sense of enclosure, albeit that the weight that I give to this factor is limited given that I cannot be sure that the dormer would be implemented.

45. I recognise that the proposal also includes a reduction in the height of the existing boundary wall and the removal of the outbuilding that runs along a significant proportion of the depth of No 6's garden. I am also satisfied that there would be sufficient separation to ensure that the four-storey part of the building would not in itself be unduly dominant. Nevertheless, this part of the development would essentially span the depth of the garden to No 6. Despite the separation, there would consequently remain a degree of enclosure alongside the garden that I find would moderate the benefit to outlook offered by the removal of the outbuilding and the reduction in the height of the wall.
46. In my judgement, the proposal when taken as a whole would be dominant and imposing, and would cumulatively result in a distinct worsening in outlook for occupiers of No 6 overall in comparison to the existing situation which would cause clear harm to their living conditions. This harm would not be mitigated or outweighed by improvements to light or overshadowing.

*Light and Outlook for Occupiers at 100 High Road*

47. In its written evidence, the Council suggested that windows to the side of 100 High Road included the only window serving the living room to the second-floor flat, and a window that provided an important source of light to the main bedroom to the first-floor flat. However, it accepted at the Hearing that all of the windows to the side of No 100 are secondary windows to rooms with other windows to either the front or rear of the building. On that basis, the Council confirmed that it no longer considered there would be an unacceptable impact on outlook for occupiers of No 100. Having regard to the availability of alternative open aspect to the front and rear of the affected rooms, I agree.
48. The DSR indicates that the windows to the side of No 100 and a further first-floor rear window would fall below BRE guideline targets for VSC. However, all of the rooms affected would be served by other windows that would retain VSC levels in excess of targets, and the rooms would continue to meet NSL targets indicating that levels of daylight would remain adequate. All relevant rooms would also retain levels of sunlight consistent with BRE targets.
49. The Council agreed at the Hearing that light for the bedroom to the first-floor flat would be acceptable, but maintained concerns over the effect on light for the open plan living room/kitchen/dining rooms. These rooms are fairly deep, but the DSR assessment of NSL nevertheless shows that 100% of their area would retain skyline, and therefore light would reach all of the space. The Council has not sought to dispute the DSR assessment, and nor has it offered any compelling evidence to the contrary. I can therefore see no firm reason to discount the findings of the DSR that while there would be some reductions in light to windows to No 100, the amount of daylight received within each of the rooms will remain high and would meet guideline standards indicated by BRE.
50. Notwithstanding the very close proximity of the development to the windows to the side of No 100, I find for these reasons that the proposal would not harmfully reduce levels of light or outlook for the occupiers of these dwellings.

### *Conclusion on Living Conditions for Neighbouring Occupiers*

51. Subject to a planning condition, I have found that there would not be unacceptable harm to the living conditions of the occupiers of dwellings at 100 High Road through loss of privacy, light or outlook. I am also satisfied that there would not be harmful loss of light or overshadowing to occupiers at 6 or 8 Huddlestone Road.
52. However, I conclude on this main issue that there would be a loss of outlook and privacy for occupiers of 6 Huddlestone Road which would in combination cause significant harm to their living conditions. Consequently, the development would conflict in this regard with Policy DMP1 of the BLP which includes a requirement that development provides high levels of amenity. The proposal would also be contrary to advice within the Design Guide SPD which guides that development should protect privacy and amenity for existing residents and minimise the impact of development on surrounding properties and spaces, and it would not accord with the requirement within the Framework for a high standard of amenity for existing and future users.
53. I acknowledge that the site is allocated for development, and that some change from the existing situation should be expected. However, I do not find that this is a compelling justification to allow change that I have found would result in unacceptable harm to the living conditions of the occupiers of 6 Huddlestone Road in light of the clear requirements within the development plan seeking adequate living conditions for neighbouring occupiers.

### ***Living Conditions – Future Occupiers***

54. The appellant has not disputed the Council's evidence on the quantum of external space that would be provided for individual dwellings within the development. This indicates that only 4 of the 28 dwellings (and none of the three-bedroom dwellings which would be considered family-sized homes under the terms of BLP Policy BH6) would meet standards for external private amenity space specified within Policy BH13 of the BLP. The Council's evidence also points to a considerable cumulative shortfall of over 300sqm against the 590sqm total requirement for private amenity space that the parties agreed at the Hearing would be sought under BLP Policy BH13.
55. The supporting text to Policy BH13 anticipates that there may be instances where sufficient private amenity space cannot be achieved individually for each dwelling within a development, and advises that the remainder should then be supplied in the form of communal amenity space. The proposal includes a courtyard garden to the rear of the building which would offer communal space to residents, but this would still result in a shortfall in external amenity space provision of over 100sqm which I find would be significant.
56. The appellant has suggested that spaces along the High Road frontage and around the retained police station would provide additional amenity space for occupiers. I do not doubt that these spaces would offer benefits in terms of the appearance of the street scene and site. However, they would all be of fairly limited size affecting their functionality, particularly those around the police station building where I agree with the Council that their position directly adjoining a building in commercial use would be likely to further deter use as amenity space by residents. Even if the commercial uses included a café with outdoor seating, this would not be exclusive space for the enjoyment of

residents of the site so that I consider it could reasonably be described as communal amenity space.

57. Moreover, the spaces to the front of the site would be open to view and access by passers-by along High Road, limiting their attractiveness and value as communal space. Given these factors, I do not find that these areas would realistically contribute in any meaningful way to meeting the needs of residents' of the development for external amenity space. Accordingly, I do not consider that they should be included in the calculation of the quantum of communal amenity space provision. In any event, even if I were to accept the appellant's position and include these spaces, there would still be a fairly significant shortfall against the BLP Policy BH13 requirement.
58. The supporting text to BLP Policy BH13 further recognises that meeting the overall minimum external space requirement might be challenging, and that flexibility could be allowed where it can be shown that all reasonable options for provision have been considered. In such circumstances however, it advises that the quality of any communal space will need to be particularly high, and proposals will need to demonstrate how the level of amenity space provided is considered to be acceptable taking into account factors such as accessibility of dwellings to their own amenity space and its quality, the amount and quality of communal space, proximity to other areas of open space nearby and internal amenity spaces.
59. Taking these points in turn, I appreciate the design justification offered by the appellant and that options for provision of amenity space are limited by the constraints of the site. Even so, the amended plans submitted with the appeal showing an additional balcony suggest there may be at least some potential for additional provision, albeit that this would need to be the subject of appropriate consultation and full assessment. Even if I were to conclude that all reasonable options for provision had been exhausted though, beyond the fact that it is sheltered from the street and associated noise and vehicle emissions, there is little firm detail before me to demonstrate that the proposed communal amenity space provided would be of particularly high quality.
60. In addition, 3 third-floor flats (one of which would be a three-bedroom and thus family-sized property) would have no private outdoor space at all. Six further dwellings (including 2 other three-bedroom properties) would also fail to meet even the lower standards for private outdoor space which Policy D6 of the LP indicates should be required where there are no higher local standards. Occupiers of these dwellings would derive no benefit from private amenity spaces exceeding BLP or LP standards that would be provided for some other dwellings in the development.
61. The limited dimensions and triangular shape of balconies to 6 first and second-floor flats fronting High Road would also result in somewhat awkward spaces, restricting their overall practicality and value to future occupiers. While 4 of these flats would have additional balconies to the rear, these would be accessed through bedrooms. Irrespective of whether access to these balconies would be possible from more than one bedroom, their position adjacent to sleeping spaces would be likely, in at least some instances, to affect how and when they could be used. It would also be contrary to guidance within the supporting text to BLP Policy BH13 that private amenity space should be accessible from a main living room.

62. No internal amenity space is proposed. I appreciate that the internal areas of the dwellings themselves would meet, and in many cases exceed, relevant standards. However, it became clear at the Hearing that 3 of the dwellings with a shortfall in external space against the minimum requirements specified by LP Policy D6 would only meet, rather than exceed, internal space standards. These would be at third-floor level benefitting from high ceilings that would offer a sense of spaciousness, and would be dual aspect. Even so, the availability of internal space would not address residents needs for outdoor space. Having regard to the overall shortfall in communal space provision on the site which would reduce the overall availability of alternative external space and the number of occupiers who would rely on it, I am not persuaded that the quality or quantity of internal space would be sufficient to compensate for shortfalls in external space provision of the scale proposed across the scheme.
63. The Council has also highlighted that the site is some distance from areas of public open space, and this would restrict convenient access for occupiers of the site, particularly those with young children.
64. The weight that I give to reports referred to by the Council at the Hearing linking external space provision to physical and mental health outcomes is very limited given that I have not been provided with full details of the research. Nevertheless, BLP Policy DMP1 and LP Policy D6 both refer to external space provision/external amenity alongside internal provision.
65. Taking all of the above into account, I am not satisfied that the proposal demonstrates that the level of amenity space provided would be acceptable. In my judgement, the extent of the shortfalls in the quantum of private amenity space for individual dwellings taken together with the significant shortfall in external space across the scheme as a whole would harmfully diminish the wellbeing and quality of life of occupiers of the development, and I am not satisfied that the proposal would offer suitably high quality accommodation. I find that there would be particularly significant adverse effects on the occupiers of the three-bedroom dwellings which are more likely to include families with children; and those dwellings that would not meet even the LP Policy D6 minimum requirements.
66. I have noted examples of developments referred to by the appellant where flexibility has been applied to external space requirements, but the Council indicated that these schemes included high quality communal space, were close to large areas of open space and that minimum standards in the LP were met. This was not disputed by the appellant, and they are not therefore directly comparable to the development before me.
67. I therefore conclude on this main issue that the proposal would fail to provide acceptable living conditions for future occupiers of the development with particular regard to the provision of external amenity space, and it would conflict with Policies D6 of the LP and Policies DMP1 and BH13 of the BLP. Amongst other things, these policies include requirements for high levels of internal and external amenity, and for external private amenity space to satisfy the needs of occupiers of development.

### ***Housing Mix***

68. Policy BH6 of the BLP states that for every 4 dwellings included within developments, at least one must be 3 bedrooms or more. It would therefore

seek 7 three-bedroom properties as part of the development. The proposal includes 6 three-bedroom dwellings, equivalent to 21.4% of the total, and would therefore conflict with this requirement.

69. In considering needs for housing, the Council's Strategic Housing Market Assessment Update 2018 (SHMA) highlighted that families with children are projected to remain a significant group in the borough, and commented that they will require family-sized two or three or more bedroom homes. The proposal includes 6 two-bedroom four-person dwellings, and I do not doubt that these could be suitable for some families. I also note that 4 would have internal areas larger than required standards for properties of this size, and in some cases in excess of the required standards for three-bedroom dwellings offering relatively generous internal areas. I would also expect the price of these properties to be lower than three-bedroom dwellings, making them more affordable to some occupiers.
70. Be that as it may, the Council advised that overcrowding is a particular concern in the borough given the profile of households, and confirmed that the SHMA identifies a need for both two- and three-bedroom dwellings. The target for three-bedroom properties within the recently adopted BLP was informed by these identified needs alongside considerations including development viability and deliverability. While the proposed two-bedroom dwellings may well meet some demand for family housing locally, demand is not the same as need, and I am not satisfied from the evidence before me that they would address the needs that Policy BH6 is intended to meet.
71. I acknowledge that the shortfall in provision against the requirement within Policy BH6 is slight. The appellant is also seeking to optimise the delivery of housing on an allocated site, and I have no firm reason to dispute their evidence that three-bedroom flats can be less attractive to the market, making delivery as part of flatted schemes challenging. I further note examples of other schemes where the Council has accepted lower levels of family housing.
72. However, while these factors may offer some support for an alternative housing mix to that generally sought by Policy BH6, I have already found that shortfalls in the provision of external amenity space would be detrimental to living conditions for occupiers of the development. The availability of suitable external amenity space is likely to be particularly valuable where dwellings are occupied by families with children, but all of the three-bedroom dwellings and the majority of the two-bedroom 4-person dwellings would fail to meet requirements for external private amenity space specified by BLP Policy BH13. Some would also fail to meet the minimum private outdoor space requirements of LP Policy D6. I recognise that Policy BH6 of the BLP does not require an assessment of the quality of dwellings, but I am nevertheless concerned that the proposal would not therefore offer a good standard of accommodation for families, irrespective of the proportion of three-bedroom homes.
73. In this context, I am not satisfied that the justification advanced by the appellant is in this case suitably compelling to warrant an exception to the overall number of homes with 3 or more bedrooms that would be generally required to accord with Policy BH6. I consequently conclude on this main issue that the proposal would conflict with Policy BH6, and that the proposal would fail to provide an appropriate mix of housing types having regard to the requirements of the development plan.

74. The Council has not offered any substantive evidence to dispute the appellant's assessment of the accordance of the proposal with the provisions of Policy H10 of the LP which is also cited in the reason for refusal, and I do not find that there would be conflict. Nevertheless, this does not obviate the conflict with BLP Policy BH6 which I must also have regard to in determining the appeal.

### **Planning Obligation**

75. The submitted planning agreement includes obligations providing for highway works, restrictions on rights to acquire parking permits for controlled parking zones in the locality of the site, car club membership, job and training opportunities, a carbon offset financial contribution, and a financial contribution towards the provision of affordable housing and associated review mechanisms.
76. The Community Infrastructure Levy (CIL) Regulations 2010 set a number of tests for planning obligations which are reflected in the Framework. They must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
77. The Council has prepared a CIL Compliance Statement contending that the obligations within the planning agreement would satisfy these tests, and in light of the supporting information and evidence that is before me, I have no reason to reach a different view. I note in particular that the contribution towards affordable housing reflects the outcome of viability appraisal, and that the review mechanisms would provide for additional contribution towards affordable housing if the viability position were to improve in accordance with the requirements of Policies BH5 of the BLP and H4 and H5 of the LP.
78. On this basis, I consider that the planning obligation would address the Council's fifth reason for refusal, and I have taken the obligations secured into account as material considerations.

### **Other Matters**

79. I have had regard to representations made by interested parties which raise additional concerns beyond those considered in my main issues including in relation to parking, highway safety, pressure on local infrastructure, the level of affordable housing proposed and impacts on living conditions of other neighbouring occupiers. However, while I note the strength of feeling, none of the matters raised alter my conclusions on the main issues.
80. I appreciate that significant time has passed since the appellant first submitted the planning application, and that they have worked proactively with the Council to bring forward the proposals for the site. I also acknowledge that the application was recommended for approval by Council officers, and comments made by some interested parties in support of the proposal. However, I must come to my own view on the basis of the evidence before me, and these are not matters which lead me to alter my findings on the main issues.

### **Planning Balance**

81. I have found that the proposal would not unacceptably harm the character or appearance of the area. However, there would be significant harm to the living conditions of the occupiers of 6 Huddleston Road and those of future occupiers of the development. The proposal would also fail to provide an appropriate mix

of housing. Taken together, I consider these to be significant limitations of the development proposed, and I give these accumulated matters substantial weight. These shortcomings also result in conflict with Policies DMP1, BH6 and BH13 of the BLP and Policy D6 of the LP, and I have no firm reason to conclude that these policies are out of date for any reason.

82. Set against the adverse impacts, the proposal would make effective use of a previously developed site to deliver 28 dwellings. There is no dispute that the Council is meeting relevant targets for the supply of housing, but in light of clear objectives within the Framework including seeking the efficient use of land and to significantly boost the supply of housing, I consider the delivery of housing to be an important benefit. However, the relatively small scale of the contribution to housing supply means that the extent of the benefit would be fairly modest. Notwithstanding the internal size and quality of the dwellings, the shortfalls in external amenity space would reduce the overall quality of the accommodation offered, and I have found that the proposal would not fully address the Council's priority for family-sized homes. These factors further temper the benefit of the additional housing, and the weight that I give to it.
83. In addition to the homes on the site, the proposal would make a financial contribution towards the provision of affordable housing elsewhere in the borough. The contribution would be relatively small given the viability of the development, but would still be an important benefit of the proposal, and I give it significant weight.
84. I also give modest weight to the further benefits of the provision of flexible commercial space that would support local employment and the economy, and the creation of jobs and training opportunities created during the construction phase of the development.
85. I agree with the appellant that the development's architectural appearance would be acceptable. I am also satisfied that the landscaping including the trees to be retained, and the retention and repurposing of the main police station building, would be sympathetic to the site and area. However, these are not positive benefits of the scheme. The proposal would remove the existing dwellings which contrast in form and detailing against neighbouring buildings, and I saw that some structures and parts of the site are presently untidy or in poor condition. Nevertheless, the overall visual impact of these elements on their surroundings is not great and they do not detract markedly from the character or appearance of the area. I do not therefore consider their removal to constitute a significant benefit of the proposal.
86. The proposal includes sustainable design and construction measures including insulation, efficient heating/hot water systems and photovoltaic panels to generate electricity which would result in an 89% reduction in carbon dioxide emissions over Building Regulation requirements. There would also be a further carbon offset payment. However, the LP includes a requirement for residential development to be zero carbon, and while the inclusion of these measures would reflect good practice, it seems to me that they would therefore amount to an absence of harm rather than clear positive benefits of the scheme.
87. The development would also be car-free, and in an area of good public transport accessibility with access to nearby shops and services. It would encourage travel by sustainable modes in accordance with objectives within the Framework, but these matters similarly largely reflect an absence of harm

rather than benefits of the scheme, and do not therefore carry significant weight in favour of the proposal.

88. The appellant refers to financial benefits including Council Tax generation, Community Infrastructure Levy and other specific planning obligations, but these would reflect increased demand for services from the development and are not therefore matters to which I afford weight in favour of the proposal.
89. I acknowledge that the site is allocated for development by the BLP. The proposal would deliver more than the 20 homes suggested within the allocation, but this capacity is indicative. BLP Policy BH1 seeks to maximise opportunities to provide additional homes, and I have not been made aware of any provision within the development plan indicating that the indicative capacity of the allocation should be applied as a ceiling on development.
90. Furthermore, Policy D3 of the LP provides that development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Part D of the Policy includes 14 requirements that development should meet. Given my conclusion on the first main issue, I am satisfied that the development would respond positively to local distinctiveness and character, and that in relation to the appearance of the development, the architecture would be of suitably high quality. The proposal would therefore accord with the requirements at 1), 11) and 12) of Part D. There is also no dispute between the main parties that most other requirements would be met by the scheme and I can see no firm reason to take a different view. However, my conclusions on the second and third main issues mean that I find there would be conflict with the requirement at Part D 5) of Policy D3 to deliver appropriate outlook, privacy and amenity.
91. I recognise that this is only one requirement of many set out within Policy D3, and I appreciate the design-led approach that the appellant has employed to respond to the constraints of the site. Even so, the conflict would arise in relation to both neighbouring occupiers and future occupiers of the development. In my assessment, the extent of the combined harms would be so significant that I am unable to agree that the proposal is of the most appropriate form of development for the site overall, and I find that it would not comply with this Policy when it is read as a whole. Moreover, Policy D3 does not advocate optimisation regardless of other objectives and requirements of the development plan.
92. I have carefully considered the benefits of the proposal noted above. However, even when they are taken together, I find that the weight to the benefits would not be sufficient to outweigh the cumulative harm that would be caused to the living conditions of neighbouring and future occupiers taken together with the failure to provide an appropriate mix of housing. I find that there would be fundamental conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision should be made other than in accordance with the development plan.

## **Conclusion**

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

*J Bowyer*

**INSPECTOR**

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                 |                    |
|-----------------|--------------------|
| Ben Thomas      | Savills            |
| Kieron Stephens | Autor Architecture |
| Frederic Akuffo | Autor Architecture |
| Ian Thody       | EB7                |
| Tina Kara       | Gargreen Limited   |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                |                                                     |
|----------------|-----------------------------------------------------|
| Faye McElwain  | Planning Officer, London Borough of Brent           |
| Claire Bradley | Principal Planning Officer, London Borough of Brent |
| Sarah Dilley   | Planning Officer, London Borough of Brent           |
| Mark Price     | Principal Heritage Officer, London Borough of Brent |

### **INTERESTED PARTIES:**

|                        |                                                        |
|------------------------|--------------------------------------------------------|
| Fleur Donnelly-Jackson | Local resident and Councillor for Willesden Green ward |
| Patrick Hannon         | Local resident                                         |
| Maureen McHugh         | Local resident                                         |
| Annie Walsh            | Local resident                                         |

## **DOCUMENTS ACCEPTED AT THE HEARING**

- 1 Delegated report for planning application ref 09/1459 at 100, 100A and 100B High Road, London NW10 2PP, submitted by the appellant.

## **DOCUMENTS SUBMITTED FOLLOWING THE HEARING**

- 1 Signed and Executed Planning Obligation dated 22 March 2022, submitted by the appellant.
- 2 Email agreeing to the imposition of Pre-Commencement conditions, submitted by the appellant.