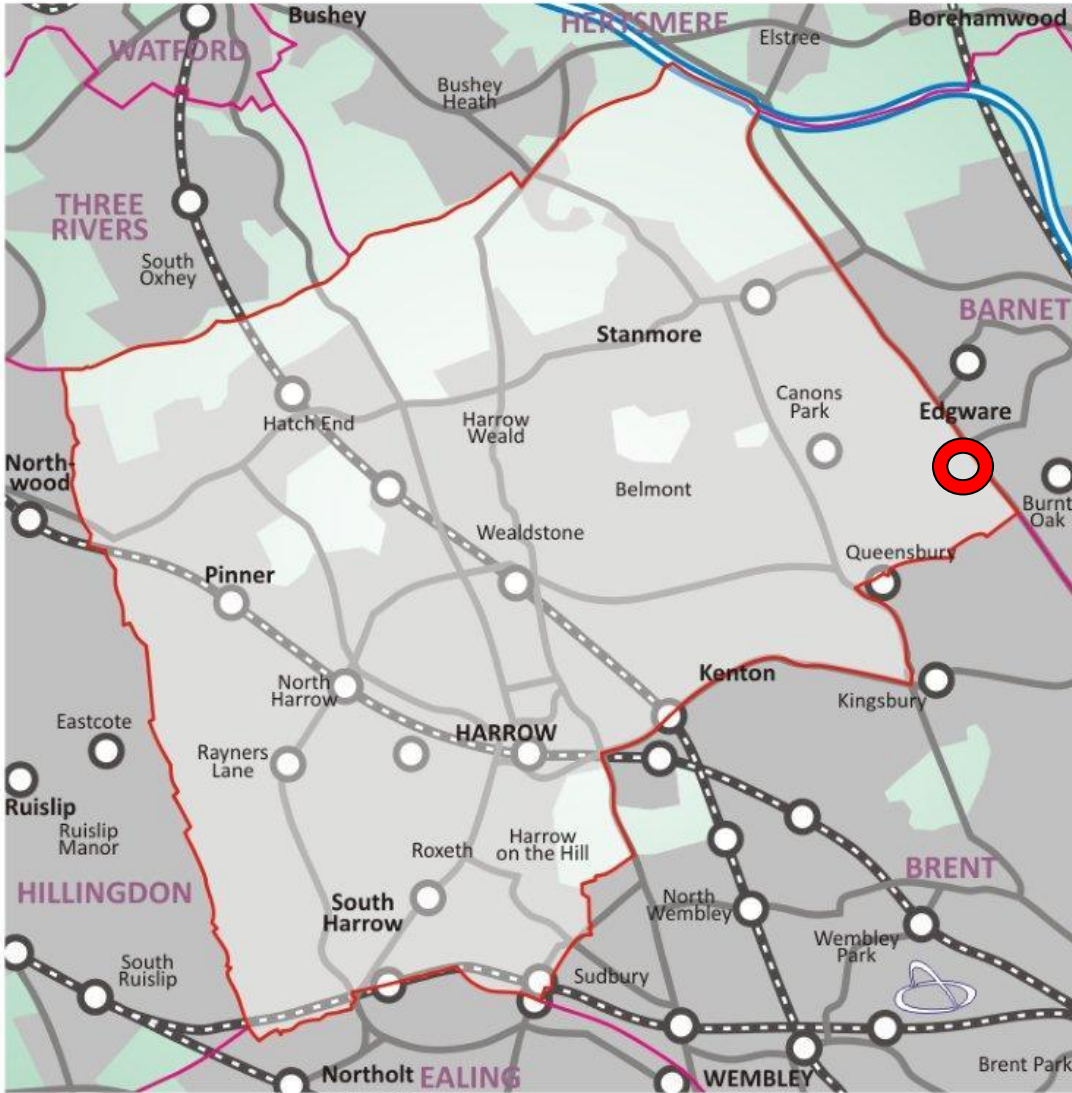


 = application site



Kilby's Industrial Estate and No's 1-5 Bacon Lane

P/0037/23

KILBY'S INDUSTRIAL ESTATE AND NOS 1-5
BACON LANE, EDGWARE



LONDON BOROUGH OF HARROW

PLANNING COMMITTEE

19th April 2023

APPLICATION NUMBER: P/0037/23
VALID DATE:
LOCATION: KILBY'S INDUSTRIAL ESTATE AND NOS.
1-5 BACON LANE
WARD: EDGWARE
POSTCODE: HA8 5AS
APPLICANT: MR POLYCARPOU
AGENT: Cg Architects
CASE OFFICER: MUHAMMAD SALEEM
EXPIRY DATE: 28/04/2023

PROPOSAL

Variation of condition 2 (Approved Plans) attached to planning permission P/3667/19 (dated 11/03/2021) to allow addition of a rear dormer to 10 of the houses approved.

RECOMMENDATION A

The Planning Committee is asked to:

- 1) Agree the reasons for approval as set out in this report, and
- 2) Grant planning permission subject to authority being delegated to the Chief Planning Officer in consultation with the Director of Legal and Governance Services for the completion of a Deed of Variation to the Section 106 legal agreement (dated 22nd February 2021) and, subject to amendments to the conditions, including the insertion or deletion of conditions as deemed fit and appropriate to the development or the amendments to the legal agreement as required.

HEADS OF TERMS

- 1) Provision of offsite affordable housing contribution of £110,000 with a viability review mechanism
- 2) Harrow Employment and Training Initiatives: financial contribution towards local training and employment initiatives prior to commencement
- 3) Child Play Space provision contribution
- 4) Parking permit restriction
- 5) Carbon offsetting contribution
- 6) External materials strategy
- 7) Planning Permission monitoring fee
- 8) Legal fees

RECOMMENDATION B

That if, by 1st July 2023 or such extended period as may be agreed in writing by the Chief Planning Officer, the section 106 Planning Obligation is not completed, then delegate the decision to the Chief Planning Officer to **REFUSE** planning permission for the following reason.

1. The proposal, in the absence of a Deed of Variation to the Section 106 (dated 22nd February 2021) to provide the appropriate improvements, benefits and monitoring that directly relate to the development, would fail to adequately mitigate the impact of the development on the wider area and provide for necessary social, environmental and physical infrastructural improvements arising directly from the development, contrary to the National Planning Policy Framework (2021), policies D3, D4, H4, S4, SI2, T4 of the London Plan (2021), Policy CS1 of the Harrow Core Strategy (2012) and Policies DM12, DM28, DM42, DM50, of the Harrow Development Management Policies Local Plan (2013).

INFORMATION

This application is reported to Planning Committee at the request of a nominated member in the public interest.

Statutory Return Type:	E(7) Small-scale Major Dwellings
Council Interest:	None
Net additional Floorspace:	3sqm
GLA CIL (provisional):	£180
Harrow CIL (provisional):	£330

HUMAN RIGHTS ACT

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

EQUALITIES

In determining this application, the Council has regard to its equalities obligations including its obligations under section 149 of the Equality Act 2010.

For the purposes of this application there are no adverse equalities issues.

S17 Crime & Disorder Act

Policy D11 of The London Plan and Policy DM1 of the Development Management Policies Local Plan require all new developments to have regard to safety and the measures to reduce crime in the design of development proposal. It is considered that the development does not adversely affect crime risk. A condition has been recommended for evidence of certification of Secure by Design Accreditation for the development to be submitted to and approved in writing by the Local Planning Authority before any part of the development is occupied or used.

1.0 SITE DESCRIPTION

- 1.1 The application site comprises approximately 0.33ha of land where the approved scheme has now been built and is near completion. The site is located between the rear gardens of the residential properties along Vancouver Road and The Chase with the access point from Bacon Lane. The land was formerly occupied by B1/B2 lock up garages. In addition, the application site includes three residential properties, nos. 1-5 Bacon Lane. As construction is entering the final stages the three approved blocks are within their final form and appearance. The surrounding land use is predominantly residential in the form of semi-detached and terraced inter-war housing.
- 1.2 The application site is located within the policy sub area of Edgware and Burnt Oak. It is an identified allocated site (H15) for residential development within the Harrow Site Allocations SPD (2013).

2.0 PROPOSED DETAILS

- 2.1 The proposal is for a variation of condition 2 (Approved Plans) attached to planning permission P/3667/19 (dated 11/03/2021) to allow addition of a rear dormer to 10 of the houses of the total 23 houses approved.
- 2.2 The proposal would create a dormer window to serve a top floor study in each of the 10 houses, improving the outlook from the room, and daylight levels into the room, which gives a better environment for a study rather than a store. The dormer proposed for approved house type 1 does not amend the total area of the room, due to the reconfiguration of the roof and maintains a total area of 7sqm. The room does increase within the approved house type 3 from 5.6m to 7.39m and this would remain under the 7.5m² which is the size of a single bedroom.
- 2.3 The previous variation application sought approval for a single width dormers measuring 6.3m² under planning ref: P/3522/21 and the wider double dormer formed part of application ref: P/0451/22 were both refused. The proposed total additional 10 dormers have since all been built to the properties in Blocks A, B and C and now seek retrospective planning permission as part of this application.

3.0 RELEVANT HISTORY

3.1 A summary of the relevant planning application history is set out below:

Ref no.	Description	Status & date of decision
P/5810/17	Redevelopment to provide 24 houses; associated landscaping and parking; refuse storage	Granted: 16/04/2018
P/3667/19	Redevelopment to provide 23 houses; associated landscaping and parking; refuse storage.	Granted: 09/12/2019
P/1077/21	Details pursuant to conditions 5 (materials), 6 (electric vehicle charger point/s) and 20 (biodiversity mitigation) attached to planning permission P/3667/19 dated 11/3/2021 for Redevelopment to provide 23 houses; Associated landscaping and parking; Refuse storage	Granted 11/5/2021
P/2225/21	Details pursuant to conditions 3 (disposal of surface water) and 4 (surface water attenuation) attached to planning permission P/3667/19 dated 11/03/2021	Granted 21/1/2022
P/3522/21	Variation of condition 2 (Approved Plans) attached to planning permission P/3667/19 (dated 11/03/2021) to allow addition of a rear dormer to 10 of the houses approved	Refused 27/01/2022 Appeal Dismissed 07/11/2022
Reason for refusal: The additional dormer windows, by reason of their siting, will give rise to undue overlooking and loss of privacy to the dwellings nearby, over and above the approved proposal, and given that these rooms are now going to be used as studies, this will result in a loss of residential amenities within the locality, contrary to policies CS1 Harrow Core Strategy (2012), DM1 Harrow Development Management Policy (2013) and D1 London Plan (2021).		
P/0451/22	Variation of condition 2 (approved plans) attached to planning permission P/3667/19 dated 11/03/2021 to allow addition of rear	Refused 16/03/2023

	dormers to 5 No. houses (within Block B and C). (Retrospective).	
<p>Reason for refusal:</p> <p>The additional dormer windows, by reason of their siting, will give rise to undue overlooking and loss of privacy, over and above the approved proposal, to the dwellings and their rear gardens abutting the site and will result in a loss of residential amenity within the locality, contrary to policies CS1 Harrow Core Strategy (2012), DM1 Harrow Development Management Plan (2013), D1, D3 London Plan (2021).</p>		

4.0 **CONSULTATIONS**

- 4.1 A total of 94 consultation letters were sent to neighbouring properties regarding this application.
- 4.2 The overall public consultation period expired on 13th February 2023 and 11 objections were received. The response to the neighbouring consultation is summarised in the table below:

<p><u>Neighbouring Amenity</u></p> <ul style="list-style-type: none"> -Privacy concern due to overlooking. -Privacy concern due to increasing noise and air pollution concern. -Blocking of natural light - There is concern regarding the ground level change which means the windows at ground floor of the development are visible over the wall that is 3m high from The Chase and Vancouver Road. - Following previous refusals by Planning Committee the dormers have been built and reapplied in this application. <p>Officer response: All issues raised will be considered in sections 6.3.1 – 6.3.6 of the assessment below. The ground floor windows and the amount of overlooking of the built scheme is being investigated by the Council’s Planning Enforcement Officer.</p>
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Statutory and non-statutory consultation

- 4.3 There are no statutory or non-statutory consultees that are relevant to this variation application.

5.0 POLICIES

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:
- 5.2 'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'
- 5.3 The Government has issued the National Planning Policy Framework [NPPF 2021] which sets out the Government's planning policies for England and how these should be applied and is a material consideration in the determination of this application.
- 5.4 In this instance, the Development Plan comprises The London Plan 2021 [LP] and the Local Development Framework [LDF]. The LDF comprises The Harrow Core Strategy 2012 [CS], Harrow and Wealdstone Area Action Plan 2013 [AAP], the Development Management Policies Local Plan 2013 [DMP], the Site Allocations Local Plan [SALP] 2013 and Harrow Local Area Map 2013 [LAP]. The relevant policies are referenced within the report below and a summary within Informative 1.

6.0 ASSESSMENT

6.1 The main issues are:

- Character, and Appearance of the Area
- Neighbouring Residential Amenity
- S106
- Fire Safety

6.2 Character, and Appearance of the Area

6.2.1 The relevant policies are:

- National Planning Policy Framework (2021)
- The London Plan 2021: D3
- Harrow Core Strategy 2012: CS1.B
- Harrow Development Management Policies Local Plan (2013): DM1

6.2.2 Policy D3.D(1) of the London Plan states that development should in terms of form and layout, enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.

6.2.3 Policy DM1 of the Development Management Policies Local Plan states that "all development proposals must achieve a high standard of design and layout.

Proposals which fail to achieve a high standard of design and layout, or which are detrimental to local character and appearance, will be resisted”.

- 6.2.4 Whilst the previous application for the additional dormers were refused planning permission (under planning references P/3522/21 and P/0451/22) due to their amenity impact on neighbouring properties, the additional dormers were considered acceptable in terms of their overall design and scale. The recent planning appeal related to only the amenity impact on neighbours and whether or not planning obligations were necessary to make the development acceptable and if any agreements had been entered into. The design of the built rear dormers is considered in keeping with the scale, character and appearance of the development approved (P/3667/19 dated 11/03/2021). As such, the design of the 10 additional dormers is considered acceptable.

6.3 Neighbouring Residential Amenity

- 6.3.1 The relevant policies are:

- National Planning Policy Framework (2021)
- Harrow Core Strategy 2012: CS1.K
- Harrow Development Management Policies Local Plan (2013): DM1
- London Plan Policy: D3, D6

Relevant Supplementary Documents

- Mayor of London Housing Supplementary Planning Guidance (2016)

- 6.3.2 Policy DM1 of the DMP seeks to ensure that “proposals that would be detrimental to the privacy and amenity of neighbouring occupiers, or that would fail to achieve satisfactory privacy and amenity for future occupiers of the development, will be resisted”.
- 6.3.3 The application seeks planning permission for the introduction of 10 new dormers within the development which was granted planning permission (under planning reference: P/3667/19).
- 6.3.4 The consented scheme benefited from 6 dormers to the rear roof slope of Block B which has now introduced 3 additional dormers matching the design, scale and siting of the approved dormers. The rear roof slope of Block A now accommodates 5 dormers (the approved plans had none) and Block C was approved with 7 rear dormers, with a further 2 dormers now added.
- 6.3.5 Proposals for additional dormers to these blocks were refused under planning references P/3522/21 and P/0451/22 due to their impact on the neighbouring amenities of residential properties at The Chase, Vancouver Road and adjacent properties on Bacon Lane in terms of overlooking and loss of privacy.

- 6.3.6 In the recent appeal decision following the refusal of additional dormers to these blocks under planning reference: P/3522/21 the Planning Inspector stated the following (see PINS decision at Appendix 5):

[7] The proposed dormers to Block A would not be orientated towards the rear elevations of houses on neighbouring The Chase or Vancouver Road, or the adjacent properties on Bacon Lane. Some views would be possible from the study rooms across the rear gardens of these properties. However, these would be acute angles and at a distance slightly farther away than would be the case from the approved first floor windows.

[8] The additional dormers proposed to Blocks B and C would be directly opposite the rear of some houses on The Chase. However, the gardens of Blocks B and C and those on The Chase abut, and this would ensure that there is separation. The recess from eaves level and siting up the roof slope would mean that the dormers would be situated farther from properties on The Chase than the approved first floor windows. The dormer windows depicted on the plans would be smaller than those approved at first floor level. As approved. 13 dormers would be sited on the roof slopes of Blocks B and C. These dormers would be quite evenly distributed along the length of the terraces. As a result of this distribution, properties on The Chase, which back onto the site, would already be opposite dormers in the approved scheme.

[9] Consequently, the development would provide windows that would be no closer to neighbouring properties than has already been established under the existing planning permission of provide for any substantially different property relations than would, regardless, prevail as a result of the existing planning permission. Therefore, I find that no increases in overlooking or loss of privacy of significance for neighbouring occupants would result and acceptable living conditions would be preserved.

- 6.3.7 The Planning Inspector's decision forms a material consideration. It is clear from this assessment that there wasn't considered to be an amenity impact regarding the proposed dormers due to site considerations. A reason for refusal on this basis could therefore not be sustained.
- 6.3.8 It is noted that we have received 11 objections raising concerns regarding loss of privacy and overlooking along with loss of light, air quality and noise pollution. Matters pertaining to loss of privacy have been addressed above. Concerns regarding loss of light are noted however the dormers proposed fit within the frame and scale of the approved dwellings, therefore Officers consider the level of daylight received at neighbouring properties within the immediate vicinity would be unaffected by this proposal. The substantive scheme in relation to the 23 homes has been granted planning permission under reference P/3667/19. The addition of a total of 10 dormer windows would not increase noise impacts beyond the permission already permitted. Air quality is an environmental concern that was addressed in the consideration of the original scheme and this permission as granted subject to a legal agreement requiring mitigation relating to carbon off setting as required by planning policy at the time.

6.4 S106

6.4.1 The appeal was dismissed solely due to the fact that the appellant had not submitted a legal agreement to PINS to be considered alongside the appeal to link the proposal into the heads of terms of the legal agreement on the principal permission. As part of this submission the applicant confirm they would enter into the legal agreement which would include the amendments and the Council's legal officers are currently reviewing this.

6.5 Fire Safety

6.5.1 The relevant policies are:

- London Plan (2021): D12

6.5.2 When the primary permission was considered, fire safety for new development as a consideration which is now encapsulated in policy D12 of the London Plan did not exist and as such it has not been addressed in this application.

7.0 CONCLUSIONS AND REASONS FOR RECOMMENDING APPROVAL

7.1 The proposals are considered to form an appropriate addition to the units to facilitate a study room within each unit, that conforms to the character and appearance of the approved development, and would not unduly impact on the amenities of the residential occupiers of the adjoining, or nearby properties, subject to the attached conditions. The proposed development would therefore accord with Policies D3, D6, and D12 of the London Plan (2021), policy CS1 of the Harrow Core Strategy 2012, and policy DM1 of the Harrow Development Management Policies Local Plan (2013).

APPENDIX 1: CONDITIONS AND INFORMATIVES

Conditions

1. Timing

The development shall be begun not later than three years from the date of Planning Permission numbered P/3667/19 dated 09/12/2019.

REASON: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Approved Plans and Documents

Save where varied by the other planning conditions comprising this planning permission, the development hereby permitted shall be carried out, completed and retained in accordance with the following approved plans and documents:

Planning Statement dated Jan 2023, Site Location Plan, 1294/50, 1294/51, 1294/52, 1294/53, 1294/54 Rev C, 1294/55 Rev A, 1294/56, 1294/57 Rev A, 1294/58 Rev A, 1294/59 Rev B, 1294/60 Rev B, 1294/61 Rev C, 1294/62, 1294/63, 1294/64, 1294/65, LLDD1210-LAN-DWG-100 Rev 04, 1294/71, 1294/72, 1294/73, 1294/73, LLDD1210-LAN-DWG-101 Rev 05, LLDD1210-LAN-DWG-102 Rev 05, LLDD1210-LAN-DWG-200 Rev 03, LLDD1210-LAN-DWG-201 Rev 05, LLDD1210-LAN-DWG-202 Rev 05, Design and access statement, Planning Statement, Energy and Sustainability Assessment, Phase 3 Remediation Strategy, Air Quality Impact Assessment, Contamination Assessment Report, Report on a Phase 2 Ground Investigation, Extended Phase 1 Habitat Survey, Food Risk Assessment and Drainage Strategy, Construction Management Plan with supporting plans, Construction Logistics Plan, Transport Statement Addendum, Illustrated Schedule of Materials and Planting, Soft Landscape Specification, Daylight Sunlight and Overshadowing Assessment, Detailed Plant Schedule and Specification, Financial Viability Assessment

REASON: For the avoidance of doubt and in the interests of proper planning.

3. Disposal of Surface and Foul Water

The disposal of surface and foul water and foul water drainage shall be implemented in accordance with the details approved in application reference: P/2225/21 dated 25th January 2022 and shall thereafter be retained.

REASON: To ensure that adequate drainage facilities are provided, reduce and mitigate the effects of flood risk.

4. Surface Water Attenuation and Storage Works

The surface water attenuation and storage works shall be implemented in accordance with the details approved in application reference: P/2225/21 dated 25th January 2022 and shall thereafter be retained.

REASON: To prevent the increased risk of flooding, reduce and mitigate the effects of flood risk.

5. Materials

The materials used in the construction of the external surfaces noted below shall be implemented in accordance with the details approved in application reference: P/1077/21 dated 12th May 2021:

- a. external appearance of the buildings;
- b. windows and doors
- c. refuse and cycle storage area
- d. the boundary treatment

The development shall be carried out in accordance with the details so agreed and shall thereafter be retained.

REASON: To ensure that the development achieves a high standard of design and layout and safeguard the character and appearance of the area

6. Electric Vehicle Charging Points

The vehicle charging points approved under reference P/1077/21 dated 21st May 2021 shall be implemented on site prior to the first occupation of the development and shall be retained thereafter.

REASON: In the interests of sustainable transport.

7. PD Rights – Householder Extensions

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development which would otherwise fall within Classes A - F in Part 1 of Schedule 2 to that Order shall be carried out without the prior written permission of the local planning authority.

REASON: To safeguard the character of the area by restricting the amount of site coverage and size of dwelling and to safeguard the amenity of neighbouring residents.

8. Use as Dwellinghouse

The development hereby permitted shall be used for Class C3 dwellinghouse(s) only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Schedule 2, Part 3, Class L shall take place.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by the Town and Country Planning (General Permitted Development) Order 2015 to maintain mixed, balanced, sustainable and inclusive communities and in the interests of residential and visual amenity.

9. Planting

All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first use of the building(s), or the completion of the development, whichever is the sooner. Any existing or new trees or shrubs which, within a period of 5 years from the completion of the 5 development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species, unless the local authority agrees any variation in writing.

REASON: To ensure that the development maintains appropriate provision for soft landscaping soft landscaping details.

10. Hard Surfacing Material

Before the hard surfacing hereby permitted is brought into use the surfacing shall EITHER be constructed from porous materials, for example, gravel, permeable block paving or porous asphalt, OR provision shall be made to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the site. Please note: guidance on permeable paving has now been published by the Environment Agency on <http://www.communities.gov.uk/publications/planningandbuilding/pavingfrontgardens>

REASON: To ensure that adequate and sustainable drainage facilities are provided.

11. Contamination 1

The development hereby permitted shall be undertaken in accordance with the remediation measures and strategy detailed within the Phase 3 Remediation Strategy (November 2018), unless otherwise agreed and approved in writing by the Local Planning Authority.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

12. Contamination 2

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the Local Planning Authority in writing to be agreed.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. Accessible and Adaptable Dwellings

The development hereby permitted shall be constructed to the specifications of: "Part M, M4 (2), Category 2: Accessible and Adaptable Dwellings" of the Building Regulations 2013 and thereafter retained in that form.

REASON: To ensure that the development is capable of meeting 'Accessible and Adaptable Dwellings' standards.

14. Wheelchair User Dwellings

Ten per cent of the proposed dwellinghouses shall be constructed to meet the specifications of Building Regulation requirement M4(3) 'wheelchair user dwellings' and shall thereafter be retained in that form.

REASON: To ensure that the appropriate number of dwellinghouses are designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.

15. Construction Logistic Plan

The development hereby permitted shall be constructed in accordance with the details set out within the Construction Logistics Plan and Construction Management Plan, unless otherwise agreed and approved in writing by the Local Planning Authority.

REASON: To ensure that the construction of the development does not unduly impact on the amenities of the existing occupiers of the properties on the site.

16. Refuse Storage

The refuse and waste bins shall be stored at all times, other than on collection days, within the approved designated refuse storage areas

REASON: To enhance the appearance of the development and safeguard the character and appearance of the area.

17. Flank Windows

Notwithstanding the detail shown on the approved plans, the windows within the flank elevations of the dwellinghouses shall be obscurely glazed and non-openable below 1.7m above internal floor level. The windows implemented shall be retained thereafter.

REASON: To protect the amenities of the neighbouring occupiers.

18. Secured By Design

Evidence of certification of Secure by Design Accreditation for the development shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is occupied or used.

REASON: In the interests of creating safer and more sustainable communities and to safeguard amenity by reducing the risk of crime and the fear of crime, in accordance with Policy D11 of the London Plan (2021) and Section 17 of the Crime & Disorder Act 1998.

19. Site Hoardings

Site works in connection with the development hereby permitted shall not commence before the boundary of the site is enclosed by a close boarded or other security fence to a minimum height of 2 metres. Such fencing shall remain until works and clearance have been completed, and the development is ready for occupation.

REASON: In the interests of amenity and highway safety.

20 Biodiversity

Details of biodiversity mitigation and enhancements for the site as approved under reference: P/1077/21 dated 12th May 2021 shall be implemented prior to the first occupation of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON: To safeguard and enhance the ecology and biodiversity of the area.

INFORMATIVES:

1. Policies

The following policies are relevant to this decision:

The National Planning Policy Framework (2021)

London Plan 2021: D3, D6,

The Harrow Core Strategy 2012: CS1

**Harrow Development Management Policies Local Plan 2013:
DM1**

2. Considerate Contractor Code of Practice

The applicant's attention is drawn to the requirements in the Considerate Contractor Code of Practice. In the interests of minimising any adverse effects arising from building operations, the limitations on hours of working are as follows: 0800-1800 hours Monday - Friday (not including Bank Holidays) 0800-1300 hours Saturday.

3. Party Wall Act:

The Party Wall etc. Act 1996 requires a building owner to notify and obtain formal agreement from adjoining owner(s) where the building owner intends to carry out building work which involves:

1. work on an existing wall shared with another property;
2. building on the boundary with a neighbouring property;
3. excavating near a neighbouring building,

and that work falls within the scope of the Act.

Procedures under this Act are quite separate from the need for planning permission or building regulations approval.

"The Party Wall etc. Act 1996: explanatory booklet" is available free of charge from:

Communities and Local Government Publications, PO Box 236, Wetherby, LS23 7NB

Please quote Product code: 02 BR 00862 when ordering.

Also available for download from the Portal website:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

4. Mayoral Community Infrastructure Levy (provisional)

Please be advised that approval of this application (either by Harrow Council, or subsequently by the Planning Inspectorate if allowed on appeal following a refusal by Harrow Council) will attract a Community Infrastructure Levy (CIL) liability, which is payable upon the commencement of development. This charge is levied under s.206 of the Planning Act 2008 Harrow Council, as CIL collecting authority, has responsibility for the collection of the Mayoral CIL

The Provisional Mayoral CIL liability for the application, based on the Mayoral CIL levy rate for Harrow of £60/sqm is £131,760. The floorspace subject to CIL may also change as a result of more detailed measuring and taking into account any in-use floor space and relief grants (i.e. for example, social housing).

You are advised to visit the planningportal website where you can download the appropriate document templates. Please complete and return the Assumption of Liability Form 1 and CIL Additional Information Form 0.
https://ecab.planningportal.co.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf

https://ecab.planningportal.co.uk/uploads/1app/forms/cil_questions.pdf

If you have a Commencement Date please also complete CIL Form 6:

https://ecab.planningportal.co.uk/uploads/1app/forms/form_6_commencement_notice.pdf

The above forms should be emailed to HarrowCIL@Harrow.gov.uk Please note that the above forms must be completed and provided to the Council prior to the commencement of the development; failure to do this may result in surcharges and penalties

5. Harrow Community Infrastructure Levy (provisional)

Harrow has a Community Infrastructure Levy which applies Borough wide for certain developments of over 100sqm gross internal floor space.

Harrow's Charges are:

Residential (Use Class C3) - £110 per sqm;

Hotels (Use Class C1), Residential Institutions except Hospitals, (Use Class C2), Student Accommodation, Hostels and HMOs (Sui generis) - £55 per sqm;

Retail (Use Class A1), Financial & Professional Services (Use Class A2),

Restaurants and Cafes (Use Class A3) Drinking Establishments (Use Class A4)

Hot Food Takeaways (Use Class A5) - £100 per sqm

All other uses - Nil.

The Provisional Harrow CIL liability for the application, based on the Harrow CIL levy rate for Harrow of £110/sqm is £348,115

This amount includes indexation which is 323/224. The floorspace subject to CIL may also change as a result of more detailed measuring and taking into account any in-use floor space and relief grants (i.e. for example, social housing).

The CIL Liability is payable upon the commencement of development.

You are advised to visit the planningportal website where you can download the relevant CIL Forms.

Please complete and return the Assumption of Liability Form 1 and CIL Additional Information Form 0 .

https://ecab.planningportal.co.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf

https://ecab.planningportal.co.uk/uploads/1app/forms/cil_questions.pdf

If you have a Commencement Date please also complete CIL Form 6:

https://ecab.planningportal.co.uk/uploads/1app/forms/form_6_commencement_notice.pdf

The above forms should be emailed to HarrowCIL@Harrow.gov.uk

Please note that the above forms must be completed and provided to the Council prior to the commencement of the development; failure to do this may result in surcharges.

6. Pre-application engagement

Statement under Article 35(2) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. This decision has been reached in accordance with paragraphs 187-189 of The National Planning Policy Framework. Harrow Council has a pre-application advice service and actively encourages applicants to use this service. Please note this for future reference prior to submitting any future planning applications.

7. Thames Water

The applicant is advised that under the terms of the Water Resources Act 1991, and the Thames Region Land Drainage Byelaws 1981, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the Edgware Brook, designated a main river.

8. Sustainable Urban Drainage

The applicant is advised that surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SUDS). SUDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SUDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands. SUDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge, and improving water quality and amenity. Where the intention is to use soak ways they should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365. Support for the SUDS approach to managing surface water run-off is set out in the National Planning Policy Framework (NPPF) and its accompanying technical guidance, as well as the London Plan. Specifically, the NPPF (2012) gives priority to the use of sustainable drainage systems in the management of

residual flood risk and the technical guidance confirms that the use of such systems is a policy aim in all flood zones. Policy 5.13 of the London Plan (2012) requires development to utilise sustainable drainage systems unless there are practical reasons for not doing so. Sustainable drainage systems cover the whole range of sustainable approaches to surface drainage management. They are designed to control surface water run-off close to where it falls and mimic natural drainage as closely as possible. Therefore, almost any development should be able to include a sustainable drainage scheme based on these principles. The applicant can contact Harrow Drainage Section for further information.

9. Compliance with Conditions

Compliance with Planning Conditions Requiring Submission and Approval of Details Before Development Commences

- You will be in breach of planning permission if you start development without complying with a condition requiring you to do something before you start. For example, that a scheme or details of the development must first be approved by the Local Planning Authority.
- Carrying out works in breach of such a condition will not satisfy the requirement to commence the development within the time permitted.
- Beginning development in breach of a planning condition will invalidate your planning permission.
- If you require confirmation as to whether the works you have carried out are acceptable, then you should apply to the Local Planning Authority for a certificate of lawfulness.

10. Highways Interference



The applicant is advised to ensure that the highway is not interfered with or obstructed at any time during the execution of any works on land adjacent to a highway. The applicant is liable for any damage caused to any footway, footpath, grass verge, vehicle crossing, carriageway or highway asset. Please report any damage to nrswa@harrow.gov.uk or telephone 020 8424 1884 where assistance with the repair of the damage is available, at the applicants expense. Failure to report any damage could result in a charge being levied against the property.

11. Street Naming and Numbering

Harrow Council is responsible for the naming and numbering of new or existing streets and buildings within the borough boundaries. The council carries out these functions under the London Government Act 1963 and the London Building Acts (Amendment) Act 1939.

All new developments, sub division of existing properties or changes to street names or numbers will require an application for official Street Naming and Numbering (SNN). If you do not have your development officially named/numbered, then then it will not be officially registered and new owners etc. will have difficulty registering with utility companies etc. You can apply for SNN by contacting technicalservices@harrow.gov.uk or on the following link. <http://www.harrow.gov.uk/info/100011/transport-and-streets/1579/street-naming-and-numbering>

Checked

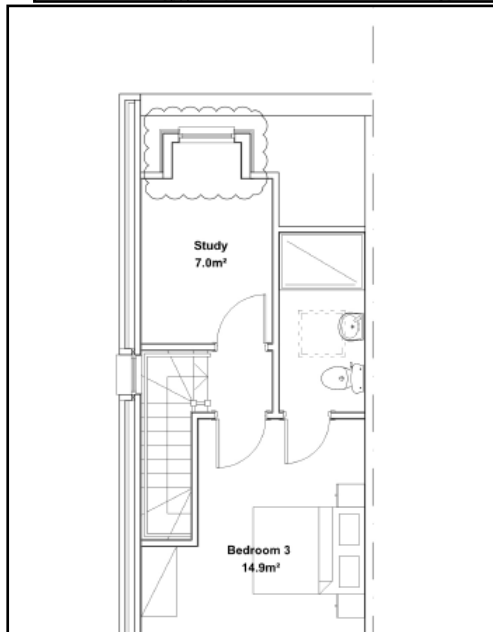
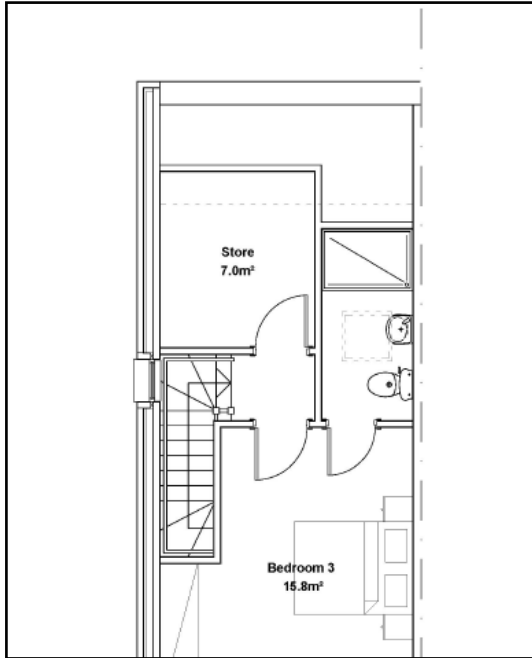
 <p>Orla Murphy Head of Development Management</p> <p>6th April 2023</p>	 <p>Viv Evans Chief Planning Officer</p> <p>6th April 2023</p>
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APPENDIX 2: SITE PLAN

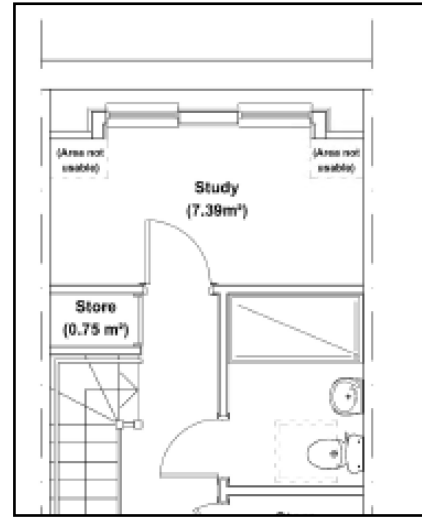
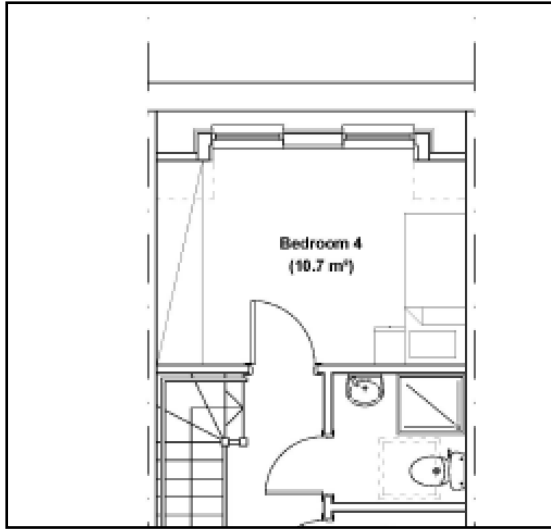


APPENDIX 3: PLANS AND ELEVATIONS

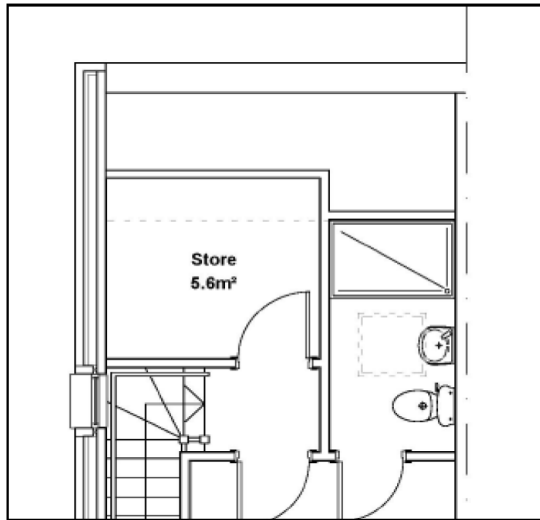
Approved and Proposed House Type 1



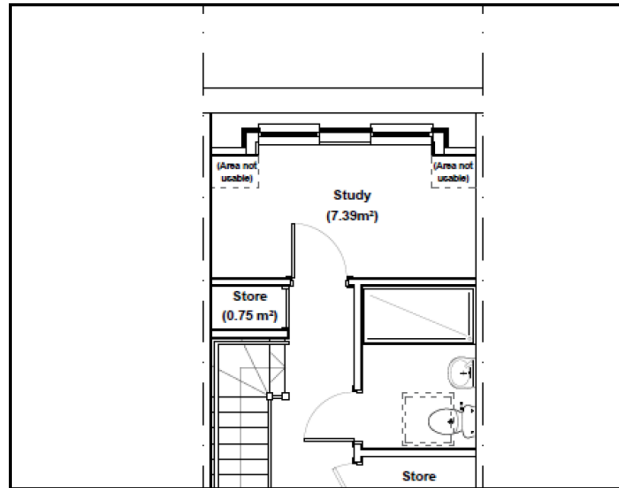
Approved and Proposed House Type 2



Approved and Proposed House Type 3

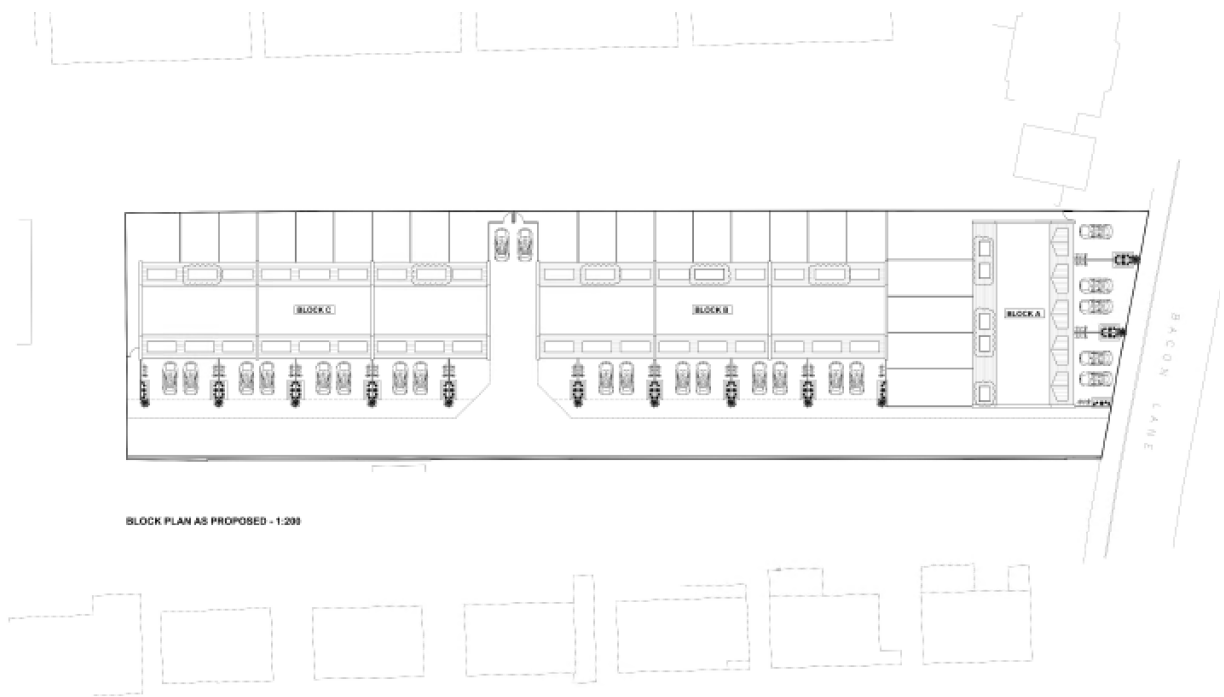


Approved



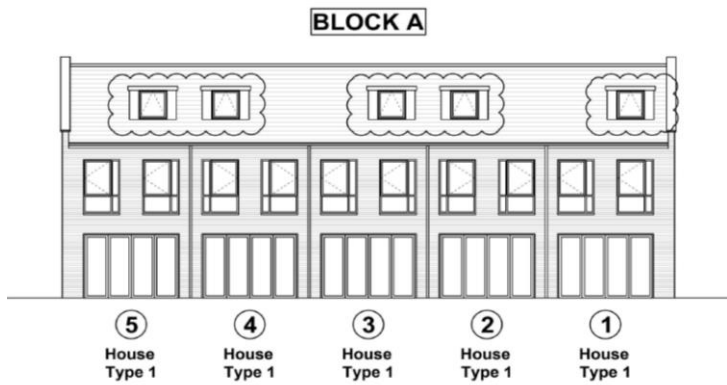
Proposed

Proposed Block Plan



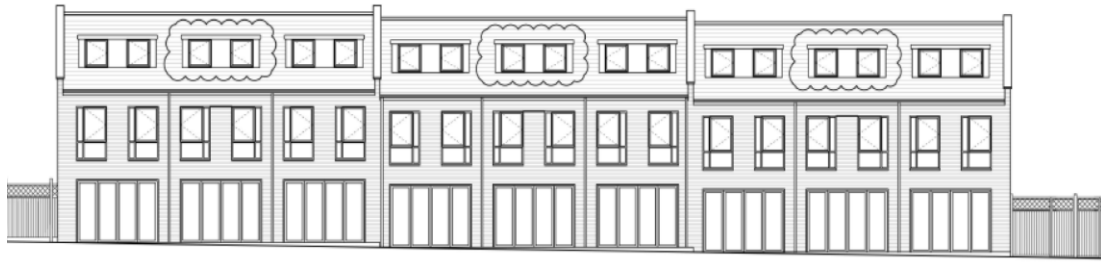
BLOCK PLAN AS PROPOSED - 1:200

Amendments to Block A Rear Elevation



Amendments to Block B Rear Elevation

BLOCK B



- ⑥ House Type 2
- ⑦ House Type 3
- ⑧ House Type 2
- ⑨ House Type 2
- ⑩ House Type 3
- ⑪ House Type 2
- ⑫ House Type 2
- ⑬ House Type 3
- ⑭ House Type 2

Amendments to Block C Rear Elevation

BLOCK C



- ⑮ House Type 2
- ⑯ House Type 3
- ⑰ House Type 2
- ⑱ House Type 2
- ⑲ House Type 2
- ⑳ House Type 2
- ㉑ House Type 2
- ㉒ House Type 3
- ㉓ House Type 2

The plans below outline the proposed dormers under previous applications which were refused planning permission under references P/3522/21 and P/0451/22:

BLOCK B

P/3522/21 – proposed dormers refused



P/0451/22 – proposed dormers refused

BLOCK C

P/3522/21 – proposed dormers refused





Aerial photograph showing the development with the built dormers

Site photographs



Front elevation - Block A – view from Bacon Lane



View of Block A from eastern side of Bacon Lane



Rear of Block A – built rear dormers



Block B and C - rear elevations



Block C – rear elevation



Block C – view from south looking back at development from Mill Yard Industrial Estate, Columbia Avenue

APPENDIX 5: Appeal Decision



Appeal Decision

Site visit made on 7 November 2022

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd January 2023

Appeal Ref: APP/M5450/W/22/3297090

1, 3 and 5 Bacon Lane and Kilbys Industrial Estate, Bacon Lane, Harrow HA8 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Polycarpou against the decision of the Council of the London Borough of Harrow.
- The application Ref P/3522/21, dated 23 August 2021, was refused by notice dated 19 January 2022.
- The application sought planning permission for *redevelopment to provide 23 houses; associated landscaping and parking; refuse storage* without complying with a condition attached to planning permission p/3667/19 dated 11 March 2021.
- The condition in dispute is No 2 which states that: *Save where varied by the other planning conditions comprising this planning permission, the development hereby permitted shall be carried out, completed and retained in accordance with the following approved plans and documents: Site Location Plan, 1294/50, 1294/51, 1294/52, 1294/53, 1294/54, 1294/55, 1294/56, 1294/57, 1294/58, 1294/59, 1294/60, 1294/61, 1294/62, 1294/63, 1294/64, 1294/65, LLDD1210-LAN-DWG-100 Rev 04, 1294/71, 1294/72, 1294/73, 1294/73, LLDD1210-LAN-DWG-101 Rev 05, LLDD1210-LAN-DWG-102 Rev 05, LLDD1210-LAN-DWG-200 Rev 03, LLDD1210-LAN-DWG-201 Rev 05, LLDD1210-LAN-DWG202 Rev 05, Design and access statement, Planning Statement, Energy and Sustainability Assessment, Phase 3 Remediation Strategy, Air Quality Impact Assessment, Contamination Assessment Report, Report on a Phase 2 Ground Investigation, Extended Phase 1 Habitat Survey, Food Risk Assessment and Drainage Strategy, Construction Management Plan with supporting plans, Construction Logistics Plan, Transport Statement Addendum, Illustrated Schedule of Materials and Planting, Soft Landscape Specification, Daylight Sunlight and Overshadowing Assessment, Detailed Plant Schedule and Specification, Financial Viability Assessment*
- The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*

Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The appellant seeks a varied planning permission which would include the erection of additional rear dormers to 10 houses.
3. On my visit I noted that 10 additional dormers are built or are in the process of being built on the site. The 5 dormers on the rear elevation of Block A appear to match those on the proposed plans. The remaining 5, on the rear elevations of Blocks B and C, differ from those shown on the proposed plans. For the

<https://www.gov.uk/planning-inspectorate>

avoidance of doubt, I have determined the appeal on the basis of the plans submitted.

Main Issues

4. The main issues are:

- The effect that varying the condition would have on the living conditions of the occupants of nearby properties with particular reference to their privacy; and
- Whether or not planning obligations are necessary to make the development acceptable and, if so, whether or not any necessary agreements have been entered into.

Reasons

Living Conditions

5. The appeal site is located within an area which is predominantly residential in character although some industrial units are adjacent to the south. House types in this part of Bacon Lane and the surrounding streets vary but principally consist of traditionally designed semi-detached properties and short rows of terraces. Some properties are served by dormer windows. Properties in the area are generally served by spacious plots with large rear gardens.
6. The dormers proposed to the rear of Block A would be opposite a gable end, front driveways and rear gardens of Block B within the appeal site. The dormers would be separated from Block B by lengthy rear gardens. Recessed from eaves level, and set part way up the rear roof slopes of Block A, the dormers would be located farther from Block B than the approved first floor windows serving Block A. The dormer windows would be smaller than the rear elevation first floor windows. Therefore, whilst occupants of the study rooms would have some views across the gardens and drives of Block B they would be at a distance and views would be no more invasive than those which would be available from first floor rooms. The gable end of Block B would contain windows but condition 16 of the existing planning permission requires that these windows be obscurely glazed and non-opening below 1.7m above the internal floor level. Had the appeal been allowed, such a condition could be reimposed, and no views into those rooms would be available from the proposed dormers.
7. The proposed dormers to Block A would not be orientated toward the rear elevations of houses on neighbouring The Chase or Vancouver Road, or the adjacent properties on Bacon Lane. Some views would be possible from the study rooms across the rear gardens of these properties. However, these would be at acute angles and at a distance slightly farther away than would be the case from the approved first floor windows.
8. The additional dormers proposed to Blocks B and C would be directly opposite the rear of some houses on The Chase. However, the gardens of Blocks B and C and those on The Chase abut, and this would ensure that there is separation. The recess from eaves level and siting up the roof slope would mean that the dormers would be situated farther from properties on The Chase than the approved first floor windows. The dormer windows depicted on the plans would be smaller than those approved at first floor level. As approved, 13 dormers

would be sited on the roof slopes of Blocks B and C. These dormers would be quite evenly distributed along the length of the terraces. As a result of this distribution, properties on The Chase, which back onto the site, would already be opposite dormers in the approved scheme.

9. Consequently, the development would provide windows that would be no closer to neighbouring properties than has already been established under the existing planning permission or provide for any substantially different property relationships than would, regardless, prevail as a result of the existing planning permission. Therefore, I find that no increases in overlooking or loss of privacy of significance for neighbouring occupants would result and acceptable living conditions would be preserved. It follows that the development would be compliant with Policy CS1 of the Harlow Council Core Strategy and Policy DM1 of the Harlow Council Development Management Policies document. In summary, and amongst other matters, these policies require that development responds positively to local density and spacing and ensures a high standard of privacy. I find that Policy D1 of the London Plan, 2021, referred to by the Council, which principally focuses upon the undertaking of area assessments and preparation of development plans for London boroughs, is not particularly relevant to living conditions.

Planning Obligations

10. The application subject to the appeal was recommended for approval by Council Officers. That recommendation, which was overturned by Members of the Planning Committee, was subject to a schedule of conditions and a variation of a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) (the Planning Act). On this basis, it appears that planning permission p/3667/19 is subject to a Section 106 agreement and it has not been shown to me that the revised scheme subject to this appeal would not also require those obligations to make it acceptable in planning terms through a varied agreement. It has been confirmed that no such varied Section 106 agreement has been completed and therefore, the required obligations have not been secured.

Conclusion

11. Whilst I have concluded that the development would have acceptable effects upon the living conditions of the occupants of nearby properties, I have no reason to conclude that a planning obligation under Section 106 of the Planning Act is not necessary to make the development acceptable in planning terms. No such Section 106 agreement has been completed and, in its absence, the development as a whole is not acceptable. The appeal is therefore dismissed.

H Jones

INSPECTOR

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