

LONDON BOROUGH OF ENFIELD

PLANNING COMMITTEE

Date : 22 March 2016

Report of
Assistant Director - Planning,
Highways & Transportation

Contact Officer:
Andy Higham
Andy Bates
Mr S. Newton

Ward: Grange

Application Number : P13-03636PLA

Category: Householder
Developments

LOCATION: 36, WALSINGHAM ROAD, ENFIELD, EN2 6EY

PROPOSAL: Subdivision of site and erection of 1 x 2 storey 4 -bed dwelling incorporating access to Walsingham Road.

Applicant Name & Address:

Kevin Fitzgerald
36, Walsingham Road
Enfield,
EN2 6EY

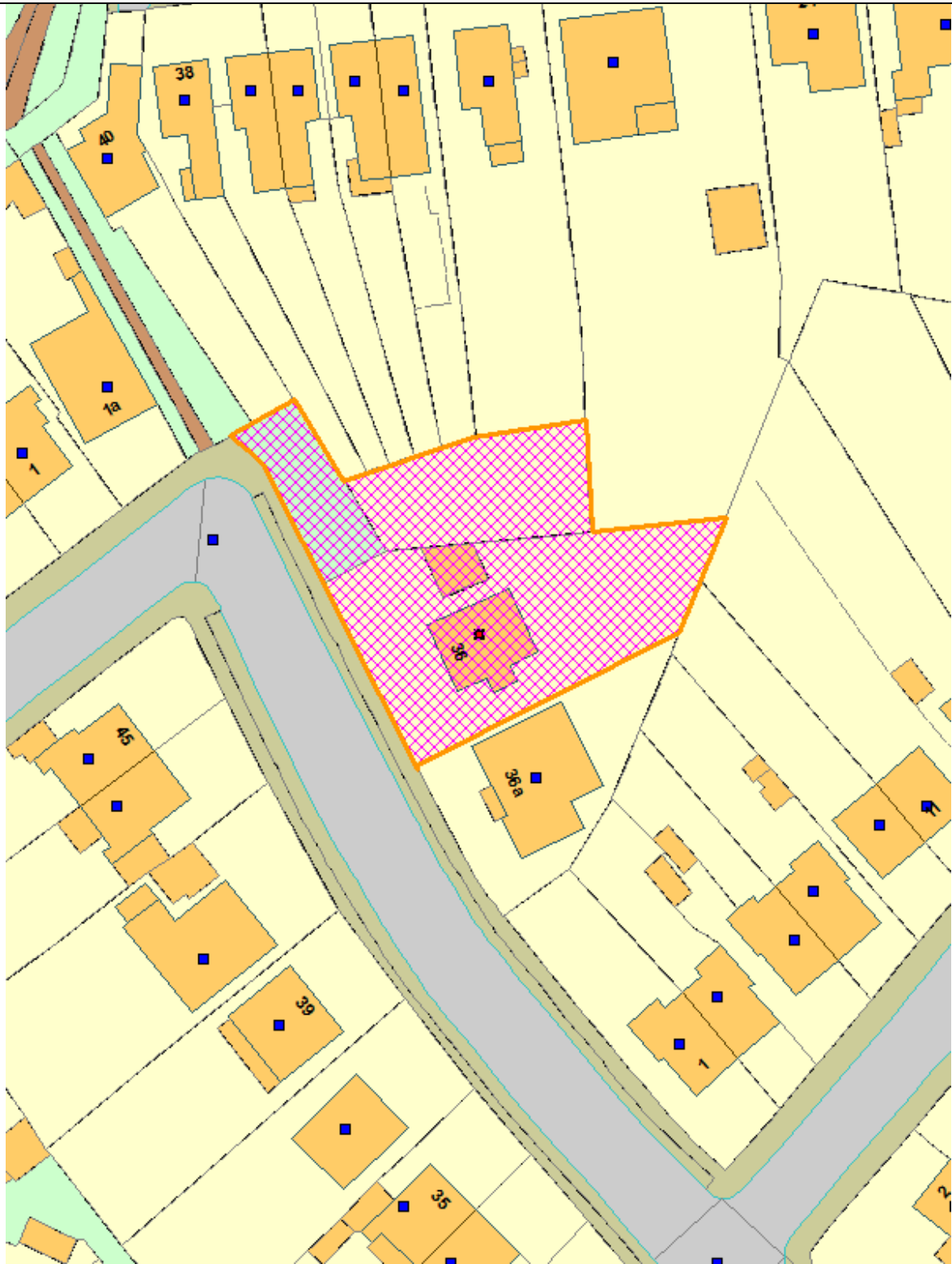
Agent Name & Address:

Andy Meader
Pegasus Group
Abbey House
Grenville Place
Bracknell
Berkshire
RG12 1BP

RECOMMENDATION:

That subject to the completion of a S106 Agreement to secure the obligations as set out in the report, the Head of Development Management / the Planning Decisions Manager be authorised to **GRANT** planning permission subject to conditions.

Ref: P13-03636PLA LOCATION: 36, Walsingham Road, Enfield, EN2 6EY, , ,



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Scale 1:1250

North



1. Site and Surroundings

- 1.1. The application site comprises of a piece of garden land to the side of No.36 Walsingham Road, on the juncture of Walsingham and Uvedale Roads. The site comprises an irregular shaped plot, close to a sharp bend at the junction of Uvedale Road, together with a narrow strip of land extending to the north west (the embankment), adjacent to a public footpath linking properties on Uvedale Road/Walsingham Road to Town Park.
- 1.2. The properties along the northern boundary of the site fronting Essex Road (Nos.26-40 (even)) are within the Enfield Town Conservation Area and all of the aforementioned properties (except for Nos.30 & 40) are covered by an Article 4(2) Direction removing permitted development rights for certain types of development.
- 1.3. The currently separated garden, falls within the Enfield Town Conservation Area and Article 4 Direction area whilst the embankment is excluded. The garden is included in the conservation area as it historically formed part of the rear garden of 28 Essex Road.

2. Proposal

- 2.1. Permission is sought for the subdivision of the site and erection of a detached 4-bed single family dwelling incorporating access to Walsingham Road.
- 2.2. The proposed dwelling would have a maximum width of 10.3m, a maximum depth of 12.9m, it will be 4.9m to eaves level, and approximately 7.4m to the ridge of a pitched roof. The front roof plane will contain a projecting gable feature and two dormer windows and the rear roof plane will contain three dormer windows.
- 2.3. The ground floor will accommodate a lounge, dining room, kitchen, wc, utility room and an integral single-vehicle garage. The first floor will contain three bedrooms, a bathroom and ensuite.

3. Relevant Planning Decisions

- 3.1. An application (ref: TP/87/0161) for the erection of detached 4-bedroom house with integral garage on land forming part of side garden of house was granted planning permission in July 1987. This dwelling is known as 36A Walsingham Road and is sited to the south-east of No.36.
- 3.2. An application for the demolition of garage and erection of a 2-storey side extension with basement garage (ref: TP/05/1527) was refused planning permission because of concerns of the roof design. A revised scheme (ref: TP/05/2172) was subsequently approved.
- 3.3. An application for the subdivision of site and erection of a detached 4-bed single family dwelling to side incorporating detached garage at front and vehicular access to Walsingham Road (ref: TP/10/0818) was refused in November 2010 for the following reasons:
 1. *The development would result in the loss of an important garden element intrinsic to the character of the Conservation Area and would neither preserve or enhance the setting of the Conservation Area but rather detract from the character of the Enfield Town Conservation Area.*

2. *The proposed development due to the position and design of the access arrangements would result in vehicles movements crossing the footway which as a result of poor sight lines would give rise to conditions prejudicial to the free flow and safety of pedestrians and vehicles using the adjoining highways.*

3.4. Planning permission (ref: P12-02849PLA) was granted for the demolition of existing 2 storey extension and garage, erection of 2 storey side/front extension to both sides and single storey rear extension with construction of hard standing to form carriage drive with vehicular access in July 2013. This scheme is currently being implemented.

4. Consultations

4.1. Statutory and non-statutory consultees

Conservation Officer

4.1.1. The Conservation Officer has confirmed that having reviewed the submitted Heritage Statement, the Drury McPherson report and other supporting documents, the following comments are to be made:

- No objections to the proposed development in principle, however objections are raised in relation to the proposed materials;
- Fully concur with the findings published by Drury McPherson Partnership in their report dated 27 May 2014;
- The report goes as far as suggesting that the above site should be omitted from the boundaries of the conservation area;
- It is my opinion that the proposals will conserve and enhance the conservation area, by virtue of the fact that they will obscure the view through the CA from Walsingham Road to Tower Point;
- I would argue that the significance of the designated heritage asset and its setting will remain unaffected by the proposals. Setting is defined as 'the surroundings in which a place experienced'. Special regard must be had by the decision-maker to the assessment of the impact of any development on the desirability of preserving the setting of a non-designated heritage asset. The predominant guidance on development within the setting of heritage assets is contained within the English Heritage document *The Setting of Heritage Assets* (2015);
- I would assert that the proposed building should make use of high quality materials. uPVC/ synthetic substitutes for natural materials (reconstituted stone/ composite roof tiles etc.) are not accepted in sites in the setting of conservation areas. In addition, if minded to approve, I would strongly recommend that further details of the proposed windows/doors/eaves/chimney/ brickwork (including bond, mortar, brick type) be submitted to the local authority for approval in writing prior to the commencement of works;
- I would also not support the use of obscure glazing to the flank elevation. I would recommend that this should be substituted with sandblasted glass.

Traffic and Transportation

4.1.2. No objections are raised for the following reason:

On balance the low traffic speeds and self-enforcing nature of the residential street environment in terms of highway safety, and the good visibility which can be

improved through the addition of a condition requiring landscaping alterations, means the scheme does not have an unacceptable highway safety impact with regards vehicles using the access solely for the new house

Tree Officer

4.1.3. No objections are raised.

English Heritage (GLAAS)

4.1.4. It has been advised that the site lies within the Ermine Street Archaeological Priority Area connected with the Roman settlement close to Leighton Road. There is a possibility that groundworks could affect important remains connected with the Roman settlement and a condition is recommended to enable reasonable access by the Enfield Archaeological Society.

Conservation Advisory Group

4.1.5. No objections have been raised because it was the opinion of the group that there would be no harm to the character and appearance of the conservation area as a result of the proposals.

Ecology

4.1.6. The status of the submitted Phase 1 Habitat Survey and its conclusions was re-evaluated, with the following comments provided, inter alia:

“since it has been established that the site does not host protected species nor does it host priority habitats, the proposed development would be in accordance with planning policy in relation to ecology and biodiversity. As such, subject to a condition to protect nesting birds and a condition to enhance the ecological value of the site post development, there is no reason on ecology grounds for not permitting the development”

4.2. Public Response

4.2.1. Letters were sent to the occupiers of 74 adjoining and nearby properties in addition to the posting of site and press publicity. Seventy letters of objection (inclusive of pro forma letters, and letters from the Friends of Town Park and the Essex Road Residents Association), together with twelve letters of support have been received. It should be noted that the total number of responses received (82) includes those received (54) prior to the application first being reported to Members in June 2014.

4.2.2. The letters of objection have raised some or all of the following points:

Impact on Conservation Area / Street scene

- A similar plan was refused in 2010.
- A large house would be built on an important part of the conservation area, which the local authority has a duty to protect.
- The development would destroy an important part of the conservation area, ruining views into and out of the region.
- The current gardened area is critical to the conservation area.
- Revisions to landscaping and removal of garage at front is meaningless.

- The whole of the site is within the conservation area.
- Overdevelopment
- An Article 4 is in place on the majority of house in Essex Road to stop people building up at the rear of their houses, blocking views into and out of the conservation area. The development will spoil the very features the conservation area was put in place to protect and block out views of the skyline and other green garden areas.
- The design is not of a sufficiently high standard
- The statutory test and policy requirements are not satisfied.
- Detrimental to the character of the conservation area.
- It neither enhances or preserves the setting of the conservation area but seriously detracts from its character.
- The clear and very recent message from the courts is that the desirability of preserving the setting of heritage assets is not merely a balancing exercise.
- The introduction of a driveway on the grass verge has a detrimental effect on the character of the conservation area.
- The proposal does not shield the view of Tower Point, this is a false statement. A large tree, which does, will be lost to the proposal.
- Any new house will be substantially higher than the other surrounding houses and those within the conservation area. Properties near Town Park are scaled down and are smaller two storey with dormers or are bungalows.
- Due to expansion of No.36 it will look even more squeezed in, out of proportion, and due to the land elevation will be intrusive and dominate the area, changing the character completely.
- There has been no consultation to change the conservation area boundaries.
- The garden being overgrown is not a reason to build over it.
- The Pegasus Report is confused and misleading.
- The parcel of land has trees which screen the Essex Road properties. This offers a leafy green end to the vista down Uvedale Road.
- Tower Point is only visible from a select area of Walsingham road and is not as prominent as everyone is making out.
- The council previously considered this part of land significant and in changing its view was criticised by the High Court Judge and the council lost on all 7 points with costs awarded against.
- The scheme assessed is exactly the same as rejected by the High Court.
- 82% of the proposed house is in the conservation area.
- Development of any sort on this piece of garden land would spoil the very features the conservation area was put in place to protect and block out views of the skyline and other green garden areas.
- There will be substantial harm to this parcel of land.

Amenity

- Overshadowing
- Overlooking
- Daylight / sunlight / noise issues
- Loss of privacy
- Loss of views
- Flank wall of existing building is hidden by trees and the proposed wall will be 1m from boundary with No.32 Essex Road, casting a shadow, being totally dominant and reducing amenity, ruining the sunny aspect of the garden and views out of the conservation area.

Biodiversity

- The area is a haven for wildlife.

Highway Safety

- Dangerous for pedestrians and children with cars blindly reversing out.
- Overlooking into rear garden of Nos.26, 28 and 34 Essex Rd.
- No turning circle within the site resulting in cars reversing out blindly.
- Hazard for pedestrians.
- Dangerous corner.
- Loss of valuable parking spaces.
- This corner of Walsingham Road is one of 3 primary routes into Town Park. Sightlines are crucial and the creation of an additional driveway in close proximity to the entrance would create a further hazard.
- Proposed driveway is steeply elevated with low walls obscuring the pavement. This is a hazard.
- Carriage drive is shown incorrectly.

Other Matters Raised

- Between 2010 and the present day there has been no significant changes in planning policy which can support a staggering U-turn, raising concerns in respect of the lawfulness of the Council's decision making process.
- Relying on the presumption in favour of sustainable development demonstrates that planning policy is being incorrectly applied.
- The reason for securing a legal agreement to act as a public benefit to outweigh the less than substantial harm to the setting of the conservation area is unlawful.
- The decision to override the professional advice of CAG raises serious questions in respect of the Council's ability to discharge their duty under the S72 of the Planning (Listed Building and Conservation Areas) Act 1990.
- Elements of the Character Appraisal have been overlooked. No reference to sub area 5 (Town Park), only to sub area 2 (the New Town).
- S106 agreements should only be relied upon where they are necessary to make the development acceptable in planning terms. The Council's questionable approach is to rely on the contributions to justify the harm to the conservation area as a public benefit that outweighs the harm that results.
- Until it is clearly stated what the harm is, it is difficult to understand the correlation between the harm and public benefit.
- Members are being asked to permit a development that doesn't comply with the development plan on the basis that it will secure S106 contributions. The council's reasoning is contrary to s.38(6) of the Planning and Compulsory Purchase Act 2004 and regulation 122 of the 2010 CIL Regs.
- The driveway was included in a separate application to extend the existing dwelling. It has been implemented in breach of numerous planning conditions.
- The proposed development is crucially located close to the pedestrian path that leads directly to Enfield Town Park. The applicant has ensured that an earlier consent granted in 2013 for an extension to number 36 includes the driveway that will form the main vehicular access to the new dwelling. In turn, there are various breaches of the 2013 Permission that have not been resolved and have a direct bearing on highway safety. Despite this, Members are being asked to approve this application without debating highway safety.

- The Committee Report also fails to address why the Council has not considered paragraph 53 of the NPPF which directs Councils to consider resisting inappropriate development of residential gardens. The proposal is for a large detached property in a cramped location at the edge of the conservation area. If permitted it will result in the loss of an open area at the entrance to Enfield Town Park.
- There is an existing shortage of school places / GP's / dentists and no a & e.
- A four bed new build serves no purpose.
- Do not understand why the application has been re-submitted having been thrown out by the courts.
- Approval of this scheme would give the impression that council employees are now working on behalf of developers.

4.2.3. The letters of support have raised some or all of the following points:

Impact on Conservation Area / Street scene

- Letters have been received requesting objections to the new house however, although understanding of the concerns to maintain the character of the area, there is a shortfall of residential units.
- Do not support town cramming however the development site would not result in such development.
- The plot is of a sufficient size to accommodate a new dwelling and would relate well to the surrounding residential properties.
- Can understand why the developers considered that this part of the site should be removed from the conservation area as it does not have an obvious association with it as it does not now form a rear garden of one of the properties of Essex Road.
- The proposal would make a positive contribution to the conservation area and would not result in significant harm.
- It would shield views of Tower Point from Walsingham Road and Uvedale Road; Tower Point provides an unsympathetic form of architecture of no merit, which dominates and detracts from the skyline and conservation area. The character Appraisal also refers to this building as being a negative feature.
- The proposal will screen views to some extent of the rear building facades of the properties fronting Essex Road which are of limited architectural merit, especially as some have had the intervention of rear extensions which have altered and disturbed the original symmetry and rhythm of the rear building lines.
- Views of the site from Essex Road and Town Park would be limited as the new house built on the entrance to the park blocks views of the site and the site can only be glimpsed from limited gaps between the buildings on Essex Road.
- Some of the land would be lost to built development but garden space would remain for the existing and provided for the new house.
- There is a variety of housing types in Walsingham and Uvedale Roads which add to the interest of the street. The new dwelling would not be out of keeping.
- The design and form would not be unduly dominant and the ridgeline will not extend above the adjoining neighbours.
- The use of front dormers reduces the scale of the building.
- The design reflects those on Walsingham Road and Uvedale Road which seems more appropriate than trying to reflect the houses in the conservation area.
- The frontage of the building is located on Walsingham Road, thereby forming part of its street scene.

- Building on open land does have an impact on the environment as generally open views are nicer than built development however this needs to be balanced against the need for new housing and that new development can be sympathetically designed to fit in with and preserve and enhance the existing environment.
- The development will preserve and enhance the conservation area by improving views into the conservation area by reducing views of Tower Point.
- The land has become vacant and derelict. With the current need and demand for housing, this is an acceptable and sensible application.
- Overdevelopment of land is dependent on acreage and not on the opinion of residents who do not live in our roads.
- It would be nice to see a family house opposite my house.
- The new house will enhance the area

Highway Safety

- The impact on pedestrian and road safety would be minimal as the comings and goings generated would be minimal.
- Anyone who lives near this corner knows that the only time it is busy is between 8am to 9am and 5pm to 6pm.
- Cyclists would be the hazard to people using the walk.

Amenity

- Conditions should be imposed for appropriate landscaping, obscure glazing for the flank window and no additional flank windows as first floor level.
- While development will run along rear gardens of Nos.26 & 28 Essex Road, given change in levels, orientation of the site and depth of gardens, the proposal will not result in an unacceptable loss of light or on balance be detrimental to the visual and residential amenities to residents of Essex Road.
- Due to distancing levels, the scheme will not appear over dominant or overbearing.

Other Matters Raised

- Reasons given for objecting are weak and vindictive.
- Literature against the development has been printed for residents in Private Road, Park Crescent and Park Avenue to sign. This does not affect them.

5. Relevant Policy

- 5.1.** The National Planning Policy Framework (“NPPF”), published in March 2012, advises at para. 14 that a presumption of sustainable development is at the heart of the NPPF. For decision taking this means that unless material considerations indicate otherwise, developments which accord with the development should be approved without delay. Where a development plan is absent, silent or relevant policies are out of date, permission should be granted unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted (e.g. designated heritage assets).
- 5.2.** The policies listed below are up-to-date and considered to be consistent with the NPPF and therefore it is considered that due weight should be given to them in assessing the development the subject of this application.

5.3. The London Plan

Policy 3.3	Increasing housing supply
Policy 3.4	Optimising housing potential
Policy 3.5	Quality and design of housing developments
Policy 3.6	Children and young people's play and informal recreation facilities
Policy 3.8	Housing choice
Policy 3.9	Mixed and balanced communities
Policy 3.11	Affordable housing targets
Policy 3.12	Negotiating affordable housing
Policy 3.13	Affordable housing thresholds
Policy 3.14	Existing housing
Policy 5.1	Climate change mitigation
Policy 5.2	Minimising carbon dioxide emissions
Policy 5.3	Sustainable design and construction
Policy 5.5	Decentralised energy networks
Policy 5.6	Decentralised energy in development proposals
Policy 5.7	Renewable energy
Policy 5.8	Innovative energy technologies
Policy 5.9	Overheating and cooling
Policy 5.10	Urban greening
Policy 5.11	Green roofs and development site environs
Policy 5.13	Sustainable drainage
Policy 5.14	Water quality and wastewater infrastructure
Policy 6.3	Assessing the effects of development on transport capacity
Policy 6.9	Cycling
Policy 6.12	Road network capacity
Policy 6.13	Parking
Policy 7.1	Lifetime neighbourhoods
Policy 7.2	An inclusive environment
Policy 7.3	Designing out crime
Policy 7.4	Local character
Policy 7.6	Architecture
Policy 7.8	Heritage assets and archaeology
Policy 7.14	Improving air quality
Policy 7.15	Reducing noise and enhancing soundscapes
Policy 7.19	Biodiversity and access to nature

5.4. Core Strategy

CP2:	Housing supply and locations for new homes
CP3:	Affordable housing
CP4:	Housing quality
CP5:	Housing types
CP9:	Supporting community cohesion
CP20:	Sustainable energy use and energy infrastructure
CP21:	Delivering sustainable water supply, drainage and sewerage infrastructure
CP22:	Delivering sustainable waste management
CP24:	The road network
CP25:	Pedestrians and cyclists
CP26:	Public transport
CP28:	Managing flood risk through development
CP30:	Maintaining and improving the quality of the built and open environment
CP31:	Built and landscape heritage

CP32: Pollution
CP34: Parks, playing fields and other open spaces
CP36: Biodiversity
CP46: Infrastructure contributions

5.5. Development Management Document

DMD2	Affordable Housing for Development of Less than 10 Units
DMD3	Providing a Mix of Different Sized Homes
DMD6	Residential Character
DMD7	Development of Garden Land
DMD8	General Standards for New Residential Development
DMD9	Amenity Space
DMD10	Distancing
DMD13	Roof Extensions
DMD37	Achieving High Quality Design-Led Development
DMD38	Design Process
DMD44	Preserving and Enhancing Heritage Assets
DMD45	Parking Standards
DMD47	New Roads, Access and Servicing
DMD48	Transport Assessments
DMD49	Sustainable Design and Construction Statements
DMD50	Environmental Assessment Methods
DMD51	Energy Efficiency Standards
DMD53	Low and Zero Carbon Technology
DMD54	Allowable Solutions
DMD55	Use of Roof Space / Vertical Surfaces
DMD56	Heating and Cooling
DMD57	Responsible Sourcing of Materials
DMD58	Water Efficiency
DMD59	Avoiding and Reducing Flood Risk
DMD60	Assessing Flood Risk
DMD61	Managing Surface Water
DMD65	Air Quality
DMD68	Noise
DMD69	Light Pollution
DMD70	Water Quality
DMD72	Open Space Provision
DMD73	Children's Play Space
DMD78	Nature Conservation
DMD79	Ecological Enhancements
DMD81	Landscaping

5.6. Other Relevant Policy/Guidance and Considerations

National Planning Policy Framework
National Planning Practice Guidance
LBE S106 SPD
Enfield Strategic Housing Market Assessment (2010)
Monitoring Report and Housing Trajectory 2015 (2016)
Enfield Town Conservation Area Character Appraisal (2015)
Community Infrastructure Levy Regulations 2010
Historic England: The Setting of Heritage Assets: Historic Environment Good Practice
Advice in Planning: 3

6. Analysis

6.1. Principle

- 6.1.1. In broad terms, the proposal would be consistent with the aim of the London Plan and with policies within the Core Strategy which seek to contribute to the strategic housing needs of Greater London and the Borough. In addition, regard must also be given to all other relevant planning considerations which include seeking to ensure that the appropriate regard is given to heritage matters, an acceptable design, no undue adverse impact on neighbour amenity, and acceptability in highways terms
- 6.1.2. Although the proposal may meet with the broad aim above, consideration must also be given to a previously refused application to subdivide the plot and erect a detached 4-bed dwelling house (ref: TP/10/0818, the “2010 scheme”). The plans considered for that scheme are attached at Appendix 1 of this report.
- 6.1.3. Since the 2010 scheme, the National Planning Policy Framework (“NPPF”) was introduced in March 2012 and the National Planning Practice Guidance (“NPPG”) in March 2014. At the heart of the NPPF is the presumption in favour of sustainable development as described in paragraphs 11-16 of the NPPF. A key aim of the NPPF is to encourage sustainable development, within the statutory context of determining planning applications in accordance with the development plan unless material considerations indicate otherwise (s 38(6) PACPA 2004 and s 70(2) TCPA 1990).
- 6.1.4. The NPPG advises that the conservation of heritage assets in a manner appropriate to their significance is a core planning principle. It also advises that conservation is an “active process of maintenance and managing change”. Heritage assets are considered to be an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits.
- 6.1.5. Section 72 (general duty as respects conservation areas in exercise of planning functions) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“Listed Buildings Act”) confirms that, in respect of buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. ‘Preserving’ in this context means doing no harm (as explained by the HL in *South Lakeland DC v S of S* [1992] 2 AC 141 at p.150)
- 6.1.6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms that 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.

6.2. Heritage Considerations

Statutory Background and the NPPF

- 6.2.1. Sections 66 and 72 of the Listed Buildings Act confirm that special attention shall be paid to the desirability of preserving a listed building or its setting (s.66) and preserving or enhancing the character or appearance of that area (s.72). The Court of Appeal in *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* [2014] EWCA Civ 137, concluded that where an authority finds that a development proposal would harm the setting of a listed building or the character and appearance of a conservation area, it must give that harm “*considerable importance and weight*”.

- 6.2.2. Justice Lindblom reconfirmed the Barnwell judgement and the considerations to be undertaken by a planning authority in *The Forge Field Society & Ors, R v Sevenoaks District Council* [2014] EWHC 1895 (Admin) by observing at para.49 that:

“when having to give considerable importance and weight to any harm it did not mean that an authority’s assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize...that a finding of harm...gives a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and demonstrably applies that presumption to the proposal it is considering”

- 6.2.3. In *R. (on the application of Hughes) v South Lakeland DC* [2014] EWHC 3979 (Admin), the court addressed the correct approach to assessing development proposals in a conservation area as well as covering the approach to heritage in the NPPF. Judge Waksman QC addressed relevant guidance at paras 131-135 NPPF. He explained that in a para.134 case, harm to a designated heritage asset was to be given more weight than it would if it were simply one of a number of factors to be considered. Where non-designated heritage assets were being considered the harm was to be taken into account as part of a ‘balanced judgment’ (paras 50-53 see NPPF para. 135).

- 6.2.4. In *Pugh v Secretary of State for Communities and Local Government* [2015] EWHC 3 (Admin), Gilbart J considered at paras.49 and 50 that:

“the significance of a heritage asset still carries weight at the balancing stage required by paragraph 134, and to the extent that Kenneth Parker J in Colman v Secretary of State for Communities and Local Government & Ors [2013] EWHC 1138 and Jay J in Bedford Borough Council v SSCLG [2013] EWHC 2854 suggest otherwise, I prefer the approach of Judge Waksman QC. Thus, the value and significance of the asset, whatever it may be, will still be placed on one side of the balance. The process of determining the degree of harm, which underlies paragraph 132 of NPPF, must itself involve taking into account the value of the heritage asset in question. Not all effects are of the same degree, nor are all heritage assets of comparable significance, and the decision maker must assess the actual significance of the asset and the actual effects upon it.

But one must not take it too far so that one rewrites NPPF. It provides a sequential approach to this issue. Paragraphs 126-134 are not to be read in isolation from one another. There is a sequential approach in paragraphs 132 -4 which addresses the significance in planning terms of the effects of proposals on designated heritage assets. If, having addressed all the relevant considerations about value, significance and the nature of the harm, and one has then reached the point of concluding that the level of harm is less than substantial, then one must use the test in paragraph 134. It is an integral part of the NPPF sequential approach. Following it does not deprive the considerations of the value and significance of the heritage asset of weight: indeed it requires consideration of them at the appropriate stage. But what one is not required to do is to apply some different test at the final stage than that of the balance set out in paragraph 134. How one strikes the balance, or what weight

one gives the benefits on the one side and the harm on the other, is a matter for the decision maker. Unless one gives reasons for departing from the policy, one cannot set it aside and prefer using some different test”

6.2.5. In *Jones v Mordue* [2015] EWCA Civ 1243, the CA indicated that, generally, a decision maker who works through the relevant paragraphs (para 131-134 NPPF) in accordance with their terms will have complied with a s66/72 duty. Recently, the High Court in *Forest of Dean DC v S of S and Gladman* [2016] EWHC 421 have indicated that where there is a finding of less than substantial harm to a designated heritage asset, the harm has to be weighed against the public benefits of a the proposal in the ordinary unweighted way because it is a policy indicating development should be restricted so that the presumption in para 14 of the NPPF is disapplied by virtue of footnote 9 of the NPPF.

6.2.6. Section 12 of the NPPF (Conserving and enhancing the historic environment) advises LPAs to recognise heritage assets as an “*irreplaceable resource*” and to “*conserve them in a manner appropriate to their significance*” (para. 126).

6.2.7. When determining planning applications, LPAs are advised to take into account of:

- “*the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness”* (para.131)

6.2.8. Paragraphs 132 -134 NPPF provide:

132 “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

133 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

134 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 securing its optimum viable use.

6.2.9. Paragraph 135 provides guidance in relation to non-designated heritage assets. The development proposal must also be assessed against the significance of the heritage asset, and “a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.

6.2.10. In addition, at paragraph 137, LPAs are also advised to look for opportunities for new developments within conservation areas and within the setting of heritage assets to better reveal their significance. Where a proposal preserves those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

6.2.11. The NPPF provides a glossary of terminology at Appendix 2 which Members may find useful. The relevant heritage terms include:

- **“Heritage Asset:** *A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).*
- **Setting of a heritage asset:** *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral*
- **Significance (for heritage policy):** *The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.”*

6.2.12. Paragraph 20 of the NPPG provides some guidance on the term “public benefit”:

“Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (Paragraph 7). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

Public benefits may include heritage benefits, such as:

- *sustaining or enhancing the significance of a heritage asset and the contribution of its setting*
- *reducing or removing risks to a heritage asset*
- *securing the optimum viable use of a heritage asset in support of its long term conservation”*

6.2.13. A “benefit” is not limited solely to heritage benefits but to all material planning benefits arising from a particular scheme, providing that they meet with the relevant policy tests for conditions and obligations.

- 6.2.14. The NPPG advises that the extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which the asset is experienced is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.
- 6.2.15. The NPPG also advises that the conservation of heritage assets in a manner appropriate to their significance is a core planning principle. It also advises that conservation is an “*active process of maintenance and managing change*”. Heritage assets are an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits.
- 6.2.16. Significance, as advised within the NPPF derives not only from a heritage asset’s physical presence but also from its setting. When assessing significance, it is advised that great weight should be given to the asset’s conservation and the more important the asset, the greater the weight to be applied. Where a development leads to less than substantial harm to the significance of the heritage asset, the harm should be weighed against the public benefits of the proposal, including its optimum viable use. The NPPG advises that what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. It does also advise that ‘substantial harm’ is a high test, so may not arise in many cases.

Local Plan

- 6.2.17. Planning law requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise, as confirmed at s.38(6) of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) and s.70(2) of the Town and Country Planning Act 1990 (“T&CPA 1990”). The Local Plan, as confirmed at s.38(2) of the 2004 Act, comprises of: the Spatial Development Strategy for Greater London Consolidated with Alterations Since 2011 (March 2015)(“London Plan”), the Enfield Plan Core Strategy 2010-2015 (“Core Strategy”) and the Development Management Document (“DMD”).
- 6.2.18. London Plan policy 7.8 (Heritage Assets and Archaeology) advises that at a strategic level, London’s heritage assets and historic environment should be identified

Strategic

- A. *London’s heritage assets and historic environment, including listed buildings, registered historic parks and gardens and other natural and historic landscapes, Conservation Areas, World Heritage Sites, registered battlefields, scheduled monuments, archaeological remains and memorials should be identified, so that the desirability of sustaining and enhancing their significance and of utilising their positive role in place shaping can be taken into account.*
- B. *Development should incorporate measures that identify, record, interpret, protect and, where appropriate, present the site’s archaeology.*

Planning decisions

- C. *Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate.*

- D. *Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.*
- E. *New development should make provision for the protection of archaeological resources, landscapes and significant memorials. The physical assets should, where possible, be made available to the public on-site. Where the archaeological asset or memorial cannot be preserved or managed on-site, provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset.*

LDF preparation

- F. *Boroughs should, in LDF policies, seek to maintain and enhance the contribution of built, landscaped and buried heritage to London's environmental quality, cultural identity and economy as part of managing London's ability to accommodate change and regeneration.*
- G. *Boroughs, in consultation with English Heritage, Natural England and other relevant statutory organisations, should include appropriate policies in their LDFs for identifying, protecting, enhancing and improving access to the historic environment and heritage assets and their settings where appropriate, and to archaeological assets, memorials and historic and natural landscape character within their area.*

6.2.19. Core Policy 31 (Built and Landscape Heritage) confirms that the Council will implement national and regional policies and work with partners to “*pro-actively preserve and enhance all of the Borough's heritage assets*”. This is to be achieved by the following:

- *Reviewing heritage designations and their boundaries where appropriate, and continuing to maintain non-statutory, local lists and designations based on formally adopted criteria;*
- *Ensuring that built development and interventions in the public realm that impact on heritage assets have regard to their special character and are based on an understanding of their context. Proposals within or affecting the setting of heritage assets will be required to include a thorough site analysis and character appraisal which explicitly demonstrates how the proposal will respect and enhance the asset;*
- *Identifying opportunities for the repair and restoration of heritage assets and working with owners of heritage assets on English Heritage's Heritage at Risk Register to find viable solutions to secure the asset's long-term future. Where necessary, the Council will make full use of its legislative powers to ensure their preservation;*
- *Ensuring developments in areas of archaeological importance take into account the potential for new finds by requiring consultation with English Heritage and on-site investigations, including the appropriate recording and dissemination of archaeological evidence;*
- *Supporting appropriate initiatives which increase access to historic assets, provide learning opportunities and maximise their potential as heritage attractions, particularly at Forty Hall and the Area of Special Character in the north west of the Borough; and*
- *Finding new ways to record and recognise Enfield's intangible heritage resources and, where possible, open up wider public access to them.*

6.2.20. The DMD was adopted by the Council in November 2014. Policy DMD44 (Preserving and Enhancing Heritage Assets) confirms the following:

1. *Applications for development which fail to conserve and enhance the special interest, significance or setting of a heritage asset will be refused*
2. *Development affecting heritage assets or their setting should seek to complement the asset in all aspects of its design, materials and detailing*
3. *All applications affecting heritage assets or their setting should include a Heritage Statement. The applicant will also be required to record and disseminate detailed information about the asset gained from desk-based and on-site investigations. Information should be provided to the Local Planning Authority, Historic Environment Record and English Heritage. In some circumstances, a Written Scheme of Investigation will be required.*

Enfield Town Conservation Area Character Appraisal

6.2.21. Part of the site (approximately 57% of the curtilage of the proposed dwelling) falls within the Enfield Town Conservation Area and in particular, within a sub area defined as “the New Town”. The special interest for this character area is summarised at para. 2.7.10 of the Character Appraisal:

- *This is a contained area, with clearly defined boundaries, all of which was laid out and built between the 1860s and 1890s;*
- *There is clear separation by use, date and built form from its setting area;*
- *Most houses are in London stock brick, providing visual unity, but each street retains its own character deriving from scale, plot size and views;*
- *All streets have a range of good quality architectural details and features;*
- *The relationship with Town Park (particularly the views from Essex Road) provides views of exceptional quality as a setting for the buildings on the west side of the area;*
- *Mature street trees and garden trees complement the townscape and provide focuses, vistas and a backdrop to the buildings.*

6.2.22. The Problems and Pressures of this character area are identified at para. 2.7.11 of the Character Appraisal. The principle issues are identified as:

- *The visual intrusiveness of Tower Point has been exacerbated by the colour and reflectivity of the re-cladding, and the design of the glazed balcony additions to the elevations.*
- *Sydney Road is affected by the poor design and condition of modern buildings from the 1960s-1970s along one side.*
- *The proximity of the shopping centre and the pressure for car parking space at busy times impinge on the northern end of Sydney Road. Raleigh Road is better protected, because there is no entry from Cecil Road.*
- *The problem of loss of character over many years through incremental change under permitted development rights, to which smaller properties are especially vulnerable, is widespread in this character area and is particularly noticeable in Raleigh Road. Doors, windows and property boundaries have all suffered from unacceptable change over many years. An Article 4 (2) direction was adopted in 2006 to control further change, but detailed monitoring is needed to ensure that it*

is operating efficiently and that original or traditional features, materials and designs are re-instated where possible.

- *Front-garden car-parking detracts from the character of the larger properties, where it has sometimes been carried out without due regard to sensitive detailing and planting. Again, an Article 4 (2) direction is now in operation to help manage future change.*
- *The insertion and addition of garages and hard-standings, both in new development and in existing properties, is changing the character of the street by widening accesses from the highway and creating footway crossings;*
- *The Sydney Road car park is badly designed and laid out, with poor quality hard landscaping, boundaries and signage. It breaks the rhythm of the street's semi-detached villas.*
- *The fine view of Town Park from Essex Road has been compromised by the ball-park area (Figure 18), whose bright blue colour and rectilinear form intrudes on the open green space in the centre of vision.*

6.2.23. The factors for consideration will be:

- The significance of the asset
- Proximity
- Visibility
- Compatibility of the proposal with the context and setting of the asset
- The sensitivity to harm of the asset

6.2.24. The above factors must be considered against the identified special interest and setting of the Conservation area.

Heritage Assessment

6.2.25. There are no listed buildings in proximity of the site. Number 4 Essex Road, a locally listed building, is sited approximately 140m to the east, however this is considered too far removed from the application site (and is not visible) to be of any consequence to the assessment of the current application. The only designated heritage asset to be given any consideration therefore is the conservation area, with particular regard given to the statutory requirement to give special attention to preserving or enhancing its character or appearance (s.72).

6.2.26. Although part of the application site is within the conservation area, it is not visible from Essex Road, neither can it be experienced from Essex Road or from the wider conservation area. Moreover, there are no views into the site from Walsingham and Uvedale Roads due to the elevated ground level of the site and the existence of boundary fencing. Paragraph 6.2 of the submitted Heritage Statement considers that the " *historic significance of the site is very limited due to the peripheral location and the fact that there is no relationship between the site and the Conservation Area as a whole, other than previously forming part of the curtilage of one of the properties fronting on to Essex Road. The site does not contribute to the significance, character or appearance of the Enfield Town Conservation Area in its own right, nor does it have an important role in the setting of this part of the Conservation Area, appearing as part of the Walsingham Road frontage, rather than having a relationship with the properties on Essex Road*". The above is further supported at para.3.3 of the Drury McPherson report.

6.2.27. The view towards the conservation area from Walsingham and Uvedale Roads is not identified within the Character Appraisal as a “key view” (see image below, the key view identified is that into Town Park), as also confirmed in the submitted Heritage Statement (para.6.3). The view from these roads is only of the rear of the dwelling houses fronting Essex Road, which are of no particular architectural or historical merit. Notwithstanding this, standing outside the existing widened footway crossing, the rear of No.32 Essex Road becomes visible beyond two trees (two semi mature trees (a sycamore and an ash) in close proximity to each other and identified as T3 on the submitted plans) at the bottom of the garden of No.34 Essex Road. These views, and the aforementioned trees, remain unaffected by the proposed development because the front building line of the proposed dwelling is in common alignment with the existing dwelling at 36 Walsingham Road. Views to the rear of other dwellings fronting Essex Road are prohibited from existing trees along the fence line separating the application site from the existing dwelling at 36 Walsingham Road. These trees will be removed as a result of the development however the development will not result in any further loss of views into the conservation area from this vantage point.



*Enfield Town Conservation Area Character Appraisal:
the new town - townscape analysis*

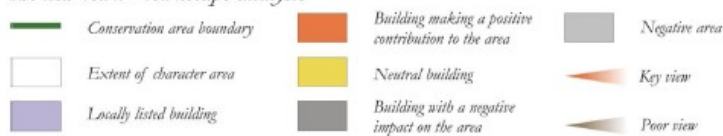


Figure 19: Townscape analysis (the New Town)

6.2.28. The level of distancing between the rear of the rear of the Essex Road dwellings and their common boundary with the application site is such that a sense of openness

and spaciousness is retained. Moreover, as mentioned above, due to the higher ground elevation of the Essex Road dwellings (and the application site) to the ground level of Walsingham Road itself, only the first floor and roofs are visible above fence lines. As considered within the Drury McPherson report, the submitted Heritage Statement and supported by Council's Conservation Officer, the application site makes no contribution in its own right to the significance of the conservation area.

- 6.2.29. Paragraph 2.7.7 of the Character Appraisal considers that gardens have “*considerable*” importance because front gardens are not deep therefore views through gaps to back gardens or across and into long corner plots are “*extremely important*”. From Essex Road, the only potential view of the proposed dwelling house will be between Nos.32 and 34. Whilst these two dwelling houses are part of separate pairs of semi-detached dwellings, they are linked by respective extensions at their rear / side. Beyond this, above the front walls of the aforementioned extensions, are views of trees at the bottom end of the garden, approximately 50m distant from the back edge of the pavement (the proposed dwelling house would sit a further 1m to 2m beyond the rear boundaries). When the trees are not in leaf, due to the distances involved and the presence of the aforementioned extensions, there may be some glimpses only of the very top of the flank wall / roof of the proposed dwelling. Any potential view would be so minor that it would not have any effect on the ability of a casual observer to appreciate the significance of the conservation area (for example, the built form, architectural detailing of dwellings, views towards Town Park). Moreover, due to the distances involved and the narrow gap between Nos.32 and 34 Essex Road, any observer would have to knowingly look for the development. During the Spring / Summer months, any potential glimpses of the proposed dwelling should be obscured by the trees in leaf at the bottom of the gardens. Having regard to the above, it is therefore considered that the proposed development would not harm the importance of views into rear gardens. Having regard to the above, it is considered that the proposed development will not harm the significance of the conservation area.
- 6.2.30. It is acknowledged that the built form, materials and architectural detailing will differ from those dwellings fronting Essex Road, however, this is not necessarily harmful. It is also acknowledged that in refusing the 2010 application, the officer considered that the proposed dwelling should “*take as a guide those dwellings within the Conservation Area not those directly outside*” (para.6.1.4). However, unless all elements (style, design, materials, workmanship) are an exact replica of those dwellings, the proposed dwelling would risk being a pastiche of the Essex Road dwellings. Given the significant level of distancing involved between the proposed dwelling and those on Essex Road, this potentially allows for a built form and pallet of materials that differs from those dwellings within the conservation area. Moreover, to replicate the dwellings on Essex Road would result in a dwelling which would be completely out of keeping and character with the street scene to which it should relate, Walsingham Road. Heritage advice contained within the Drury McPherson report and supported by Council's Conservation Officer confirms that in relation to design, “*this should relate, in terms of volume, height and use of materials, to the streetscape of Walsingham Road, which provides its context*” (para.4.3). This is reinforced at 7.11 of the submitted Heritage Statement. Although the Drury McPherson report and the submitted Heritage Statement considers the proposed palette of materials to be appropriate, officers are of the opinion that an improvement could be made in the replacement of the proposed uPVC fenestration with traditional timber joinery. Having regard to the above, it is considered that subject to securing details of the materials proposed (the applicant has agreed to provide wooden fenestration), the proposed development will not harm the significance of the conservation area.

- 6.2.31. The proposed development, due to it not being visible from Town Park and the level of distancing to Essex Road, will not cause any harm to the relationship between Town Park and its views from Essex Road.
- 6.2.32. When assessed against the “problems and pressures” of this part of the conservation area, the proposed development would not further exacerbate any of the identified issues. Standing opposite the widened crossover, views into the conservation area over the embankment are terminated by Tower Point in the background. The proposed dwelling would largely block this view, thus contributing to enhancing the setting of the conservation area, a view supported at para.7.15 of the submitted Heritage Statement.

Summary of Heritage Considerations

- 6.2.33. The site, although within the conservation area due to historical boundary lines, is clearly isolated from the wider conservation area and is not experienced from within the conservation area.
- 6.2.34. Due to the level of distancing to those elements which are considered to form the special interest of the Conservation area and the open spacious gap which would still be retained between the dwellings on Essex Road and the proposed dwelling, the development will not harm the significance of the conservation area (and/or sub area).
- 6.2.35. The development is considered to continue to conserve the setting of the conservation area and from some vantage points, to enhance the setting by blocking views toward Tower Point, an identified negative feature of the conservation area.
- 6.2.36. Having regard to the statutory requirement to give special attention to the desirability of preserving or enhancing the character or appearance of a conservation area (s.72) the proposal has been assessed against the identified heritage asset as set out above. It is considered that the development proposals will not lead to any harm to the significance of the designated heritage asset (conservation area) and will continue to preserve and enhance it having regard to Policy 7.8 of the London Plan, Core Policy 31, Policy DMD44 of the Development Management Document, and with section 12 of the NPPF. The development proposals must therefore now be assessed against any other material considerations, in accordance with s.38(6) of the 2004 Act and s.70(2) of the T&CPA 1990.

6.3. Impact on Character of Surrounding Area

Design

- 6.3.1. There is clear guidance on the approach to the matter of design. The NPPF (section 7) confirms that the Government attaches great importance to the design of the built environment, with good design being a key aspect of sustainable development but Paragraph 59 of the NPPF confirms that design policies should “*avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally*”. Paragraph 60 further advises that “*decision should not impose architectural styles or particular tastes... [nor] stifle innovation, innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles...[although it is] proper to seek to promote or reinforce local distinctiveness*” while paragraph 61

advises that “...decisions should address...the integration of new development into the natural, built and historic environment”.

- 6.3.2. London Plan policy 7.1 (“Lifetime neighbourhoods”) advises that the design of new buildings and the spaces created by them should “*help to reinforce or enhance the character, permeability, and accessibility of the neighbourhood*” while policies 7.4, 7.5 and 7.6 confirm the requirement for achieving the highest architectural quality, taking into consideration the local context and its contribution to that context. Design should respond to contributing towards “a positive relationship between urban structure and natural landscape features...” Policy DMD 37 (“Achieving High Quality and Design Led Development”) confirms the criteria upon which application will be assessed. However, it also recognised there is a degree of subjectivity in this assessment of acceptable design.
- 6.3.3. Although sitting mostly within the conservation area, the proposed dwelling has not been designed to reflect the style and type of housing within the conservation area. As discussed above, it is considered entirely appropriate that the proposed dwelling should be more reflective of the housing on the street to which it relates, Walsingham Road. Details of materials will be secured by condition.
- 6.3.4. The relationship to flank boundaries is considered appropriate given the level of distancing from the common boundary (and proposed flank wall) to the rear of the dwellings on Essex Road. A sense of “spaciousness” between the proposed and existing developments continues to be maintained.
- 6.3.5. The proposed dwelling will be similar in height to the existing house at No.36 Walsingham Road. Whilst it is recognised that the wider street scene does contain some bungalows on the opposite side of the road (some with accommodation within the roof space), in street scene terms, it would not be unacceptable for a two-storey dwelling to be erected on the site. Whilst there is no uniform roof type in the area, front dormer windows are common, as are projecting gable features. The proposed dwelling features these elements.

Density

- 6.3.6. The assessment of any development must acknowledge the NPPF and the London Plan, which encourage greater flexibility in the application of policies to promote higher densities. Policy 3.4 of the London Plan in particular encourages the development of land to optimise housing potential but recognises this must be appropriate for the location taking into account local context, character, design and public transport capacity. The site falls within an area with a Public Transport Accessibility Level (PTAL) rating of 2, therefore the London Plan suggests that a density range of 150-250 habitable rooms per hectare (hrph) may be appropriate for this location.
- 6.3.7. Seven habitable rooms are proposed on a site measuring approximately 0.041319sqm, providing a density of approximately 169hrph. This is at the lower end of the suggested range and given the location and nature of the site, a development at the lower end of this range is considered appropriate.

Amenity Space Provision

- 6.3.8. Amenity space standards contained with the DMD are based upon the number of rooms and occupancy level, for example, a 4-bed 6-person dwelling should provide 50sqm of private amenity space across the whole site.

- 6.3.9. The proposed GIA is approximately 160sqm and the proposed amenity space is calculated to be approximately 250sqm (147sqm at the rear), thus providing a ratio of 156%. On this basis, the level of amenity provision exceeds adopted standards. It is recognised that the proposed dwelling provides a greater footprint than the existing dwelling but one that would be comparable in size to No.36A. Moreover, whilst the depth of the proposed rear garden (maximum point, 12m) is less than the approximate average of 30m for those dwellings fronting Essex Road, the level of provision (total and at the rear) exceeds many of the properties immediately adjacent on Essex Road. On balance, this element of the development proposal is considered acceptable.
- 6.3.10. The resulting amenity space provision for the existing dwelling must also be assessed, because it would be unacceptable to compromise provision or quality for the existing occupiers. Approximately 219sqm of amenity space will be retained for the existing dwelling, which now has a GIA of approximately 226sqm following the implementation of the 2012 permission. The proposed level of amenity space for the existing dwelling exceeds DMD standards and it will still remain comparable with the garden provision of other dwellings within the area.
- 6.3.11. Although some of the site is within the conservation area and is covered by an Article 4 Direction, the Direction only restricts development “*facing or visible from a highway or open space*”. Having regard to the footprint of the dwelling proposed and the potential, under the current permitted development (“PD”) rights regime for a detached dwelling to extend up to 4m under normal householder PD rights (up to 8m under the prior notification scheme), it is considered appropriate to impose a condition restricting PD for extensions.
- 6.3.12. In addition, there is also the potential for large outbuildings to be erected under Class E. Whilst it is recognised that under the PD regime, not more than 50% of the original garden for the proposed dwelling can be covered by outbuildings and extensions, having regard to the importance attached to gardens within the conservation area, it is considered appropriate to restrict permitted development rights.

Garden Land Development

- 6.3.13. Although garden land is not included in the definition of “previously developed land”, this does not exclude all development upon it. The NPPF advises that policies should resist inappropriate development where for example, it will cause harm to the local area (para.53). DMD 7 provides the criteria upon which the development of garden land would be permitted:
- a. *The development does not harm the character of the area;*
 - b. *Increased density is appropriate taking into account the site context in terms of its location, accessibility and the provision of local infrastructure;*
 - c. *The original plot is of a sufficient size to allow for additional dwellings which meet the standards in DMD 8 'General Standards for New Residential Development', (and other design policies);*
 - d. *The individual plot sizes, orientation and layout created are appropriate to, and would not adversely impact on the residential amenity within the development, or the existing pattern of development in that locality;*
 - e. *An adequate amount of garden space is retained within both of the individual plots in accordance with the minimum amenity space standards (DMD 9 'Amenity Space'), and the role of each space is enhanced to contribute towards other plan*

objectives such as biodiversity; green corridors and networks; flood risk; climate change; local context and character; and play space;

- f. *The proposals would provide appropriate access to the public highway*

6.3.14. When assessed against the above, the proposed development is considered to:

- a. not harm the character of the area;
- b. provides for a density level which is at the lower end of the suggested range and which is appropriate and in keeping for the locality;
- c. it complies with the criteria within DMD8 and DMD9;
- d. the orientation, layout, plot sizes is acceptable; and
- e. appropriate access, as discussed below, is provided to the highway.

6.3.15. It is considered that having regard to the above, no harm would arise to the character of the area through the development of the garden plot. The proposed development due to its design, size and siting, does not detract from the character and appearance of the street scene or the surrounding area having regard to Policies 3.5, 7.1, 7.4 & 7.6 of the London Plan, Core Policy 30 of the Core Strategy, DMD Policies 7, 8, 9 and 10 of the Development Management Document, and with guidance contained within the National Planning Policy Framework (in particular section 7).

6.4. Impact on Neighbour Amenity

- 6.4.1. A flank window is proposed for the first floor, facing No.34 Essex Road. Notwithstanding the level of distancing between the flank wall and the rear of No.34 Essex Road is approximately 30m, the window would serve an ensuite which would normally have obscure glazing. A condition would be imposed on any approval to secure obscure glazing.
- 6.4.2. Three windows are proposed for the rear of the dwelling serving two bedrooms and a centrally positioned bathroom. Each of the three windows look towards the bottom of the rear garden of No.26 Essex Road and will vary in distance from that common boundary line from approximately 13m to 15.5m. The level of distancing to the boundary is considered acceptable and would not lead to undue overlooking and loss of privacy. Moreover, the windows only look over the bottom of the garden where in suburban residential settings, some mutual overlooking is to be expected and would not constitute undue harm.
- 6.4.3. Conditions are proposed to secure obscure (sand blasted) glazing for the first floor flank window serving the ensuite and to restrict additional fenestration. A further condition to restrict permitted development rights for roof extensions is considered unnecessary in this instance because the proposed dwelling is provided with gable ends and therefore side dormers or hip-to-gable extensions would not be possible. Moreover being sited within a conservation area, roof extensions will require planning permission.

6.5. Highway Safety

Traffic Generation

- 6.5.1. There are no concerns over the potential traffic generation of one additional dwelling house.

Access

- 6.5.2. As evidenced by the second reason for refusal of the 2010 application, concerns were raised in relation to vehicular sight lines, particularly as the previously refused scheme included a detached garage sited at the north-west end of the embankment which was to be levelled to accommodate an area of hard standing, and a widened crossover extending towards Town Park. The concerns centred over driver visibility when reversing out of the site due to the high volume of use of the footpath outside of the application site because of the attraction of Town Park and the important pedestrian route through the park to areas beyond. The officer report did note that this concern could potentially be overcome by condition to secure adequate visibility splays.
- 6.5.3. The existing vehicular access serving No.36 has been widened in accordance with application reference P12-02849PLA and a carriage drive has been formed. It should be noted that the access was not extended towards Town Park, which is located approximately 20m distant. In order for the access to be a safety concern, visibility around the vehicular access would need to fall below the splays specified in the most recent highway safety guidance contained in Manual for Streets. The guidance confirms that consideration needs to be given to frequency of vehicle movements, the speed and volume of traffic, the amount of pedestrian activity, and the width of the footway, before judging that visibility splays need to be provided.
- 6.5.4. With regard to site specific conditions, low vehicle movements and pedestrian activity mean visibility splays are not essential. The access can only be used by one vehicle at a time as it only provides the space for one vehicle; it isn't an access to a larger car park, and although the park will generate pedestrian activity it is not the only access to the park, so pedestrian activity will be spread out around the other access points. On this basis, defined visibility splays are not considered essential and the guidance would be more applicable to a town centre location with a high level of foot fall.
- 6.5.5. Notwithstanding the above, visibility splays can still be achieved due to the elevated position of any vehicle on the hard standing and the straight geometry of Walsingham Road along both sides of the access. The required dimensions of the minimum visibility splays are taken from the Council's '*Revised Technical Guidelines 2013*', which requires a splay of 2.0m either side of the access from a 2.0m point taken from the back of the centre crossover. The splay should be from above 0.60m. The drawings clearly show that the existing dwarf boundary wall of the embankment will be retained but with the addition of a brick pier that rises up to approximately 0.7m in height. Whilst the height of the brick pier would not strictly accord with the recommended 0.6m, having regard to the gradient of the ground (sloping up into the site), the 0.1m difference is considered to be compensated for, thus maintaining adequate sight lines for vehicles reversing out of the site. An appropriately worded condition could be imposed to control the height of any landscaping to the front of the property. Boundary treatments of up to 1m in height are normally permitted adjacent to a highway under Article 3 and Schedule 2, Part 2, Class A of the GPDO. It is considered appropriate, in light of the above, to impose a condition to remove this permitted development right.
- 6.5.6. In addition to drivers having a good visibility, any pedestrians would have clear sight of any vehicles reversing out of the hardstanding well in advance of the crossover location, as shown in the image below:



View towards No.36 Walsingham Road from public footpath leading towards Town Park

Parking, Traffic & Highway Safety

- 6.5.7. The provision of one space for the house is in accord with adopted standards. Whilst concerns about existing parking are noted, there is no requirement for additional spaces to be provided. Similarly, the traffic generated from the access will be minimal given that only one space is being provided, and the existing 'no parking' restrictions ensure visibility along both sides of Walsingham Road is acceptable for vehicular traffic.
- 6.5.8. The character of the area means that traffic speeds will be generally low given the almost 90 degree bend in the road, and it is not unreasonable to expect drivers to naturally take more care. This assumption is based on observations from the site, further supported by research undertaken for the Manual for Streets para 2.2.5 (2 ODPM and Home Office (2004) Safer Places: The Planning System and Crime Prevention. London: TSO). This is further supported by accident data, which shows no accidents have taken place in the last four years on Walsingham Road, despite one of the neighbouring properties having an access even closer to the park entrance (see image below) and offering poorer visibility for both pedestrians and drivers in comparison to the widened access.



View of existing access for 1a Uvedale Road, with the public path leading to Town Park entrance to the right

6.6. Housing Need

- 6.6.1. Section 6 of the NPPF (Delivering a wide choice of high quality homes) provides guidance on housing delivery and the quality and location of new houses. Paragraph 47 of the NPPF aims to “boost significantly the supply of housing” through the use of an evidence base and an annually updated supply of specific deliverable sites with a 5% buffer. Paragraph 48 confirms that local planning authorities should make allowance for windfall sites in the five-year supply if there is compelling evidence that such sites have consistently become available, although it is advised that this should not include residential gardens. Housing applications are to be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (para.49). Paragraph 53 advises that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
- 6.6.2. The Core Strategy seeks to ensure new developments offer a range of housing sizes to meet housing need. In particular, it seeks to ensure that with regard to market housing, 45% are 3+bedroom houses and 20% is 4+bedroom houses. The Core Strategy policy is based on evidence from the research undertaken by Ecotec.
- 6.6.3. The findings of Ecotec’s research, Enfield Strategic Housing Market Assessment (February 2010), demonstrates a shortage of houses of all sizes, particularly houses with 3+bedrooms across owner occupier, social and private rented sectors. The greatest requirement in the owner occupied market housing sector is for family sized housing.
- 6.6.4. The earlier findings of Fordham’s Research, Enfield Council Housing Study (September 2005) corroborate Ecotec’s findings. The research showed there was an

absolute shortage of four bedroom properties in the owner occupied sector, which is unique to that sector. The report modelled the potential demand and supply for different sized properties from 2003-2011 and found the greatest relative shortfall is for three or more bedroom properties for owner occupation. This is confirmed with data in the Monitoring Report and Housing Trajectory 2015 ("Monitoring Report") which was reported to the Local Plan Cabinet Sub-Committee on 3 March 2016.

- 6.6.5. The Monitoring Report confirms that in 2014/15, new 3+ bedroom houses accounted for 23% of provision when Core Policy 5 and DMD3 seek 65%. The proposed development will provide for a 4-bed dwelling, which, having regard to the Housing Study and the more recent Monitoring Report, is identified as being a type of greatest need.
- 6.6.6. With regard to development on garden land, policy DMD7 has a presumption against development on garden land unless the criteria contained within the policy are met. As discussed above, the scheme is considered to satisfy the criteria to permit this garden land development.
- 6.6.7. In relation to housing supply, the London Plan 2011 housing target was originally planned to cover a 10 year period from 2011/12 to 2020/21 and required Enfield to provide 5,600 additional dwellings, some 560 per year (the previous target from 2006/07 to 2016/17 was 3,950 additional dwellings). The most recent housing trajectory report, confirms that since 2012, there has been a cumulative shortfall in housing delivery versus the annual target of 560, with the cumulative shortfall for the year 2015/16 being 164 dwellings. The borough must identify a supply over the next five years (2016/17 to 2020/21) of 4,190 (798 per annum plus the 5% buffer).
- 6.6.8. Having regard to the above, whilst sufficient land has been identified to meet with the Council's housing targets, the policy requirement is not to just meet with the target but to exceed it (policy 3.3, London Plan). Although the development would only result in one additional dwelling, the development will contribute in helping the Council to exceed its identified housing target. Moreover, the proposed dwelling is of a size for which there is an identified shortfall.

6.7. Sustainable Design and Construction

BREEAM / Code for Sustainable Homes

- 6.7.1. A written ministerial statement ("WMS") in March 2015 confirmed the withdrawal of the code for sustainable homes. Although the applicant had submitted information to demonstrate compliance with the code, it is no longer necessary for a planning assessment to be made with respect to this element.

Biodiversity / Ecology

- 6.7.2. A Phase 1 Habitat Survey undertaken in March 2014 established that there was negligible ecological value at the site and therefore there were no ecological constraints to the proposed development. Notwithstanding this, it was recommended that any vegetation was to be cleared outside of the bird nesting season (March to August inclusive) or if clearance could not be avoided within this period, an ecologist would have to firstly confirm whether nesting birds are present.
- 6.7.3. A review of the submitted ecological survey has confirmed that its findings and conclusions remain valid. A condition will be imposed in relation to vegetation clearance.

- 6.7.4. Having regard Core Policy 36, which advises that all schemes should looking to enhance the ecological value of the respective site, a condition will be imposed to secure enhancements such as bird and bat boxes / bricks / tiles in addition to native plantings.

Energy

- 6.7.5. The development is able to exceed the minimum 8% improvement required above Building regulations. A condition will be imposed to secure this.

Drainage

- 6.7.6. The applicant should be designing a drainage strategy that ensures that any runoff is managed as close to the source as possible. This can be achieved through a variety of measures such as green roofs and sustainable urban drainage systems (SUDS). A condition will be imposed requiring the applicant to submit details of a drainage scheme which will also involve the investigation into the use of SUDS.

6.8. Viability

- 6.8.1. On 28 November 2014 a WMS was published, announcing changes to s106 planning obligations for small scale development. Paragraphs 12 to 23 of the National Planning Policy Guidance (NPPG) were amended to state that contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build developments containing 10 units or less with a gross area of no more than 1000sqm.
- 6.8.2. The position was subsequently challenged and a case was brought to the High Court by West Berkshire District Council and Reading Borough Council refuting the decision on 28 November 2014 to make alterations to national policy in respect of planning obligations for affordable housing and social infrastructure contributions and the decision on 10 February to maintain those Policy changes following the completion of an Equalities Impact Assessment (EqIA).
- 6.8.3. On 31 July 2015 Mr Justice Holgate upheld the challenge and ruled that the changes to national policy on 28 November 2014 were unlawful and contrary to the provisions of the Town and Country Planning Act 1990 (as amended) and the Planning and Compulsory Purchase Act 2004. In addition, Mr Justice Holgate ruled that the statement failed to comply with the public sector equality duty under the Equality Act 2010 and consequently failed to give due regard to all material considerations. On this basis, Mr Justice Holgate quashed the policy and subsequent changes to the NPPG. Accordingly, paragraphs 012-023 of the NPPG on planning obligations have been removed.
- 6.8.4. As the development results in the net increase of residential accommodation, the consequence of this ruling is that the provisions of Policies CP3 and CP46 of the Core Strategy and DMD2 of the Development Management Document remain applicable to the scheme as a material consideration. Therefore, contributions to accord with the S106 SPD apply in full, unless it can be demonstrated that such contributions would undermine the viability of the development as a whole.

Affordable Housing

- 6.8.5. Affordable housing is housing designed to meet the needs of households whose income is insufficient to allow them access to “decent and appropriate housing in their borough” (para.5.17 Core Strategy). Having regard to Core Policy 3, for developments of less than 10 dwellings the Council will seek a financial contribution to deliver off-site affordable housing provision based on a borough-wide target of 20%. The level of contribution is based upon the expected sales value, using comparable data where appropriate, and the formula provided within the S106 SPD.
- 6.8.6. A value of £500,000 is being used as the assumed sales value, which is supported by a covering letter from Bowyer Bryce. Applying the S106 SPD formula, the scheme should therefore be making a contribution of £43,930 towards off-site affordable housing provision in the Borough.
- 6.8.7. The applicant has agreed to make this contribution, which will need to be secured via a s106 Agreement.

Education

- 6.8.8. Core Policy 8 sets out the education infrastructure requirements of the borough, with the Monitoring Report confirming the increase in the number of primary (930 additional places in 2012/13, 2315 additional places in 2013/14) and secondary school places (1006 additional places 2014/15). Core Policy 46 confirms that infrastructure contributions for learning and skills facilities is one of the priorities while the supporting text at para.7.3.1 of the S106 SPD also confirms that contributions will be sought on all residential developments.
- 6.8.9. Table 7.3 of the S106 SPD confirms that a 4-bed unit should be making a contribution of £11,408.98. The applicant has confirmed that this contribution will be made and this will also need to be secured through the s106 Agreement.

6.9. Community Infrastructure Levy (CIL)

- 6.9.1. The Mayoral CIL is collected by the Council on behalf of the Mayor of London. The amount that is sought for the scheme is calculated on the net increase of gross internal floor area multiplied by the Outer London weight of £20 together with a monthly indexation figure (274 for March 2016).
- 6.9.2. The development is CIL liable for the construction of 160sqm of new residential floor space and the CIL calculation is: $(£20/m^2 \times 160m^2 \times 274)/223 = £3,931.84$.
- 6.9.3. The Council will be introducing its own CIL from 1 April 2016. The money collected from the levy (Regulation 123 Infrastructure List) will fund rail and causeway infrastructure for Meridian Water.

6.10. Section 106 / Legal Agreement

- 6.10.1. Section 106 contributions can still be sought for items of infrastructure not identified on the Regulation 123 list. A legal agreement will be required to secure the affordable housing and education contributions as set out above. A 5% monitoring fee will also be incurred as per the S106 SPD.
- 6.10.2. In summary, the scheme will be providing the following contributions to the Council:

- Affordable Housing: £43,930.00
- Education: £11,408.98

- Monitoring fee: £ 2,766.95
- Total: £58,105.93**

6.10.3. Having regard to the above contributions, the proposed development would provide a sufficient level of contributions towards affordable housing, education infrastructure and associated monitoring fees and through the associated legal agreement to secure the required planning obligations, has appropriate regard to Policies 3.10, 3.11, 3.12 and 3.13 of the London Plan, Core Policies 3 & 46 of the Core Strategy, Policy DMD2 of the DMD, the associated S106 Supplementary Planning Document, and the National Planning Policy Framework.

6.10.4. In addition, the contribution towards affordable housing, whilst not explicitly stated in any supporting document as a reason to support the development, having regard to the considerations contained within Section 12 of the NPPF as outlined above and also to the guidance within the NPPG, would represent a public benefit in favour of the development because of the identified need for affordable housing in the Borough.

6.11. Other Matters Raised

Judicial Review

6.11.1. References have been made to a judicial review (“JR”) of the previous decision to grant planning permission. A JR is a process whereby the lawfulness of a decision is reviewed by the Courts and if successful, the decision is quashed and the local authority is required to reconsider the application afresh. This may or may not result in the same decision being made by the local authority. The application for JR was made on 7 Grounds:

1. Breaches of duty under s.72 of the Listed Buildings Act, §70(1) & 70(2) of the T&CPA 1990 and s.38(6) of the 2004 Act;
2. Breach of Regulation 122 of the 2010 CIL Regulations;
3. A failure to have regard to material considerations;
4. A regard to irrelevant considerations;
5. The decision was Wednesbury unreasonable;
6. Lack of consultation with local residents; and
7. An unlawful consultation (Drury McPherson Report)

6.11.2. The council agreed to the quashing order on the basis of Ground 1: that in identifying any harm to the significance of the conservation area, the officer report should have made clear that it is then a matter of law that the harm is given considerable importance and weight. The report therefore fell into material error. Previously, officers were of the view that the introduction of any development where previously there had not been any, amounted to some harm. In having to reconsider the application afresh and in light of a review of relevant case law, officers have concluded that the proposed development will not lead to any harm to the significance of the conservation area.

6.11.3. The JR did not, as has been incorrectly stated, “reject” the council’s decision on all 7 grounds. The council did not accept Grounds 2-7 and the Judge did not consider Grounds 2-7 on the basis of Ground 1 being conceded.

6.11.4. In relation to Grounds 2-7, where necessary, these are addressed above.

Miscellaneous

- 6.11.5. It has always been a key principle of decision making that the determination of any planning application is made in accordance with the development plan unless material considerations indicate otherwise. Although the majority of the development site is on land, which for historical reasons, is within the conservation area, this does not preclude development from taking place. As outlined above, it is considered that no harm arises to the significance of this sub-area of the conservation area or even to the conservation area as a whole.
- 6.11.6. The development of garden land is permitted under current planning policy, subject to satisfying the criteria of DMD8. It is considered that the development adequately demonstrates compliance with the policy.
- 6.11.7. In relation to the access points that have been constructed, one of which (the “existing”) is a widened vehicular crossing and the second, near to the boundary with 36A Walsingham Road, these do not normally require planning permission as they can be constructed under permitted development rights due to their location on a non-classified road, by virtue of Article 3, Schedule 2 and Part 2, Class B of the General Permitted Development Order 2015 (as amended).
- 6.11.8. Whilst the access points did form part of the 2013 permission, that permission, and any conditions attached, would only take effect from the commencement of development. Construction of the widened and new vehicular crossings was undertaken on 9 January 2014 and commencement works in relation to the approved extensions occurred on 17 February 2014, therefore the works were not undertaken pursuant to the planning permission but as permitted development. For clarity, the southern point of access was amended at the request of the Highway Services to ensure there was no conflict with existing underground services. Notwithstanding, and as the application as originally submitted showed the access points in the wrong position, the plans were amended to correct this.
- 6.11.9. All relevant planning conditions attached to the 2012 planning permission (P12-02849PLA) were discharged on 20 October 2013 to the satisfaction of the Local Planning Authority.

7. Conclusion

- 7.1.** It is considered that this isolated site itself does not contribute to the significance of the conservation area or to the New Town sub-area because it cannot be experienced from within any part of the conservation area. The development is considered to not lead to any harm or to a loss of significance to the identified heritage asset. Whilst the proposed dwelling would mostly be sited on an area of garden land within the conservation area, the gardens of the Essex Road properties and views into them from Essex Road, Walsingham Road and Uvedale Road are not harmed. The development proposal continues to conserve and enhance the setting of the conservation area. This is a view that has been supported through independent heritage advice and by Council’s Conservation Officer.
- 7.2.** It has been concluded that the development proposal will not result in any harm to the significance of the conservation area and its sub-area. As such, it is not necessary to identify any public benefits to outweigh the harm. Nevertheless, the provision of a new family dwelling, for which there is an evidenced need and a contribution towards affordable housing and education provision, again for which there is an evidenced need, are benefits which do arise from the scheme.

7.3. Planning Law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF and related guidance provide important material considerations to be considered in the planning decision making process.

7.4. Having regard to the statutory requirement to give special attention to the desirability of preserving or enhancing the character or appearance of a conservation area (s.72), and to all other material planning considerations, it is considered that on balance, planning permission should be granted for the following reasons:

1. The proposed development, due to its design, size and siting, will not lead to any harm or to a loss of significance to the Enfield Town Conservation Area sub-area the “New Town” or to the conservation area as a whole and will preserve the special character and setting of the designated heritage asset having regard to Policy 7.8 of The London Plan, Core Policy 31 of the Core Strategy, DMD Policy 44 of the Development Management Document, and with guidance contained within the National Planning Policy Framework (in particular section 12).
2. The proposed development would contribute to increasing London’s supply of housing and assist in meeting with the provision of family housing within the Borough, having regard to Policies 3.3 & 3.4 of The London Plan, Core Policies 2 and 4 of the Core Strategy, and with guidance contained within the National Planning Policy Framework (in particular section 6).
3. The proposed development due to its design, size and siting, does not detract from the character and appearance of the street scene or the surrounding area having regard to Policies 3.5, 7.1, 7.4 & 7.6 of the London Plan, Core Policy 30 of the Core Strategy, DMD Policies 7, 8, 9 and 10 of the Development Management Document, and with guidance contained within the National Planning Policy Framework (in particular section 7).
4. The proposed development due to its design, size and siting, does not unduly harm the existing amenities of the occupiers of adjoining properties in terms of loss of light, outlook or privacy and in this respect complies with Policy 7.6 of the London Plan, Core Policy 30, DMD Policy 10 of the Development Management Document, and with guidance contained within the National Planning Policy Framework (in particular section 7).
5. Having regard to conditions attached to this permission, the proposal makes appropriate provision for access and parking, including cycle parking and visibility splays, and in this respect complies with Policies 6.3, 6.9, 6.12 & 6.13 of the London Plan, DMD Policies 45 and 47 of the Development Management Document, and with guidance contained within the National Planning Policy Framework (in particular section 4).
6. The proposed development, by virtue of measures proposed and conditions imposed, will contribute to the mitigation of and adaptation to climate change, having regard to Policies 5.1, 5.2, 5.3, 5.7, 5.8, 5.9, 5.10 & 5.13 of the London Plan, Core Policy 32, DMD Policies 51, 53, 58, 59 and 61 of the Development Management Document, and with guidance contained within the National Planning Policy Framework (in particular section 10).

8. Recommendation

8.1. That subject to the completion of a S106 Agreement to secure the obligations as set out above, the Head of Development Management / the Planning Decisions Manager be authorised to **GRANT** planning permission subject to the following conditions:

1. C61 Approved Plans – Revised
Unless otherwise required by any condition attached to this permission, the development hereby permitted shall be carried out in accordance with the approved plans, as set out in the attached schedule which forms part of this notice.

Reason: In the interest of proper planning and for the avoidance of doubt.

2. C51A Time Limited Permission
The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the decision notice.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. NSC1 Fenestration
Notwithstanding any submitted plan or supporting documentation, fenestration to be used throughout the development hereby approved shall be in timber, with joinery details (1:20 and 1:5 sections) being provided to the Local Planning Authority for approval in writing. The fenestration shall be installed in accordance with the approved details and they shall not be altered without the prior written approval of the Local Planning Authority.

Reason: Having regard to the setting of the Enfield Town Conservation Area.

4. C24 Obscure Glazing
Notwithstanding the submitted plans, the glazing to be installed in the first floor flank elevation of the development indicated on drawing No.KF-001-14/B shall be in sandblasted glass and fixed shut up to a minimum height of 1.7m above finished floor level. The glazing shall not be altered without the approval in writing of the Local Planning Authority.
- Reason: To safeguard the privacy of the occupiers of adjoining properties and to ensure an adequate appearance having regard to the surrounding conservation area.
5. C25 No Additional Fenestration
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no external windows or doors other than those indicated on the approved drawings shall be installed in the development hereby approved without the approval in writing of the Local Planning Authority.
- Reason: To safeguard the privacy of the occupiers of adjoining properties.
6. C08 Details of Materials
Notwithstanding any submitted plan or supporting documentation, the development shall not commence until details of the external finishing materials have been submitted to the Local Planning Authority and approved in writing. The submitted detail shall include:
- a. Brick type
 - b. Details of bonding and mortar
- The development shall be carried out in accordance with the approved detail.
- Reason: Having regard to the setting of the Enfield Town Conservation Area.
7. C09 Details of Hard Surfacing
The development shall not commence until details of the surfacing materials to be used within the development, not including the hard surfacing already approved for the driveway, but including footpaths, have been submitted to and approved in writing by the Local Planning Authority. The surfacing shall be carried out in accordance with the approved detail before the development is occupied.
- Reason: To ensure that the development does not prejudice highway safety and to ensure a satisfactory appearance.
8. NC2 Front Boundary Wall
The front boundary wall and piers shall not be higher than 0.7m in height.
- Reason: In the interest of highway safety.
9. C16 Private Vehicles Only – Garage / Parking Areas

The garage and parking areas to be provided shall be kept available for the parking of private motor vehicles at all times. The garage / parking areas shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

Reason: To ensure that the development complies with adopted Policy and to prevent the introduction of activity that would be detrimental to visual and residential amenity.

10. C17

Details of Landscaping

Prior to occupation full details of soft landscape proposals shall be submitted to the Local Planning Authority for approval in writing. The details shall include:

- a. Planting plans
- b. Written specifications (including cultivation and other operations associated with plant and grass establishment)
- c. Schedules of plants and trees, to include native and wildlife friendly species and large canopy trees in appropriate locations and plantings that would not interfere with vehicular sightlines (noting species, planting sizes and proposed numbers / densities)
- d. Implementation timetables.
- e. Wildlife friendly plants and trees of local or national provenance
- f. Specifications for fencing demonstrating how hedgehogs and other wildlife will be able to continue to travel across the site (gaps in appropriate places at the bottom of the fences)

The landscaping shall be provided in accordance with the approved details prior to first occupation.

Reason: To ensure the provision of amenity, and biodiversity enhancements, afforded by appropriate landscape design in accordance with adopted policy, and to ensure highway safety.

11. C19

Details of Refuse Storage & Recycling Facilities

Within three months of commencement of the development, details of refuse storage facilities including facilities for the recycling of waste to be provided within the development, in accordance with the London Borough of Enfield – Waste and Recycling Planning Storage Guidance ENV 08/162, shall be submitted to the Local Planning Authority for approval in writing. The facilities shall be provided in accordance with the approved details before the development is occupied or use commences.

Reason: In the interest of amenity and the recycling of waste materials in support of the Boroughs waste reduction targets and having regard to visual amenity.

12. NSC3

Energy

The energy efficiency of the development shall provide for no less than a 8% improvement in the total CO₂ emissions arising from the operation of the development and its services over Part L of Building Regs 2013 as the baseline measure. Prior to first occupation, confirmation shall be provided to the Local Planning Authority.

Reason: To ensure that the development meets or exceeds the energy efficiency and sustainable development policy requirements of the London Plan and the Core Strategy.

13. NSC4

SUDS 1

No development shall take place until an assessment has been carried out into the potential for disposing of surface water by means of a sustainable drainage (SUDS) scheme, in accordance with the principles of sustainable drainage systems set out in national planning policy guidance and statements, and the results of that assessment have been provided to the Local Planning Authority. The assessment shall take into account the design storm period and intensity (1 in 100 and 1 in 1 year storm events); methods to delay and control the surface water discharged from the site; and measures to prevent pollution of the receiving groundwater and/or surface waters.

Reason: To ensure that the proposal would not result in an unacceptable risk of flooding from surface water run-off or create an unacceptable risk of flooding elsewhere.

14. NSC5

SUDS 2

Surface water drainage works shall be carried out in accordance with details that have been submitted to, and approved in writing by, the Local Planning Authority before the development commences. Those details shall include a programme for implementing the works. Where, in the light of the assessment required by the above condition, the Local Planning Authority concludes that a SUDS scheme should be implemented, details of the works shall specify:

- a. a management and maintenance plan, for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime; and
- b. the responsibilities of each party for implementation of the SUDS scheme, together with a timetable for that implementation.

Reason: To ensure implementation and adequate maintenance to ensure that the proposal would not result in an unacceptable risk of flooding from surface water run-off or create an unacceptable risk of flooding elsewhere.

15. C59

Details of cycle storage

Within three months of commencement of the development, details (including elevational details) for covered cycle parking for the storage of a minimum of 2 bicycles shall be submitted to the Local Planning Authority for approved in writing. The approved cycle storage shall be provided prior to first occupation of the development and permanently maintained, kept free from obstruction, and available for the parking of cycles only.

Reason: To provide secure cycle storage facilities free from obstruction in the interest of promoting sustainable travel.

16. NSC6

Tree / Shrub Clearance

All areas of trees, hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March to August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.

Reason: To ensure that wildlife is not adversely impacted by the proposed development in accordance with national wildlife legislation and in line with CP36 of the Core Strategy. Nesting birds are protected under the Wildlife and Countryside Act, 1981 (as amended).

17. NSC7

Arboricultural

All tree works as detailed within the BS5837 Tree Survey, Arboricultural Impact Assessment and Method Statement shall be undertaken in accordance with good arboricultural practice and British Standard 3998: 2010 Recommendations for Tree Work.

Reason: In order to maintain the tree(s) amenity value and health.

18. NSC8

Tree Protection

Tree protection measures and works in proximity to retained trees, within the site and on adjacent sites, shall be undertaken in accordance with the details as set out in the BS5837 Tree Survey, Arboricultural Impact Assessment and Method Statement. There shall be no deviation from the approved measures without the prior written approval of the Local Planning Authority.

Reason: In the interest of visual amenity having regard to the setting of the Enfield Town Conservation Area and in the interest of preserving the health of retained trees.

19. NSC9

Biodiversity Enhancements

Prior to occupation of the development, 3 bat boxes and 3 bird boxes are to be installed on and around the new building under the supervision of a suitably qualified ecologist. A brief letter report confirming that the boxes have been installed, including a simple plan showing the location and type of boxes, is to be submitted to the Council within 3 months of installation.

Reason: To ensure that the ecological value of the site is enhanced post development in line with CP36 of the Core Strategy.

20. NSC10

Restriction of PD - Front Boundary Enclosure

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no walls, fences, gates or any other means of enclosure, including piers, shall be erected on any part of the site lying between any wall of buildings fronting a highway and the highway boundary, without the prior approval in writing of the Local Planning Authority.

Reason: To ensure a satisfactory appearance and in the interests of maintaining adequate visibility splays having regard to highway safety.

21. NSC11 Restriction of PD – Extensions and Outbuildings
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), no buildings or extensions to buildings shall be erected, other than those expressly authorised by this permission, without the prior approval in writing of the Local Planning Authority.

Reason: In the interest of preserving garden land which is identified as being of importance within the Enfield Town Conservation Area.

22. NSC12 Archaeology
The developer shall notify the Greater London Archaeology Advisory Service of the start of groundworks no less than two weeks before commencement and permit access by the Enfield Archaeological Society, at any reasonable time to be agreed between the applicant and the Enfield Archaeological Society, to monitor the development and record features of interest.

Reason: To enable the recording of any features of archaeological interest.

23. NSC13 Construction Methodology
That development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Planning Authority. The construction methodology shall contain:

- a. a photographic condition survey of the roads, footways and verges leading to the site;
- b. arrangements for the loading, unloading and turning of delivery, construction and service vehicles clear of the highway;
- c. arrangements for wheel cleaning;
- d. arrangements for the storage of materials;
- e. hours of work;
- f. arrangements for the securing of the site during construction;
- g. A construction management plan written in accordance with the 'London Best Practice Guidance: The control of dust and emission from construction and demolition'.

The development shall be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the implementation of the development does not lead to damage to the existing highway and to minimise disruption to neighbouring properties and the environment.



REVISION	DATE	REMARK
B	MARCH 2014	Width of building reduced to increase boundary separation Add parking and crossover dimensions

PROPOSED: 4 BEDROOM DETACHED HOUSE

SITE: Land adjacent to:
36 WALSINGHAM ROAD
ENFIELD,
MIDDLESEX
EN9 6EY

CLIENT: Mr & Mrs K. FITZGERALD

DRAWING SCALE: PROPOSED SITE BLOCK PLAN 1:100

DATE: MARCH 2014

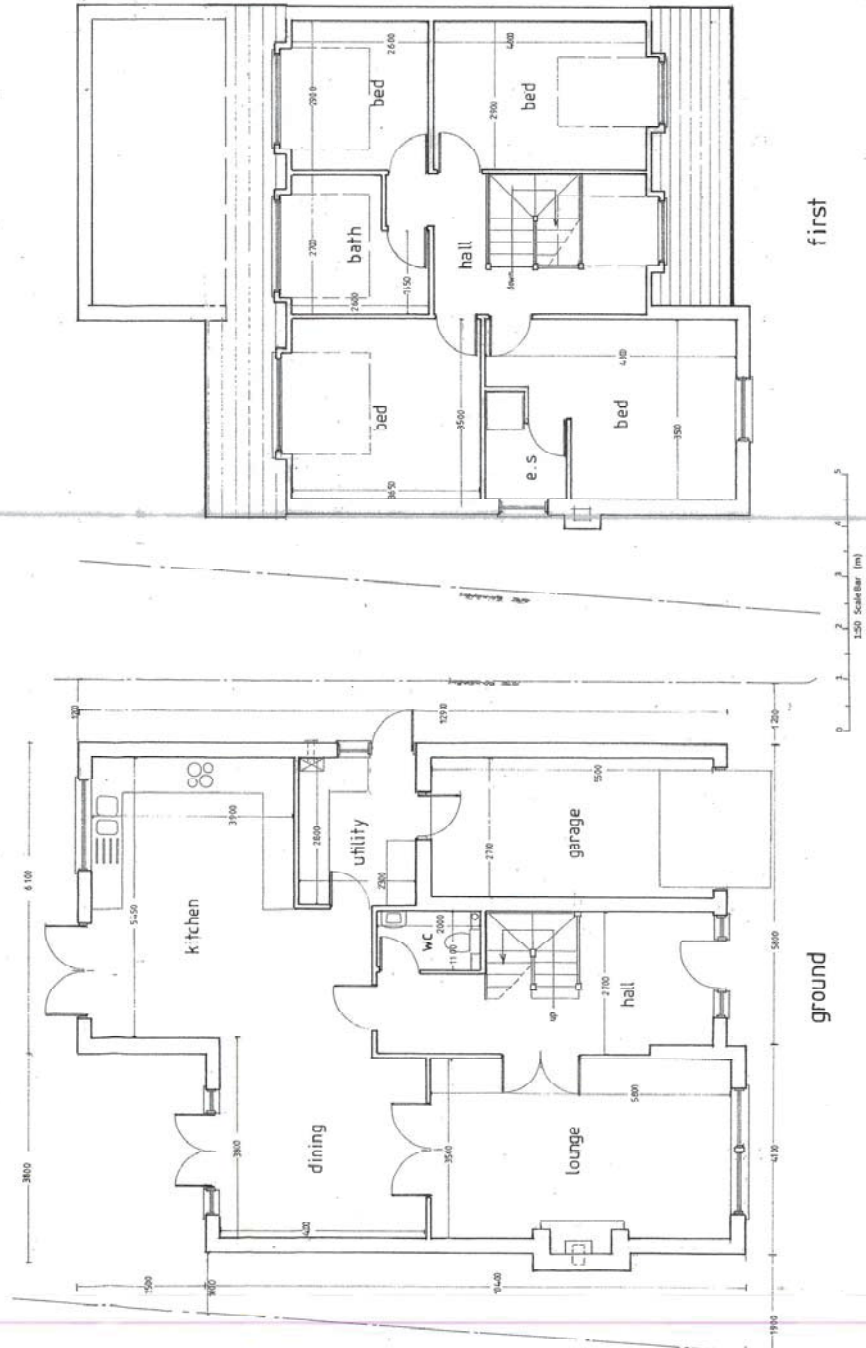
DRAWING No / Revision: KF-002 - 14 / 8



Proposed Elevations 1:100



Proposed Floor Plans 1:50



All dimensions to be checked on site.			
REVISION	DATE	REMARK	
8	March 2014	Width of building reduced to increase boundary separation	
PROPOSED: 4 BEDROOM DETACHED HOUSE			
SITE: Land adjacent to: 38 WALSHINGHAM ROAD, ENFIELD, MIDDLESEX EN9 6EY			
CLIENT: Mr Mrs K. FITZGERALD			
DRAWING SCALE: PROPOSED ELEVATIONS 1:100 PROPOSED FLOOR PLANS 1:50			
Original drawing format @ A1			
DATE:	DRAWING No. / Revision		DATE:
MARCH 2014	K5-001 - 14 / B		MARCH 2014

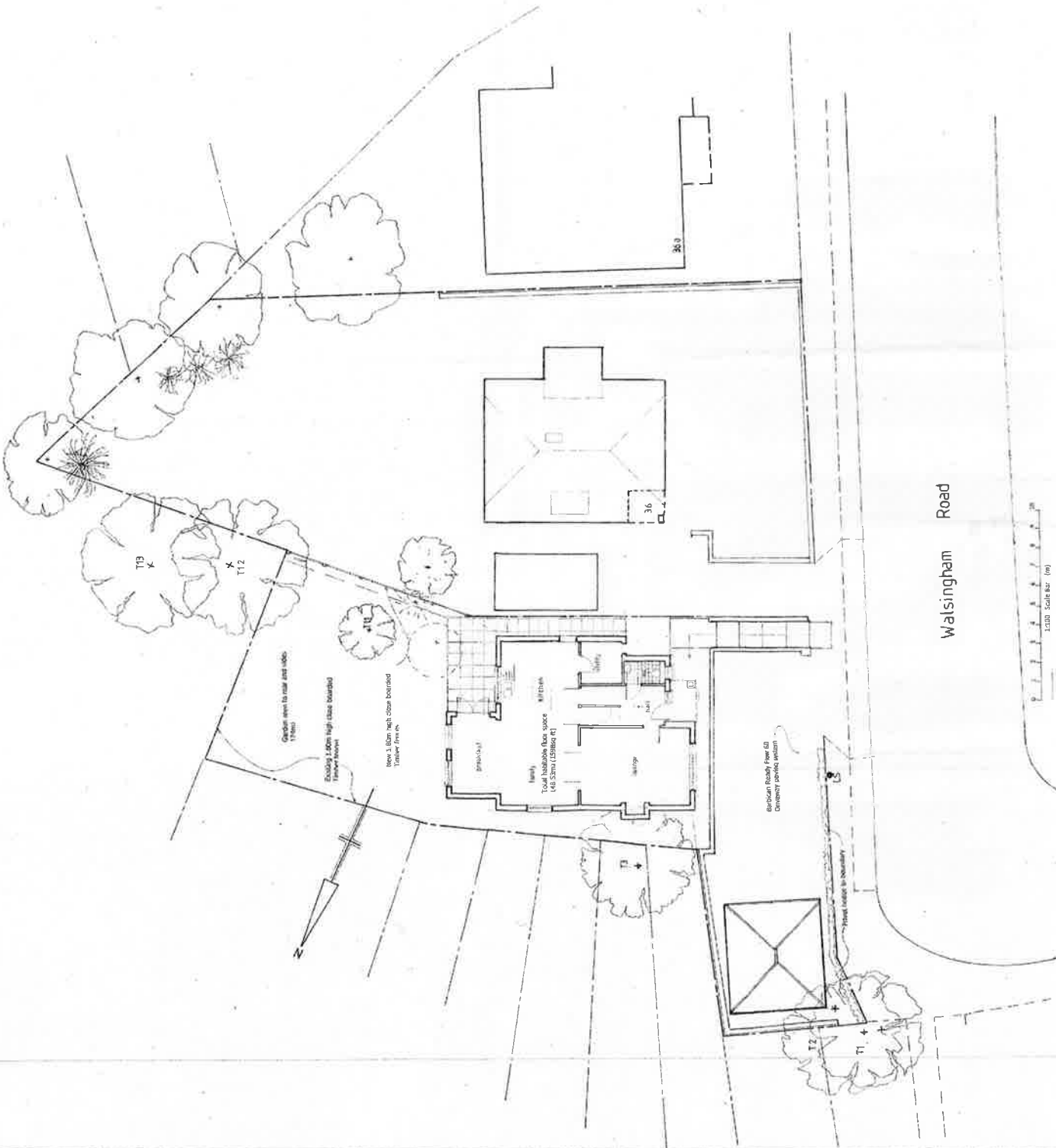


APPENDIX 1

PLANS OF REFUSED SCHEME: REFERENCE TP/10/0818

TP/00/0818

Proposed Site Block Plan 1:100



Items to be checked on file		Prepared by: J. H. H. H.
REVISION	DATE	REMARK
A	May 2010	Prepared for Planning & Building Control Applications
PROPOSED: 4 BEDROOM DETACHED HOUSE & DETACHED GARAGE		
SITE: Land adjacent to: 36 WALSINGHAM ROAD, ENFIELD, MIDDLESEX, EN2 8EY		
CLIENT: Mr & Mrs K. FITZGERALD		
DRAWING SCALE: PROPOSED SITE BLOCK PLAN 1:100		
Original Drawing format: A1		
DATE	DRAWING No. / Revision	
MAY 2010	KF-004 - 10 / A	

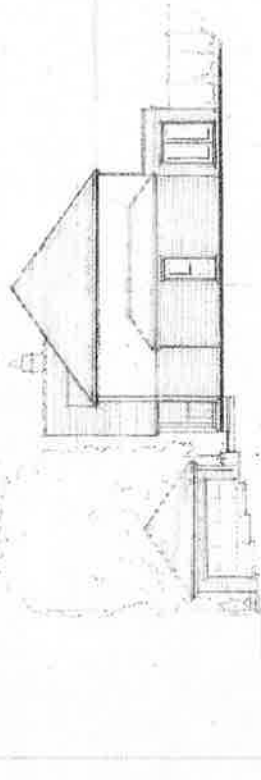


Proposed Elevations 1:100

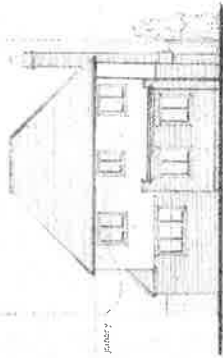


front west

side north



side south



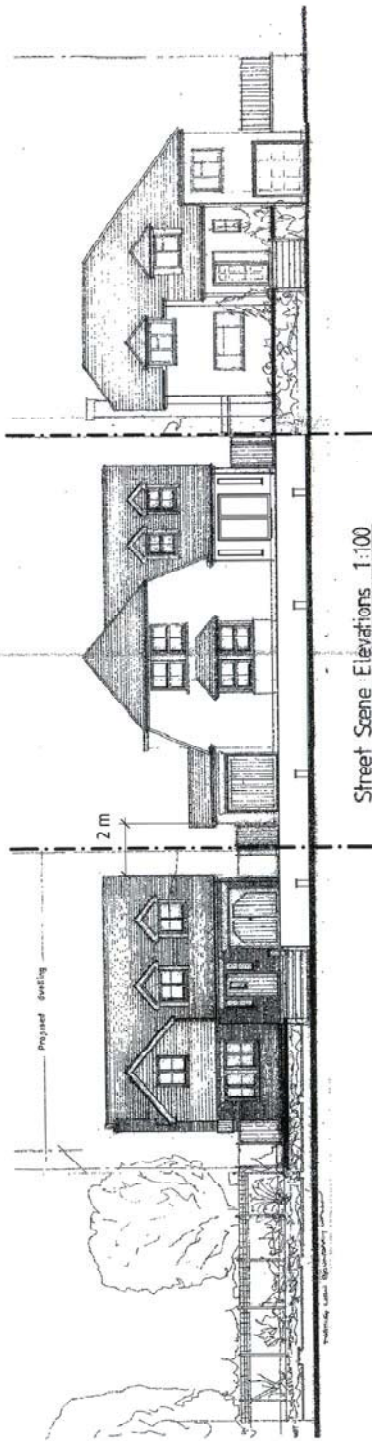
rear east

RECEIVED
SEP 17 10
MUNICIPALITY

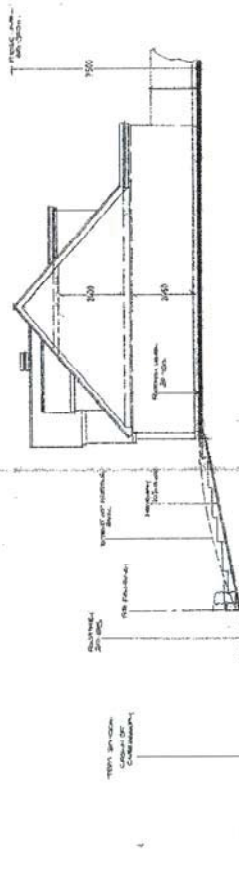
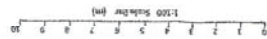
IP 10 2012
Revised Additional Drawing
Received 4/1/12
Under cover of 4/24/12
Dated 3/19/12

APPROVED BY THE CLIENT APPROVED BY THE ARCHITECT	
PERSON &	DATE September 2012
Prepared for Planning & Building Control Applications Roof Alteration 17/12/2011	
PROPOSED: 4 BEDROOM DETACHED HOUSE & DETACHED GARAGE	
SITE: Land adjacent to: 38 WALSHSTAM ROAD ENFIELD MIDDLESEX EN2 8EY	
CLIENT: MR & MRS K. FITZGERALD	
DRAWING SCALE: PROPOSED ELEVATIONS 1:100	
Drawing No. 10/11/12/01/01	
DATE: SEPTEMBER 2012	DRAWING NO. REVISION 10/11/12/01/01 6





Street Scene Elevations 1:100



Site Section 1:100

REVISION	DATE	REMARK
B	March 2014	With it building reduced to increase boundary separation. All other dimensions change from floor.

PROPOSED: 4 BEDROOM DETACHED HOUSE

SITE: Land adjacent to P13-03636/2A
36 WALSHINGHAM ROAD
ENFIELD,
MIDDLESEX
EN2 6EY

CLIENT: Mr & Mrs K. FITZGERALD

DRAWING SCALE: PROPOSED SITE SECTION 1:100
PROPOSED STREET SCENE ELEVATION 1:100

DATE: MARCH 2014

DRAWING No / Revision: KF-003 - 14 / B