



Appeal Decision

Hearing Held on 28 February 2023

Site visits made on 28 February 2023

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/N5090/W/22/3309568

Former Sub-Station, Great North Road, London N2 0NL

- 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 Combined Finchley LLP against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/5217/FUL, dated 20 September 2021, was refused by notice dated 30 June 2022.
 - The development proposed is demolition of the existing building, construction of a new retaining wall, and erection of a part-six, part-five storey building, comprising retail and office use (Class E) and nine residential flats, along with associated highway and landscaping works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing building, construction of a new retaining wall, and erection of a part-six, part-five storey building, comprising retail and office use (Class E) and nine residential flats, along with associated highway and landscaping works at Former Sub-Station, Great North Road, London, N2 0NL, in accordance with the terms of the application, Ref 21/5217/FUL, dated 20 September 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council refused permission for three reasons, the latter two of which related to the absence of a planning obligation to secure appropriate measures and contributions to mitigate the impacts of the development. The parties agreed that the planning obligation, discussed prior to and during the hearing, was satisfactory so as to address these aspects. The final version of the unilateral undertaking (UU), made as a deed under S106 of the Town and Country Planning Act, received on the 1 March 2023, is addressed below.
3. Though the parties agreed that the scheme would not harmfully affect any designated heritage assets, the proximity of the site to the Grade II listed East Finchley Station requires consideration of the potential effects on its setting in line with my duties under s66(1) of the Listed Building and Conservation Areas Act 1990 (LBCAA). Given the proximity of the site to the Hampton Garden Suburb Conservation Area (CA), I also consider any potential setting effects as required under the terms of the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues are the effects of the development on the character and appearance of the area, bearing in mind the special regard that should be paid to the desirability of preserving the setting and thereby significance of the nearby Grade II listed East Finchley Station, and the proximity of the site to the CA.

Reasons

5. The appeal site is currently occupied by a two storey former sub-station building which was once associated with the adjacent railway line. Though it sits behind a wide area of footway and behind a number of trees, the site still has a dilapidated appearance which modestly detracts from the quality of the streetscene. The site is on Great North Road, which becomes High Road (town centre) to the north-west, beyond the railway bridge. Though the building sits within a cluster of buildings in commercial and mixed uses, the streets extending away from the site in south-easterly and south-westerly directions are predominately lined with residential dwellings.
6. In terms of the site's current context, it sits in front of the wide railway embankment of the Northern Line, for which the East Finchley Station (the Station) is some circa 130 metres to the north-west. To the north-west of the site and railway bridge is the East Finchley District Town Centre, which has a designated boundary that stops short of the railway bridge. To the immediate south-east of the site are a collection of buildings in commercial and mixed uses, including Harrison Varma House (3 storeys) and Ariella House (4 storeys) and a two storey car showroom building. Opposite the site are a collection of buildings ranging between two storey cottages, a three storey mixed use modern building and a flatted building of 2 storeys with attic and basement, Bishops Court, that falls just within the CA boundary.
7. To the far rear of the site beyond the railway is the broadly triangular-shaped public open space known as 'Cherry Tree Woods' (CTW) which is designated Metropolitan Open Land (MOL) and includes Ancient Woodland comprised of predominantly Hornbeam and Oak. CTW is surrounded by residential development on two sides, with the railway forming the remainder of the boundary. It hosts a large open green space, walkways through the woodland, tennis and basketball courts, a café and a children's play area.
8. The proposal is to demolish the substation building and construct a building which would have retail uses on the ground floor, office space in the upper floors on one side, and residential units across the upper floors on the other. It would extend over part five and part six storeys in height, with the upper floors recessed from the outer walls. The development would be car-free, save for two blue badge spaces, but would be accessed by limited vehicles for servicing and delivery purposes. In total, the development would deliver 6 no 3-bed units of accommodation, 3 no 2-bed units of accommodation, 3,937 sqm of office space and 449 sqm of retail space.
9. In terms of the assessment of the proposals effects on the character and appearance of the area, the appeal application and appeal were submitted with documents including a Design and Access Statement; Built Heritage, Townscape and Visual Assessment (BHTVA) and BHTVA Addendum and a range

- of Accurate Visual Representations (AVRs) using viewpoints modelled for both summer and winter effects.
10. The area surrounding the site does not have a unified character; rather, there are around three different characters which converge around the area of the appeal site. The area of Great North Road is of mixed character around the appeal site, though the housing extending to the south-west is more consistent. Towards the railway bridge there is the Old Lion Pub and a modest cottage which is undergoing adaptations. The character of the High Street varies between a late Victorian streetscape interspersed with development from late 20th century, with either large footprint office buildings of up to around 5 storeys and late 20th century housing estates. The other character type is the housing within the Hampstead Garden Suburb CA to the south-west of the site.
 11. Taking into account the relatively mixed, urban character of the area, the scheme would introduce a tasteful modern building onto the site which, with its scale, uses and design, would extend the character of the town centre out beyond the railway line. Whilst it has been suggested that this would lead to a confused sense of scale and undermine the separation between the respective character types, in my view, the cluster of commercial buildings around the appeal site lends to this area forming a better-defined extended area of the town centre, promoting a better flow of footfall beyond the railway station beneath the bridge.
 12. Due to the curvature in the road, the building would not be fully seen from within the town centre, but its upper storeys, including the recessed uppermost parts, would be seen, to a greater or lesser extent depending on the season and degree of foliage on the retained or replacement trees that it would be seen in context with. However, the proposed scheme would share some similarities with the recently-constructed development at Nos 12 – 18 High Road which would be a positive reference.
 13. In terms of the immediate cluster of buildings around the site, I note that Harrison Varma house is currently three storeys and any permission to increase its height has lapsed. I do not rely on the potential for it to be increased to come to the view that the proposed building of two to three additional storeys would be acceptable. A variation in building heights can add interest within a streetscene, as is the case with the current relationship between Harrison Varma House, Ariella House and others in the surroundings. In my view, there is no need to deliberately replicate a 3 or 4 storey building to create an exacting consistency. The proposal would positively assert an influence on the streetscene in this position, and would do so with a degree of set back and softening effects from trees that would help to minimise any domineering effects on the street or on immediately adjoining neighbouring buildings.
 14. Overall, in terms of its streetscape context as an element within Great North Road/High Road, I consider that the building would read well as one which contains separate elements – residential, retail and office spaces – with differing heights and subtle variation in design and materiality to provide articulation, break up the overall mass and make it visually appealing. Existing and proposed trees and landscaping would also positively integrate the development within the streetscene. Overall, I consider that the proposal would be a high quality of design that would accord with, in particular, Policies CS1 and CS5 of the Local Plan Core Strategy (Core Strategy) (adopted 2012) and

Policy DM01 of the Development Management Policies Development Plan Document (DMP) (2012). These Policies collectively seek to ensure that new development respects local context and secures high standards of urban design.

15. It was explained that the policies of the London Plan (2021) which forms part of the development plan, including Policies D3 and D4, were relevant to the appeal proposal but had been missed from the Council's decision letter. I have considered these Policies and their aims to make the best use of land by following a design-led approach and ensure schemes deliver high quality design. I consider that the scheme would also comply with these Policies.
16. I also note the Residential Design Guidance Supplementary Planning Document (2016) (SPD), noting the acknowledged differences between general residential schemes and mixed-use schemes and the different considerations of location, size and type of developments within or adjoining town centres. In my view, the development also broadly aligns with the key objectives of the SPD.

Effects on Cherry Tree Woods

17. CTW is an area of MOL which is experienced as an oasis of green within an urban context and is valued by many local residents and users of the Capital Ring walk which passes through the space. Arrival to CTW is from the immediately adjoining urban areas and therefore, there is an undeniable presence of the urban surroundings of the site which invariably diminishes to an extent in the summer. Its relatively modest scale means that its enclosure by terraced housing of around 2-3 storeys is evident from within the space, particularly through the gaps in the trees. This sense of enclosure was apparent given the timing of my site visit during the winter.
18. Views from within CTW towards the south-east and extending in an arc towards the south-west are less interrupted by buildings than in other directions, with an exception to this being the recessive Ariella House on Great North Road which is just visible, albeit below the tree line. The railway embankment and frequent running of the trains along the track on the mid-point of the tree canopies does however introduce an urban presence within these views, with the effects of such being more apparent due to the absence of tree foliage.
19. The proposal would introduce a permanent visible presence beyond and above the tree belt which would be largely obscured by vegetation in summer, but with the partial upper floors visible for the remainder of the year. This would create a further sense of enclosure of the space, which whilst not dominating the view or itself being poorly designed, would still detract to a minor degree from the space's openness as confirmed by the submitted View 6 Winter AVR.
20. As the proposal would not physically encroach onto the MOL, there would be no direct conflict with the relevant aspects of Policies CS7 or Policy DM15 of the DMP. I have considered the applicability of DMP Policy DM15 in relation to the word 'adjacent to' Green Belt/MOL and the site's relationship with CTW as an area of MOL. I note the existence of the wide railway which itself is adjacent to CTW. The site is as close to the MOL as the railway permits in this case and, in my view, the term should not be given an unduly prescriptive meaning. Whilst this should not be taken to mean that any development that would have a detrimental impact on MOL would be caught by this Policy, in this case, the site

has the closest possible relationship to the MOL and would result in visual amenity harm.

21. Insofar as the proposal would be partially visible as a greater mass than any others seen from CTW amongst and competing for dominance with the established tree canopy line, creating a further sense of visual enclosure, there would be a degree of conflict with DMP Policy DM15, and Policy CS7 of the Core Strategy. These Policies collectively require that development respects the distinctive natural landscapes of Barnet, and, in the case of DMP Policy DM15 vi), where adjacent to Green Belt/MOL, should not have a detrimental impact on visual amenity and respect the character of its surroundings.
22. It was argued on behalf of the Appellant that DMP Policy DM15 is outdated, not least because of its age, but because there are no comparable tests within the Framework to preserve the visual amenity of Green Belt/MOL through exercising control on development adjacent to it and because even for schemes within the Green Belt/MOL, a test of very special circumstances can be applied to justify development where applicable.
23. The tests of DMP Policy DM15 vi) do appear relatively onerous and dated in the context of the Framework (2021) and more recently adopted London Plan Policy G3 in specific reference to sites adjacent to MOL, acknowledging the inevitable location of such within an urban context. Consequently, this policy conflict attracts reduced weight.

Effects on the CA

24. The Bishops Avenue lies to the south-west of the site and falls within the CA, the CA boundary encompassing the large 'Bishops Court' corner building within its verdant setting at the top of the road.
25. From the submitted evidence, whilst Bishops Avenue was laid out before the remainder of the CA, the CA itself was built to plans by the notable architect, Raymond Unwin, and is an example of high quality early C20 domestic architecture and town planning. Of a similar quality, The Bishop's Avenue area of the CA largely comprises detached buildings of 2 to 3 storeys set within large gardens. It has a spacious, verdant character with discernible building lines and imposing, architecturally expressive houses, despite their modest overall heights. The special qualities of the CA include its architectural and historic value which provide evidence of a time of expansion of the London suburbs to accommodate the wealthy. From the evidence, including the relevant Appraisal¹, and my own findings, these qualities remain evident in the Bishops Avenue section of the CA.
26. The site forms a part of the setting of this part of the CA and is in an area which has a mixed character. Whilst on closer inspection the site contributes poorly to its immediate streetscene, from most areas of the CA beyond Bishops Court, it is seen as relatively recessive, largely obscured by tree cover which is consistent with the Avenue's verdant character. There is nothing particularly noteworthy about the junction of Bishops Avenue and Great North Road in this context; in my view, it is just a neutral contributor that allows the relatively homogenous, spacious character of Bishops Wood to take primacy.

¹ The Bishops Avenue Character Appraisal (1999):

27. Insofar as the proposal would introduce a much more visible building of different scale, form, uses, design and identity to the spacious, modestly scaled, detached dwelling character prevalent in Bishops Avenue, it would have an effect on the CA. Whilst I appreciate that the introduction of visible, modern buildings on the edge of a CA does not always equate to harm, in this case, it would take on a starkly different appearance, juxtaposed to the regular rhythm of buildings along Bishops Avenue and would form a more prominent bookend to the street. Again, there would be greater visual effects of this nature in winter when the trees have little to no foliage.
28. In my view, this effect would amount to a degree of harm to the CA's setting and thus its significance, contrary to the expectations of the LBCCA. However, noting the location of the scheme and relatively limited range over which the effects would be perceived, I consider that this would only amount to a minor degree of harm, albeit still attracting considerable importance and weight. This would also result in a partial conflict with Core Strategy Policy CS5 and DMD Policy DM06 which seek to ensure development respects and enhances the setting of heritage assets, with the latter providing for a balancing of the benefits against any harm caused to the heritage asset.
29. The Framework sets out in paragraph 200 that any harm to, or loss of, the significance of a designated heritage asset, from its alteration or destruction, or from development within its setting, should require clear and convincing justification. Under Framework paragraph 202, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
30. Though I expand on these further below, the benefits of the scheme include the efficient use of an underused brownfield, conveniently located site for predominantly economic purposes which will create a high number of valuable jobs, both during the construction phase and permanently thereafter. Additionally, a number of homes, the majority of which would be suited to families, would also be delivered as part of the scheme, increasing access to family housing in an area of high demand for such. Taken collectively, these benefits outweigh the less than substantial harm I have identified to the significance of the CA.

Effects on setting of the Station

31. Under s66(1) of the LBCAA, it is my duty to have special regard to the desirability of preserving any affected listed building, or its setting or any features of special architectural or historic interest which it may possess. In this case, the listed building under consideration is Grade II listed and named 'East Finchley Station including platforms'.
32. Although not exhaustively describing everything that may be of importance, the listing description (List Entry Number 1351590) details that the building is a London Underground Station dating back to 1939 by Charles Holden and L H Bucknell designed as the terminus to the Northern Line. It sits on the south end of the railway bridge and is constructed from red brick and concrete with a tall ticket hall and office block with flat cantilever roofs over the station entrances and tall triple window with decorative glazing. The platform buildings are noted as having wide cantilever concrete roofs and round glazed ends to the north. Also of note is the double-height glazed rounded feature window

which accommodates the spiral staircase to the offices, and the statue of the archer by Eric Aumonier.

33. The special interest and thus significance of the building therefore lies partly in its historic and architectural interest as a functional art deco railway building and its associative connections with an important figure in the evolution of London's underground network, including a number of other station buildings.
34. The Station is situated within a townscape setting which has evolved significantly over the period since it was constructed. The closest buildings to the Station range between two and five storeys of post-war modernist architecture, the existing sub-station which has scale and design references to the underground network of which it formed an ancillary part, and the two storey public house built in the English revival style. Though the well-preserved Victorian eastern side of High Road clearly makes a positive contribution to the Station's setting through its historic qualities, materiality and detailing, the current character and variation of building ages, heights, styles and spaces between them in the wider surroundings give the Station a mixed urban setting, which cannot easily be disaggregated to the individual site level.
35. Nonetheless, in my view, the appeal site makes a minor negative contribution to the setting of the listed building, due to its dilapidated appearance and close proximity, albeit reduced to a degree by the tree screening on the site frontage.
36. The proposal would introduce a new built element onto the appeal site, of a scale that would make it a more prominent feature of the area but of an overall form, composition and architectural language and materiality that take reference from, and would be appropriate for the Great North Road/High Road transition which is demarked by the Station itself. In this context, and the urban setting that the Station demands, the scale of the building would be to a degree imposing. However, the degree of setback of the building, the way in which the frontage and some established trees would be retained to soften its appearance, and the architectural expression of the building, would be an acceptable response for the site and would not compete with the Station for dominance in the streetscene. Overall, I consider that its effect on the Station's setting, and thus its significance, would be neutral.

Other Matters

37. I have considered the numerous objections to the scheme from interested parties which cover a range of topics.
38. Whilst I note the suggestion that the site floods from surface water, there is no cogent evidence to support this, particularly in the context of the site being outside of any flooding constraint area, and the scheme would need to address any potential for such through a sustainable urban drainage condition.
39. Though it has been suggested that a larger supermarket outside of the town centre would undermine the viability and vitality of existing established supermarkets and independent shops within the town centre, the sequential location and potential for such is not in dispute between the parties and I have no evidence to suggest that I should take a different view.

40. Though none of the 9 residential units would be units of affordable housing, the development plan policies do not require the provision of such below the relevant threshold.
41. The concern that the development would materially overshadow the space in CTW is not borne out by the distance between the site and CTW, the orientation and limited degree to which the height of the building would extend above the heights of the tree canopies.
42. Whilst there is concern that the scheme would create additional traffic congestion and parking stress, it would be a car-free development with only the necessary blue badge parking provision and means of servicing/deliveries. This indicates that such effects would be minimal. Though there would be an inevitable increase in foot traffic and cyclists, the location of the site indicates that this is acceptable and the necessary provision and incentives to facilitate these modes of travel would be provided.
43. In terms of the effects on bats, the appeal scheme has been supported by the necessary reports to assess any potential harm and further conditions could ensure compatibility of the use of the area by bats. More broadly, the potential impacts on biodiversity and the nearby SINC have been considered but no effects would arise that could not be addressed by way of condition. Similarly, conditions would secure the necessary biodiversity enhancements to ensure an overall net benefit.
44. I have considered the potential for harm to users of CTW from overlooking, but as the space is a public one in any event, do not consider that material harm would arise in this regard.
45. Though the scheme has not been subject of an Environmental Impact Assessment, this is relating to its scale and its potential effects. The impacts of the scheme have been considered through a comprehensive range of necessary reports submitted with the appeal application.
46. Though it has been suggested that the scheme is contrary to climate change objectives, the scheme would involve the reuse of a sustainably located underused brownfield site and itself would include measures for fabric and fitting to minimise climate change impacts. In addition, the scheme would contribute towards carbon offset payments that would help to bring the scheme into line with the Borough's Carbon Zero objectives.
47. The suggestion that the scheme would lead to overpopulation or overcrowding is not a matter supported by the development plan policies in this instance. The density of the scheme appears appropriate for the surrounding context and the commercial uses would offer local job opportunities.
48. I have considered the suggestion that the living conditions for future occupiers would be substandard, through various shortcomings including a lack of private amenity space. This aspect was not in dispute between the parties with consideration given to outlook, internal space, levels of sunlight and daylight and the means to offset a shortfall in external amenity space. I find no reason to disagree with the conclusions reached in these regards.
49. The adjacent building, Harrison Varma House (No 98 Great North Road) is in exclusive commercial use. The potential effects on this building have not been based on its possible future use for residential purposes as there is no

justification to require such. There is no evidence to suggest that the effects would be harmful or incapable of being overcome through design if relevant.

50. Despite the suggestion that consideration was not given to the viability of retaining the existing building and its conversion to residential, there is adequate detail as to why this would be impractical and would not result in a more satisfactory outcome for the site than that proposed.
51. I have been made aware of the organisation, 'The Friends of Cherry Tree Wood' (the Friends) and its large membership, through numerous representations and participation at the hearing. I understand the valuable role that the organisation plays in maintaining CTW and ensuring it is a high quality, safe public space that all users can enjoy. I was advised that the Friends have recently finalised the management plan for CTW which seeks to direct expenditure towards the necessary upgrades and improvements in the coming years. Despite the Friend's objection, the proposal would not encroach into CTW other than partially within views and I have given this aspect due consideration. The scheme would not interfere with the implementation of any management plan, other than that additional funds may be made available towards such improvements to offset the shortfall in on-site amenity space.
52. Although limited evidence of such has been submitted, I have been made aware of the intention for the site to be allocated for a residential-led scheme (incorporating commercial uses) in the draft Local Plan. The Council have indicated that the examination process still has some way to run and that the draft allocation is not capable of attracting significant weight at this stage, though of note is the direction of travel for the redevelopment of the site. In view of this and the Framework's advice about prematurity, I do not consider that the scheme would unduly undermine the plan-making process in this instance.
53. My attention has been drawn to the Secretary of State's statement² which seeks to introduce changes that will be made to the planning system and the '*Levelling up and Regeneration Bill*' that will place local communities at the heart of the planning system. The specific changes announced in the Statement have not yet taken effect. In reaching my decision, I have taken account of the relatively balanced view reached by democratically elected representatives in light of the recommendation of its professional officer and the strength of opposition of many local residents.

Planning obligation

54. The UU was executed on 28 February 2023 and contains obligations for the Appellant or any successor in title of the appeal site to physically provide or pay the following contributions to the Council:
- Carbon offset contributions of £78,290 towards a reduction in the carbon emissions over and above Building Regulations requirements as per a revised energy statement;
 - Employment and training contribution of £180,000 towards initiatives for skills acquisition, training and other local labour employment opportunities;
 - Affordable workspace – an area of office workspace of 200 sqm available to rent at a price not exceeding 90% of open market rent rates;

² Dated 6 December 2022

- Parks and open space contribution of £5,300 towards the improvement and enhancement of Cherry Tree Woods to offset the shortfall in on-site amenity spaces for the dwellings;
 - Travel Plan Incentives Contribution of £2,700 towards measures detailed with the Travel Plan to be submitted, including the provision of cycle vouchers, public transport vouchers and a contribution of £15,000 towards the monitoring of the Travel Plan;
 - Tree planting contribution of £1,590 towards additional tree planting in the vicinity of the development;
 - Traffic Management Order contribution of £2392.01 which shall allow for the making of, or alteration of Controlled Parking Zones that restrict parking in the area, including ensuring that residents and their visitors are not able to access any parking permits;
 - Tree replacement contribution of £23,312 towards replacement trees in the area for those that would be lost to the development.
 - Obligations to ensure that any highway works are undertaken in accordance with the desired specifications and with the necessary agreements in place.
55. The evidence details the methods of calculation or requirements for the respective contributions and measures in accordance with the development plan, including the Planning Obligations Supplementary Planning Document (2013) and Sustainable Design and Construction SPD (2016). Details provided within the UU also clarify when and how the contributions would be collected and used.
56. A monitoring contribution has also been included, specifically towards monitoring the obligations contained within the UU. The PPG allows for authorities to collect contributions towards the costs of monitoring planning obligations and I have no reason to doubt that these costs are proportionate.
57. Taking these matters into account, I consider that the UU is worded so as to secure measures and contributions that are directly related, and also fairly and reasonably related in scale and kind to the development. I consider that the obligations meet the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and that taken as a whole, the UU is necessary to make the development acceptable in planning terms.

Planning balance

58. Though I consider that the scheme would be well-designed overall, I consider that there would be some visual harm when viewed from CTW and less than substantial harm to the CA. A different scheme might straddle the multi-faceted site context more capably, or in designing to address the more sensitive contexts, it may fall short in other respects. However, these considerations are largely irrelevant given that the appeal scheme is the only one before me for consideration and must be determined on its own merits.
59. Other considerations relevant to the scheme include the 'Good Growth' principles of the London Plan 2021 (including Policies GG1 and GG2) and the aims of CS Policy CS1 which seeks to concentrate and consolidate housing and economic growth in well located areas that provide opportunities for development. The site is also sequentially preferable in terms of its commercial uses and, as agreed between the parties, would not prejudice the

viability or vitality of the town centre. The highly sustainable location of the underused brownfield site and the strong evidence to support the many job opportunities that would be created, both during the construction phase and thereafter are notable public benefits of the scheme. The increased access to family housing is also another public benefit of the scheme. Taken together, these aspects align with other cited policies of the development plan, including DMD Policies DM03, DM04, DM08, DM14 and DM17; Core Strategy Policies CS9 and CS13; and, London Plan Policies G5, G6, G7, H10, D6, DM9, T5, SI1, SI2, SI5, SI12, SI13, D7, D12 and D14.

60. I have also taken account of the absence of other harms and, where necessary, the mitigation measures that would be secured through either planning conditions or planning obligation that would offset the potential for such. Whilst these aspects are not in themselves capable of attracting positive weight, they do not weigh against the scheme either. A separate balancing exercise has been applied under the terms of the Framework to the harm to significance of the CA as a designated heritage asset and I have found that the benefits would capably outweigh the harms.
61. Drawing together the above, though there are some factors which pull towards non-compliance with aspects of certain policies, in my view, the development is not in conflict with the development plan when taken as a whole. Accordingly, the proposal complies with the development plan, and there are no other considerations of such materiality that indicate that a decision should be taken other than in accordance therewith.

Planning conditions

62. I have considered the suggested comprehensive list of conditions in light of the Framework and Planning Practice Guidance. Minor amendments have been made where necessary to provide clarity. Pre-commencement conditions have been avoided wherever possible, but where necessary, consent to their imposition has been sought.
63. In the interests of certainty, conditions are required to stipulate the timeframe for the commencement of works and approved plans in accordance with which the development should be built. The existing plans and submitted documents are not necessary to list, except within any conditions that require specific adherence to the same.
64. Necessary conditions relating to the construction phase, including a demolition and construction works logistics plan, highway condition details, tree protection measures and construction vehicle emissions are included as pre-commencement conditions for obvious reasons. A condition requiring the assessment of any contamination on site is necessary prior to construction works commencing so that if found, it can be remediated at the appropriate time to avoid impacts on human health. Conditions relating to the avoidance of harm to nesting birds and hedgehogs during construction works are also necessary.
65. In the interests of certainty of a high quality of design, conditions are required prior to development above slab level of the levels of the development, the materials of construction and the achievement of Secured by Design accreditation. To ensure the quality of living environment for future occupiers, conditions are required at a similar juncture to ensure that a vibration

- assessment is approved and implemented. To ensure that the site is provided with adequate surface water drainage infrastructure, a condition is also required seeking the approval of a scheme prior to works beyond demolition.
66. In the interests of the safety and free flow of traffic on the highway, a condition is necessary to secure approval of details of the site access and necessary works to the highway.
67. Conditions required prior to occupation of the development include those in relation to the transport-related aspects, such as the disabled parking, electric vehicle and cycle parking provision and refuse and recycling strategy; the quality of the development for future and neighbouring occupiers, including the acoustic/sound insulation within the building, privacy screens, air quality and measures to prevent overheating of the building, adaptability standards and the methods of safeguard against the outbreak of fire. Conditions are also required prior to commencement to ensure the energy and water efficiency of the building, including details of the photovoltaic panels to be provided. In the interests of the character and appearance of the area, conditions are also necessary to secure a landscaping scheme and the management thereof and also details of the green roof and boundaries to be constructed on the site.
68. In the interests of the protection of bats, a condition is necessary to ensure that no external lighting is provided until such a scheme to avoid harm has been approved. Similarly, in the interests of the wider biodiversity value of the site, a condition is required to ensure that the submitted Preliminary Ecological Appraisal is implemented throughout the course of the development.
69. Following completion of the development, conditions requiring ongoing compliance are required to ensure a number of objectives. Firstly, in the interests of protecting the living conditions of future occupiers, conditions are required to ensure that the maximum noise levels to which they may be exposed are detailed, and necessary mitigation measures incorporated.
70. A condition is required to ensure that the external and internal character of the building is maintained through removal of certain permitted development rights (i.e. to further roof extensions). A use classes condition is also necessary to ensure that the use classes within the upper floors of the building can be maintained to those proposed within the application to be certain that the impacts on the town centre would not vary from those assessed with the application. Similarly, it would also ensure that the benefits of the scheme, to which weight has been attached, can be secured, whereas lower density employment-generating uses would not be as beneficial. Whereas the Council sought an alternative condition relating to the upper floors of the building in relation to the effects on future residents, I consider that it would be too flexible for the reasons already outlined and prefer the suggested condition from the appellant which reflects the nature of the scheme as submitted.

Conclusion

71. For the foregoing reasons, and taking into account all other matters raised, the appeal is allowed.

Hollie Nicholls
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Heather Sargent	Landmark Chambers
Mr Luke Raistrick	Centro Planning Consultancy
Mr Tarun Cheema	Centro Planning Consultancy
Mr Nick Makasis	GML Architects
Mr Adrien Vick	GML Architects
Mr Nicholas Bridges	Bridges Associates

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Volley	Principal Planning Officer
Mr Mansoor Cohen	Senior Planning Officer
Mr Paul Sallin	Senior Urban Designer

INTERESTED PARTIES:

Mr Roger Chapman	Friends of Cherry Tree Woods
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DOCUMENTS SUBMITTED AFTER THE HEARING

Document 1	Executed unilateral undertaking
Document 2	Listing description for East Finchley Station
Document 3	Hampton Garden Suburb Conservation Area Appraisal
Document 4	Bishops Avenue Character Appraisal
Document 5	Draft Cherry Tree Wood Management Plan
Document 6	Exam 43 – document pertaining to examination in public of emerging Local Plan
Document 7	Exam 75 - document pertaining to examination in public of emerging Local Plan

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, Ref 3649/PA/001, dated 14/09/2021
 - Key Plans, Ref 3649/PA/019, dated 14/09/2021
 - Proposed Site Block Plan, Ref 3649/PA/020A, dated 14/01/2022
 - Proposed Lower Ground Floor, Ref 3649/PA/021, dated 14/09/2021
 - Proposed Ground and Upper Floors, Ref 3649/PA/022A, dated 14/01/2022
 - Proposed 1F Commercial and 1F Residential, Ref 3649/PA/023, dated 14/01/2022
 - Proposed 2F Commercial and 2-3F Residential, Ref 3469/PA/024, dated 14/09/2021
 - Proposed 3F Commercial and 4F Residential, Ref 3649/PA/025, dated 14/09/2021
 - Proposed 4F Commercial and 5F Residential, Ref 3649/PA/026, dated 14/09/2021
 - Proposed Site Block Plan Roof Level, Ref 3649/PA/027, dated 14/09/2021
 - Proposed Elevations in Context, Ref 3649/PA/030, dated 14/09/2021
 - Proposed West Elevation, Ref 3649/PA/031A, dated 14/01/2022
 - Proposed North and South Elevations, Ref 3649/PA/032, dated 14/09/2021
 - Proposed East Elevation, Ref 3649/PA/033A, dated 14/01/2022
 - Proposed Section AA, Section BB, and Section CC, Ref 3649/PA/040, dated 14/09/2021
 - Proposed Materials Commercial and Retail, Ref 3649/PA/045, dated 14/09/2021
 - Proposed Materials Residential, Ref 3649/PA/046, dated 14/09/2021
3. No site works including demolition or construction work shall commence until a Demolition and Construction Management and Logistics Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and Logistics Statement submitted shall include, but not be limited to, the following information:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provision for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;

- iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractor's compound and car parking arrangements;
 - ix. details of interim car parking management arrangements for the duration of construction;
 - x. details of a community liaison contact for the duration of all works associated with the development.
 - xi. provision of a competent banksman.
4. No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm pm on other days.
5. All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>.
6. The applicant shall carry out a "before" and "after" condition survey of the agreed route to be utilised by all construction traffic. The "before" survey shall be submitted to and approved in writing by Local Planning Authority prior to the commencement of the development. The "after" survey shall be completed three months before the completion of the development and thereafter submitted to and approved in writing by the Local Planning Authority. Any recommended works necessary to reinstate the condition of the agreed route to that identified within the "before" survey shall be implemented, as approved, within 3 months of first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority.
7. Part 1) Before development commences other than for investigative work:
- a) A desktop study (Preliminary Risk Assessment) shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the

site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study (Preliminary Risk Assessment) and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.

b) If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:

- a risk assessment to be undertaken,
- refinement of the Conceptual Model, and - the development of a Method Statement detailing the remediation requirements. The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

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

Part 2)

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

8. a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority.

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

9. Prior to demolition on site, a suitably qualified and competent ecologist shall make an assessment of the presence of nesting birds and other species, to ensure the site is clear of species prior to the commencement of work. A general pest management (GL41) license should be required for the demolition of the building, if necessary. The findings of the Ecologist's assessment and the general pest license, where applicable, shall be

submitted to the Local Planning Authority for their records, and works shall commence following the Local Planning Authority's acceptance of the contents.

10. No works shall commence until a detailed mitigation method statement to demonstrate the impacts on hedgehogs as a result of the development; and, the details of avoidance with the integration of mechanisms to sustain free movement of hedgehogs is submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full accordance with the approved details, and maintained as such thereafter.
11. No works on the public highway including creation or modification of a vehicular access or reinstatement of redundant accesses, signage and lining works as well as new tactile paving at the access as a result of the proposed development shall be carried out until detailed design drawings have been submitted and approved by the Highway Authority and works shall only be carried out in accordance with the approved plans. The applicant will be expected to enter into an agreement with the Highways Authority under Section 184/278 of the Highways Act, for these works and reinstatement of any consequential damage to public highway as a result of the proposed development.
12. a) No development other than demolition works, shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.
13. a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.
14. a) Prior to the super-structure of the building beginning, a vibration assessment on the sub-structure/ foundations shall be undertaken in respect of rail activity. The assessment shall consider both vibration and re-radiated noise into the dwellings and commercial areas, and indicate if additional mitigation measures are required. The scheme shall be submitted to and approved in writing by the Local Planning Authority.

b) If mitigation measures are required as outlined in a) those shall be implemented in their entirety in accordance with details approved before any of the development is first occupied or the use commences and retained as such thereafter.
15. No development other than demolition, site clearance and temporary enabling works, shall commence until a Sustainable Drainage Strategy detailing all drainage works to be carried out in respect of the development hereby approved and all Sustainable Urban Drainage System features to be

included in the scheme have been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be first occupied or brought into use until the drainage works and Sustainable Urban Drainage System features approved under this condition have been implemented in their entirety.

- 16.a) Prior to carrying out works above slab level, details shall be submitted to and approved, in writing, by the Local Planning Authority to demonstrate that such building or such parts of a building can achieve full Secured by Design' Accreditation.
- b) Prior to the first occupation of each residential building a 'Secured by Design' accreditation shall be obtained for the building.
- c) The development shall only be carried out in accordance with the approved details.
- 17.No development other than demolition, site clearance and temporary enabling works shall commence until, the applicant has submitted for approval details of measures to improve biodiversity on the site in accordance with guidance set out within BS42040:2013: Biodiversity - Code of practice for planning and development, and guidance documents provided by the Chartered Institute of Ecology and Environmental Management (CIEEM) and the Royal Town Planning Institute (RTPI) for approval. The development shall be implemented in full accordance with these details'.
- 18.Prior to occupation of the development, the accessible blue badge parking spaces as illustrated on drawing no. 3649/PA/022A shall be provided and used only as agreed and not for any purpose other than the parking and turning of vehicles in connection with approved development.
- 19.Prior to occupation of the development, full details of the electric vehicle charging points to be installed in the development shall have been submitted to and approved in writing by the Local Planning Authority. The active charging points shall be implemented in full accordance with the approved details prior to first occupation and thereafter maintained as such.
- 20.Prior to occupation of the development, details of cycle parking including the type of stands, gaps between stands, location of cycle parking and type of store proposed shall be submitted to and approved in writing by the Local Authority. Thereafter, before the development hereby permitted is occupied, 68 cycle parking spaces (47 long-stay and 21 short stay) in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards shall be provided and shall not be used for any purpose other than parking of vehicles in connection with the approved development.
- 21.Before the permitted development is occupied, a full Delivery and Servicing Plan (DSP) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall only be operated in accordance with the approved delivery service plan.
- 22.a) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority.

b) The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

23.a) Prior to occupation of the development hereby approved, an acoustic assessment and report shall be carried out by a competent acoustic consultant that assesses the likely noise impacts from the development of the ventilation/extraction plant, and mitigation measures for the development to reduce these noise impacts to acceptable levels, and has been submitted to and approved in writing by the Local Planning Authority. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

24.a) No commercial unit shall be occupied until details of mitigation measures to show how the development will be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration has been submitted to and approved in writing by the Local Planning Authority. This sound insulation shall ensure that the levels of noise generated from the Class E usage; as measured within habitable rooms of the development shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or first occupation of the development and retained as such thereafter.

25.a) Notwithstanding the details submitted with the application and otherwise hereby approved, prior to occupation of the site, details of (i) a Refuse and Recycling Collection Strategy, which includes details of the collection arrangements and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider, (ii) details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable, and (iii) plans showing satisfactory points of collection for refuse and recycling, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented and the refuse and recycling facilities provided in full accordance with the information approved under this condition before the development is first occupied and the development shall be managed in accordance with the information approved under this condition in perpetuity once occupation of the site has commenced.

26. Prior to occupation of the development, details of the size, design and siting of all photovoltaic panels to be installed as part of the development shall be submitted and approved in writing by the Local Planning Authority. The

development shall be carried out and constructed in accordance with the approved details.

a) Notwithstanding the details submitted with the hereby approved documents and plans, a final scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development.

b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

27.a) Prior to the first occupation of the hereby approved development, details of the proposed green roof shall be submitted to and approved in writing by the Local Planning Authority.

b) The green roof shall be implemented in accordance with the details approved pursuant to this condition prior to the commencement of the use or first occupation of the development and retained as such thereafter. Should part of the approved green roof be removed, die, become severely damaged or diseased within five years of the completion of development, it shall be replaced in accordance with the details approved by this condition.

28.a) Prior to the occupation of the hereby approved development, details of a Landscape Management Plan for all landscaped areas for a minimum period of 25 years have been submitted to and approved in writing by the Local Planning Authority.

b) The Landscape Management Plan shall include details of long term design objectives, management responsibilities, maintenance schedules and replacement planting provisions for existing retained trees and any new soft landscaping to be planted as part of the approved landscaping scheme.

c) The approved Landscape Management Plan shall be implemented in full in accordance with details approved under this condition.

29. Prior to occupation of the development and the installation of any external lighting, a lighting strategy that details measures and mitigation that will minimise the impact on bats shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved details, prior to occupation of the development.

30.a) The development shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments and acoustic fencing, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

31. Prior to the first occupation of the development, the dwellings shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future) and 10% constructed to meet and achieve all the relevant criteria of Part M4(3) of the above mentioned regulations. The development shall be maintained as such in perpetuity thereafter.
32. Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 35% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
33. Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the wholesome water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. Any use of grey water and/or rain water systems needs to be separate from the potable (wholesome) water system and needs to meet the requirements and guidance set out in Part G of the Building Regulations. The development shall be maintained as such in perpetuity thereafter.
34. Prior to occupation the hereby approved development shall be constructed and maintained thereafter in full accordance with the details set out in the Fire Statement (Ref: 2108310L - Issue 3 - dated: September 201) produced by Innovation Fire Engineering submitted with the application, unless otherwise agreed in writing by the Local Planning Authority.
35. Prior to occupation of the development, it shall have been constructed in full accordance with the air quality mitigation, carbon reduction measures and overheating mitigation as set out within the hereby approved reports "Overheating Assessment" (Revision B, September 2021) by JS Lewis Ltd; "BREEAM Pre-Assessment and Strategy" (Revision 2.2, 22/09/2021) by Carbon Consult Ltd; "Energy and Sustainability Statement" (Revision B, September 2021) by JS Lewis Ltd; and "Air Quality Assessment" (August 2021) by Aether.
36. The development shall be carried out in full accordance with the recommendations in section 6.0 of the hereby approved Preliminary Ecological Appraisal (Delta Simons Environmental Report August 2021) document.

37. The level of noise emitted from any mechanical ventilation plant associated with the development hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.
38. The scheme of proposed noise mitigation measures against externally generated traffic (rail and road) noise submitted within Sharps Redmore's acoustic report of 9th September 2021 shall be implemented.
39. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order), the following operations or development shall not be undertaken without the receipt of prior specific express planning permission in writing from the Local Planning Authority on the buildings hereby approved:
- The installation of any structures or apparatus for purposes relating to telecommunications or any part of the development hereby approved, including any structures or development otherwise permitted under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any equivalent Order revoking and re-enacting that order.
 - The upwards extension, by virtue of adding additional stories, to the building.
 - The change of planning use of the hereby permitted commercial floorspace to residential use.
40. The upper floors of the commercial premise(s) hereby approved shall be used only for Class E(g) (Offices) and for no other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.