

DELEGATED APPLICATION REPORT

Ward: Katesgrove Ward

App Ref: PL/25/0687 Removal/variation of conditions

Address: 40-48 Mount Pleasant, Reading, RG1 2TD

Proposal: Demolition of existing car repair garages and erection of 6 family dwellings and associated landscaping, waste and bicycle storage. Vary condition 2 (Approved Plans) of application PL/20/1880

Applicant: Jhahanger Zaman

Received date: 09 May 2025

Target Decision date: 07 July 2025

Case Officer: Anthony Scholes

1. SITE DESCRIPTION

The application site is a predominantly complete development for the erection of 6 dwelling within an area previously is use as part of a group of vehicle repair garages located at the rear. It is located on the west side of Mount Pleasant, south of the MAP Community Centre and north of 50 Mount Pleasant which is a two and a half storey Grade II listed building (along with 52 and 54 Mount Pleasant). The MAP Community Centre is a large two storey building with high chain-link fencing and there are two storey residential terrace properties to the east and west. The surrounding area is predominantly residential with a mixture of types, styles and design.

2. PROPOSAL AND SUPPORTING INFORMATION

The proposed development seeks permission for the “demolition of existing car repair garages and erection of 6 family dwellings and associated landscaping, waste and bicycle storage without complying with condition 2 (Approved Plans) of application PL/20/1880”.

Specifically, the applicant has sought to replace the existing site plan with an amended site plan to alter the location of the bin store, front boundary treatments, and associated impacts on landscaping and site levels. The applicants statement suggests that the proposal is not retrospective, however in the course of the application, it was agreed that the works were retrospective. It is noted that the proposal plans do not in fact match the bin store as is located within the site. The decision will be based on the plans supplied.

It should be noted that the proposal would not alter a number of other plans which would continue to apply, which would result in an inconsistent set of plans should the recommendation be to grant.

The applicant has also suggested that the s73 application is being sought to vary the agreed terms of the s106 agreement which accompanies the original planning permission to remove the requirement for any affordable housing contribution based on viability considerations.

3. APPLICATION CORRESPONDENCE

It is noted that the applicant was contacted multiple times to attempt to address the concerns raised by officers. No response was received before 4 July 2025. Given the target date of 7 July 2025, there was insufficient time to consider alternatives. The applicant was offered the opportunity to withdraw the application to pursue an amended scheme.

4. CONSULTATIONS

The following were consulted:

- Transport Development Control – No objection.

- Waste Services – Object based on lack of information on waste collection routes.
- RBC conservation officer – Object.

A site notice was placed on site, no representations have been made.

5. EQUALITY ACT 2010

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. However, there is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application. Therefore, in terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the development.

6. RELEVANT PLANNING HISTORY

PL/20/0814 (PREAPP) - Demolition of sheds to rear of site. Redevelopment of site of 40-48 to provide 10 flats with associated parking and landscaping. Changes to vehicle access. Observations sent 29 July 2020.

PL/20/1880 (FUL) - Demolition of existing car repair garages and erection of 6 family dwellings and associated landscaping, waste and bicycle storage. Approved 12 January 2022 (commenced)

PL/24/0840 (PREAPP) – s106 viability appraisal. Advice given 31 January 2025

50 Mount Pleasant

PL/23/1866 and PL/23/1865 (FUL and LBC) - Demolition of C20th rear wing, conversion of offices and remodelling of rear addition to form 4x1 bed No. Flats with bike storage, amenity space and bins/recycling facilities. Under Consideration

7. LEGAL AND PLANNING POLICY CONTEXT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy framework (NPPF) - among them the 'presumption in favour of sustainable development'.

The following local and national planning policy and guidance is relevant to this application:

National Planning Policy Framework
National Planning Policy Guidance

Reading Borough Local Plan (2019):
CC1: Presumption in Favour of Sustainable Development
CC2: Sustainable Design and Construction
CC3: Adaptation to Climate Change
CC5: Waste Minimisation and Storage
CC6: Accessibility and the Intensity of Development
CC7: Design and the Public Realm
CC8: Safeguarding Amenity
EN1: Protection and Enhancement of the Historic Environment
EN2: Areas of Archaeological Significance

EN9: Provision of Open Space
EN10: Access to Open Space
EN12: Biodiversity and the Green Network
EN14: Trees, Hedges and Woodland
EN15: Air Quality
EN16: Pollution and Water Resources
EM3: Loss of Employment Land
H1: Provision of Housing
H2: Density and Mix
H3: Affordable Housing
H5: Standards for New Housing
H10: Private and Communal Outdoor Space
TR3: Access, Traffic and Highway-Related Matters
TR4: Cycle Routes and Facilities
TR5: Car and Cycle Parking and Electric Vehicle Charging

Supplementary Planning Guidance/Documents:

SPG: Planning Obligations under s.106 (2015)
SPD: Sustainable Design and Construction (2019)
SPD: Revised Parking Standards and Design SPD (2011)
SPD: Affordable Housing (2021)

Tree Strategy for Reading (March 2021)

Local Plan Update

The current version of the Local Plan (adopted in November 2019) turned five years old on Tuesday 5th November 2024. The Local Plan was reviewed in March 2023 and around 5

half of the policies in the plan are considered still up to date. However, the rest need to be considered for updating to reflect changing circumstances and national policy. A consultation version of the draft updated version of the Local Plan was published on 6th November 2024.

Although there is a five-year period for carrying out a review of a plan after it is adopted, nothing in the NPPF or elsewhere says that policies automatically become “out of date” when they are five years old. It is a matter of planning judgement rather than legal fact whether a plan or policies within it are out-of-date. This will depend on whether they have been overtaken by things that have happened since the plan was adopted, either on the ground or through changes in national policy, for example.

It is considered that the Local Plan policies listed above remain in accordance with national policy – and that the objectives of those policies remain very similar in the draft updated Local Plan – other than Policy H1 which is now out of date. In this respect, regard will be had to national policy.

Section 73 of the Town and Country Planning Act

It is noted that despite the application being for a variation of condition, that “Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity

restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the guidance for use of planning conditions.

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.” *Paragraph: 015 Reference ID: 17a-015-20140306*

8. APPRAISAL

Principle of Development

Policy EM3 seeks to ensure the overall level of employment land is maintained. Although 40-48 Mount Pleasant is not located within a Core Employment Area, Policy EM3 states that in other areas, the following matters will be considered when assessing proposals which would result in a loss of employment land:-

- (i) Is access by a choice of means of transport, including access to the strategic road network, poor, and likely to remain poor?
- (ii) Is the continued use of the site for employment, including the potential for redevelopment for employment uses, viable?
- (iii) Is there a surplus of a similar size and type of accommodation in Reading?
- (iv) Would continued employment use of the site detrimentally affect the amenity and character of a residential area?
- (v) Is the need for alternative uses stronger than the need for the retention of employment land?
- (vi) Would the proposal result in a piecemeal loss of employment land where there is potential for a more comprehensive scheme?

The site is easily accessible with good links into and out of Reading. The now removed use as a car repair workshop is located within a predominantly residential area and does not contribute positively to the streetscene or the character of the area and does not enhance the setting of the listed buildings.

The principle of residential development is therefore considered acceptable subject to meeting the relevant planning policies and other material considerations below. The proposal is also in line with Policy H1 (Provision of Housing) as it will contribute to the housing need in Reading and will provide family housing as required in Policy H2 (Density and Mix) where paragraph 4.4.9 states “homes with two or more bedrooms, capable of accommodating families, represent the majority of the need”.

Design and impact on the setting of the listed building and character of the area

Policy CC7 requires all development to be of high design quality that maintains and enhances the character and appearance of the area of Reading in which it is located. The various components of development form include layout, landscape, density and mix, scale – height and massing and architectural detail and materials. Policy EN1 states “Historic features, areas of historic importance and other elements of the historic environment, including their settings will be protected and where possible enhanced.....Proposals should seek to avoid harm in the first instance.....Applications which affect Listed Buildings will not have an adverse impact on those elements which contribute to their special architectural or historic interest including, where appropriate, their settings”.

The street, as existing contains a high level of design quality and amenity based on the existence of the neighbouring listed building and historic features (including railing and brick walls). It is noted that the adjoining community centre contains a ~2m high mesh fence (which is transparent) behind a low level brick wall.



Figure 1 - side-by-side image of historic (2009) site frontage including low railing, and neighbouring terrace (2021) with railing and brick wall

The historic use of the site does not contribute positively to the street scene nor did it enhance the setting of the listed buildings. The proposed development is an interesting scheme that varies from the normal type of residential development the LPA would normally see in that it does not directly face the street and provides a shared communal frontage. The proposed dwellings are about 6m away from the side of the listed building at 50 Mount Pleasant and set slightly back from its building line.

The proposed development, would present a large side elevation of a building to the street, and a tapered view of most of the architectural details to the front and rear of the dwellings. The side facing the street would include 4 no. window openings. Overall, the design approach and the way the proposal addressed the public realm is considered poor, and the orientation of the building and its architectural detailing is considered harmful to the character and appearance of the area. This however is a consented and implemented planning permission and as such is not objectionable.



Figure 2 - Site as at 21 May 2025

Further to this, the proposal includes a large bin store in front of the building set behind a 2m tall closed boarded fence. This would be directly against the pavement. The proposal has increased the ground level closest to the pavement while the bin store is placed on top of this raised level, which serves to increase its prominence due to the height difference between the footway and the proposal, and incongruous materials compared to the buildings it is associated with, and the area overall. The site has also been proposed with no landscaping to the frontage, or along the shared pedestrian only accessway.

It is noted that the boundary treatments as exist on site are not shown on the proposed plans. However, the applicant has stated that: *“the applicant is seeking for close-boarded fencing to the front due to privacy issues for prospective occupants”*. Should approval have been recommended, a condition could have been applied to provide an appropriate boundary treatment to the frontage. However, it appears the intention is for a closed boarded fence.



In addition, the proposed bin store would be flat roofed with felt. The originally approved bin store was set within the slope of the frontage of the site, containing a green roof. The originally approved bin store was 2.7m tall compared to the proposed bin store at 2.3m. Though, as shown on the above comparison plans, the bin store originally was set within the natural slope of the land. Whereas the bin store as proposed sits higher than the original by virtue of the increased levels of the land as undertaken by the applicant. The original brick store included brick, and brick detailing to match the dwellings. The new bin store, in timber, with a flat felt roof, would be inappropriately designed, and site as to be detrimental to the character and appearance of the area, and the neighbouring listed building. The lack of a green roof, and detail around soft landscaping would also be harmful to the character of the area and the neighbouring listed building. Though a fence is not shown on the plans, a closed boarded timber fence is indicated by the applicant. This would be wholly unacceptable and is given no justifiable reason, as it is stated for the protection of amenity of residents. However, as a service and parking area, this would not need any level of privacy.

The proposal, by way of the orientation of the bin storage, the site levels (albeit not specifically detailed on the proposal plans), the incongruous and unsympathetic materials proposed, the proposal would result in a visually dominant form of development, with limited architectural detailing with an overly dominant large bin store and fence directly abutting the public footway, and a lack of landscaping space available to offset any hard surfacing. This results in significant harm to the character and appearance of the area. The proposal would also result in less than substantial harm at a low level to the setting of the adjacent listed building (50 Mount Pleasant) contrary to Policies CC7 and EN1 of the Reading Borough Local Plan and paragraphs 129, 131, 135, and 215 of the NPPF 2024.

Affordable Housing

Policy H3 of the Reading Borough Local Plan requires all developments to contribute toward the boroughs significant need for affordable housing. In this instance, by way of a contribution equivalent to 20% of the GDV of the development. Application PL/20/0118 was accompanied by a completed bilateral section 106 agreement for contributions toward affordable housing to the amount of £232,250.00 (subject to indexation). The s106 also included a leisure contribution. The terms of the bilateral agreement also state that: (Clause 16) *"It is agreed by the Owners and the Council that should the Development the subject of the Planning Permission be varied under new planning permission ("the VARIAT planning permission") granted by the Council under Section 73 of the 1990 Act the planning obligations in this Agreement shall apply to the VARIAT planning permission"*.

As such, any s73 variation granted by the Council, would be subject to the provisions of the original s106 agreement. The applicant is recommended for refusal, as such, and s73 permission granted would be by The Inspectorate, rather than the Council. Therefore, the s106 would not automatically apply to any appeal granted. The applicant has failed to provide an appropriate s106, notwithstanding that the Council would not agreed to a revised affordable housing contribution in light of the below.

The applicant has stated that the *“Section 73 application, this process has been previously established within multiple instances. One such instance can be found in appeal decision APP/L5240/W/23/3332225”*. It does appear that the previously mentioned appeal included provision of a unilateral undertaking by the applicant. This has not occurred in this instance. In addition, the appeal case mentioned outlined that the LPA agreed with the applicants viability position.

Paragraph 4.4.19 of the Reading Borough Local Plan provides some background to the policy and summarises the large amount of evidence that the Council has in respect of the critical need for Affordable Housing that exists within the Borough:

“The Berkshire (with South Bucks) Strategic Housing Market Assessment (SHMA, 2016) has once again emphasised the critical need for affordable housing within Reading as well as the remainder of Berkshire. The SHMA identified a need for 406 new affordable homes per year in Reading, which represents the majority of the overall housing required. The consequences of not providing much-needed affordable homes would be severe, and would include homelessness, households in temporary or unsuitable accommodation, overcrowding and younger people having to remain living with parents for increasing periods. Insufficient affordable housing will also act as an impediment to economic growth, as firms will face increasing problems with accommodation for their workforce. Meeting even a substantial proportion of the identified housing need presents significant challenges, and it is therefore critical that new residential development of all sizes makes whatever contribution it can.”

RBLP para 4.4.23 states *“The target set in the policy has been determined as the result of an assessment of the viability of development of sites of various sizes in the Borough in accordance with the requirements of the NPPF. This will be the expected level of affordable housing provision.”*

An up-to-date assessment of the need for Affordable Housing that exists in the Borough is within the supporting text for Policy H3 (para 4.4.21) of the Reading Borough Local Plan Submission Draft Partial Update May 2025 which states the following:

“The Reading Housing Needs Assessment (HNA, 2024) has once again emphasised the critical need for affordable housing within Reading as well as the remainder of Berkshire. The HNA identified a need for 406 additional affordable homes per year in Reading, which represents the majority of the overall housing required. The consequences of not providing much-needed affordable homes would be severe, and would include homelessness, households in temporary or unsuitable accommodation, overcrowding and younger people having to remain living with parents for increasing periods. Insufficient affordable housing will also act as an impediment to economic growth, as firms will face increasing problems with accommodation for their workforce. Meeting even a substantial proportion of the identified housing need presents significant challenges, and it is therefore critical that new residential development of all sizes makes whatever contribution it can”.

Current Policy H3 includes provision for viability considerations at para 4.4.24 which states that *“...the Council will be sensitive to exceptional costs of bringing a site to market such as for reasons of expensive reclamation, or infrastructure costs, or high existing use values. Where applicants can demonstrate, to the satisfaction of the Council, exceptional difficulties in bringing a site to market, the Council will be prepared to consider detailed information on the viability of a particular scheme and, where justified through an open book approach, to reduce the affordable housing requirement...”*

The NPPF and the Council's policies allow for viability considerations to reduce the provision but only in specific circumstances. Paragraph 59 of the NPPF 2024 states that *“The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.”*

Policy H3 places the onus on the developer/landowner to justify any lower affordable housing contribution. The supporting text to Policy H3 refines this, explaining that costs need to be “exceptional costs of bringing a site to market”. It is considered that the types of costs referred to in the Local Plan relate to problems with a site itself; expensive reclamation, infrastructure costs, or high existing use values etc. The cost of a particular design, or design choices, is not considered to fall within this type of exceptional cost; unless the design options are so limited as to prejudice the site coming forward for development in general. It is also not necessarily the role of the LPA to insulate a developer against financial risk associated with downturns in the market or rising development costs.

In support of the application a financial viability assessment has been submitted, seeking to justify a nil contribution towards affordable housing. This viability appraisal has been reviewed by the Council's Valuer.

The viability considerations that have been presented indicate an increase in build costs which has resulted in the profitability issue. However, there do not appear to be any ‘exceptional costs’ inherent in the site which would indicate a reduction under the terms and guidance associated with Policy H3. Equally, the increase in build costs is a challenge to the wider construction market and not specific to this site.

With regard to the viability appraisal the Council's review concluded that: policy compliant affordable housing contributions can be supported. The main areas which have been corrected within the review are:

- the assessment of the BLV by reference to the purchase price paid for the Application Property and by reference to sites with planning permission for residential development;
- the assumption that this will be a development constructed to Passivhaus standards which would not appear to reflect the ‘most effective and efficient way to deliver a reasonable development performance proportionate to the scheme being tested...’ and ‘...that the FVA fully reflects the way the development would actually be carried out’ as required by the RICS Professional Statement 2019.
- the inputs to the residual appraisals and in particular the base build costs assumed;
- and the assessment of the Residual Land Value by the Applicant by reference only to a residual appraisal without cross-reference to evidence from comparable development land transactions and the purchase price paid for the property. This approach is contrary to best practice and RICS guidance relating to the valuation of development land.”

The need for general housing (i.e. not Affordable Housing) is a consideration; however, it is not considered sufficient to outweigh the harm that would result in terms of failure to meet the critical need for Affordable Housing within Reading Borough and the associated need to provide for sustainable and inclusive mixed and balanced communities.

No alternative offer was put forward by the applicant beyond provision of the viability appraisal information. A zero percent offer, which is implied by the viability appraisal, would result in such significant harm to meeting housing need and achieving mixed and balanced communities and that notwithstanding, the conclusions of the third-party review of the viability appraisal indicate that the proposal is viable with a full policy compliant contribution.

There is therefore a demonstrated critical need for Affordable Housing in Reading. It is considered that the Council is justified in seeking to secure the provision of Affordable Housing for this development, subject to all relevant material considerations. Furthermore, a significant proportion of housing is provided relatively small sites within Reading due to its largely previously developed, urban, nature. There is therefore a need for each site to deliver a proportion of on site Affordable Housing to avoid a shortfall against housing targets.

Failure to provide adequate affordable housing would fail to make the most appropriate use of the land resource. This situation both in isolation, and if replicated within other developments, would reduce the accessibility to appropriate housing within Reading. It is not considered reasonable to expect other developments to compensate for the shortfall in provision.

Significant harm has been identified in terms of the failure to meet policy requirements for this site in terms of a critical need for Affordable Housing and the associated aims of achieving mixed and balanced communities is contrary to Policy H3. This harm will need to be weighed against other material considerations, including the wider benefits of the scheme if the proposals are to be considered acceptable.

As such, in this specific case, the full policy compliant affordable housing contribution can be supported by the consented development. The proposal should a s73 application to vary the design in anyway be consented would be accompanied by the bilateral section 106 agreement by the parties. Given approval is not recommended in this instance, the potential that an alternative s73 could be granted by the Inspectorate, the failure to secure an appropriate affordable housing contribution toward the needs of the Borough is considered as a reason for refusal.

Waste Collection

The applicant has sought to revise the location and access arrangements for the proposed bin store as part of the revised layout. This includes re-locating the bin store to a higher ground level adjacent to the carparking area. It is noted that the proposal plans differ from the situation on site. However, the plans considered are those that are before the LPA, and not what is in situ in its unauthorised state.

The proposed bin store measures ~12m², whereas the originally proposed bin store would measured 16m². As confirmed by waste services, the following bins would be required:

- 1 x 1100L general waste bins
- 1 x 1100L recycling
- 1 x 240L food waste bin

The applicant has failed to demonstrate that there is sufficient space for this number of bins within the designated refuse store space, and that there is sufficient space within the store for the bins to be manoeuvred. In addition, the original bin store was located to facilitate waste collection within 10m of the rear of a collection vehicle to avoid bins having to be wheeled out by residents. In the current proposal, the bin store entry is ~16m from the property boundary. This would mean waste operatives would not collect the bins from within the site. This would create a management issue for a number of flats and place the responsibility upon individual residents. This is not a manageable situation given issues between neighbours could arise.

In addition, the following has not been detailed:

Bin storage areas must comply with the following:

- All bins must be fully accessible from the front face, to allow for easy depositing of waste.
- Layouts that require bins to be swapped round mid-week are permissible if it is demonstrated that there will be on-site management presence at the development.
- There must be a minimum of 150mm clearance around and between each bin within a storage area.
- Where there is more than one bin within a storage area, there must be 2m clearance in front of each bin to enable it to be accessed and safely moved without needing to move any of the other containers.
- All doors and alleys must be at least 2m wide to allow for safe manoeuvring of bins.

- The minimum internal height for a bin storage area and any access doorways is 2m.
- To allow the lids to be opened fully, there should be no other internal fixtures or fittings that reduce the clearance above the bins.
- Details of access arrangements for waste collection (combination locks)

A number of issues with waste collection and servicing are resultant by the re-arrangement of the bin storage areas. These issues have not been detailed, and insufficient detail on these arrangements have been prepared by the applicant. A condition may be capable of addressing some of these issues, however the fundamental issue of waste collection from the kerbside and management of that are unacceptable. Therefore, the waste collection arrangements are considered a reason for refusal in this instance.

Residential Amenity

Policy CC8 (Safeguarding Amenity) of the Reading Borough Local Plan states that development will not cause a detrimental impact on the living environment of existing residential properties or unacceptable living conditions for new residential properties.

The proposal, when originally consented was considered to not impact no.50 Mount Pleasant due to the orientation of windows and existing windows of the building. Subsequently, applications have been made for development to the rear of no.5. The proposed development, under consideration by Reading Borough Council would demolish some of the existing buildings, and construct a two-storey dwelling to the rear of the site. This would include a courtyard in front of that dwelling. Due to the existence of the consented scheme as a material planning consideration, the neighbouring development would not be granted where the existing proposal would unduly impact the amenity of proposed residents. As such, the proposal remains to be considered not to have a detrimental impact upon neighbouring properties due to the distance, site level distance and boundary treatments.

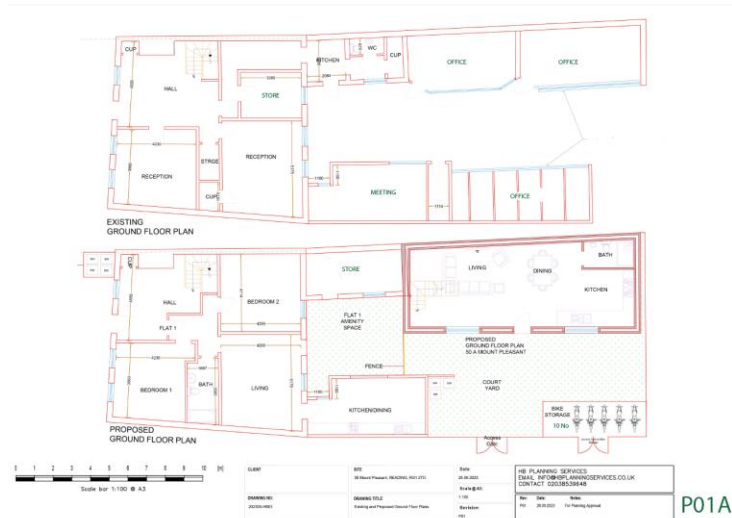


Figure 4 - Existing and proposed plans from applications at no.50 Mount Pleasant

The proposed bin store would sit higher and closer to the windows of the dwelling nearest no.40-48 Mount Pleasant. This would be a moderate negative impact upon the secondary outlook to the right hand side of the kitchen of the front dwelling. The proposal also appears to include access through each individual rear garden as an 'alternative fire access route'. It would appear as though this alternative fire escape means has evolved through the detailed design and was not originally considered. This would result in a gate along the 'rear' boundary of each dwelling to provide access through the rear garden of the neighbour. These accesses would provide an unnecessary intrusion into the rear gardens of

neighbouring properties. To allow them to function as intended, these gates would have to be unlocked and clear of obstruction at all time. This would further reduce the on site garden provision, and impact upon the amenity of residents through actual and perceived loss of privacy from having a readily openable gate into their rear gardens. These impacts are considered to be detrimental to the amenity of future residents amounting to a reason for refusal.

The majority of amenity considerations have already been considered as part of the previous application. As the application is lawfully implemented, it would appear that there would be no merit in re-assessing these matters as they are lawfully able to be implemented, and any other conclusion would not affect the overall balanced decision.

e) Transport implications

The proposal would retain the approved 2 no. parking spaces. One of which is identified as a visitor parking space, and the other as accessible. No details of the remainder of the frontage of the dwelling have been provided to alter that of the extant approval. The original plans included access to the rear of no.50 Mount Pleasant. However, that is now no longer possible or required due to level differences. It would be considered reasonable to amend the conditions relating to landscaping to secure an improved landscaping scheme overall as discussed below.

f) Landscaping

The site is within an AQMA and a low canopy ward, as well as within a designated treed corridor. Two existing street trees will remain and have been allowed enough space to grow and there are options to protect them during construction.

Landscaping which was originally proposed, and secured by condition (including conditions being discharged) allowed for landscaping to the frontage, and the accessway in front of the dwellings. The current proposal would limit and/or remove the opportunity for landscaping to the frontage. This is considered a failing of the revised scheme, resulting in a visually stark and cramped frontage with no, or limited space for landscaping to soften the frontage thus, this included as a reason for refusal.

h) Open Space Contribution

The open space within the development is of limited value being restricted in terms of sitting immediately adjacent to inhabited property, limited in space and being overshadowed. This is further perpetuated by the provision of access through rear gardens as emergency fire escapes. There is a resultant expectation that residents will be using close by open space for recreation thus creating a need to increase capacity and quality. A contribution of £12,000 was originally agreed to be invested in nearby outdoor green / play space. This contribution amount would be required on any additional permission to be granted. As above with regard to the s106 agreement, the current would apply where a s73 was agreed by Council. However, an appeal agreed by the Inspectorate would not carry that agreement forward. No agreement has been prepared by the applicant, and as such would form a reason for refusal.

i) Sustainability

Policy H5: Housing Standards, requires that all new build housing integrate additional measures for sustainability. In light of this conditions are recommended to ensure the development meets the following requirements:

- Higher water efficiency standards of 110 litres per person per day; and
- A 19% improvement over building regulations energy requirements

Although secured by planning condition, these new requirements will be administered through the Building Regulations. Confirmation of compliance will need to be submitted to the LPA to discharge the condition.

The applicants viability appraisal states that the proposal has been constructed at Passivhaus standards. However, there is no policy requirement for this, and any upgraded building standards are not able to be secured as there is no policy basis for these standards.

j) Community Infrastructure Levy

The proposal will be subject to Community Infrastructure Levy (CIL). The relevant form has been submitted and a liability notice will be sent following the issuing of a decision. CIL does not form part of the determination of the application.

9. CONCLUSION

The applicant is seeking an independent planning permission under s73 of the Town and Country Planning Act (1990) as amended. It is noted that a number of aspects that are sought to be changed by the amended plans are both inconsistent with the existing approval, and result in various elements of harm to the character and appearance of the area and the adjacent listed building. The proposal would also result in a functionally challenging development whereby waste storage and collection, imperative to the operation of the development would be unsatisfactory. The addition of dubiously required fire egress through rear gardens of neighbouring properties would also result in a less useable private amenity space for each dwelling, which was already considered to be overly small, overshadowed and cramped worsening the harm without provision of additional offset. Overall, the proposal as amended would introduce a part-retrospective bin storage facility which results in a visually dominant and incongruous design which causes significant harm to the character and appearance of the area and the setting of the nearby listed building.

Given the proposal would create a separate 'option' of the original planning permission which would be independent to the original, and the provisions of the original s106 only apply where the Council would grant the s73 permission, the applicant would be required to enter into, or provide a new agreement pursuant to s106. No such agreement has been provided. The resultant lack of legal agreement would have a significant detrimental impact in terms of affordable housing need within the Borough that would not be otherwise offset. The proposal has also not offset the additional harm to residents as a result of reduced useability of amenity space by way of a contribution toward offsite leisure provision. The proposal is therefore considered contrary to a number of Local Plan policies as outlines above, and is recommended for refusal.