

## Report of the Head of Planning & Enforcement Services

**Address** LAND FORMING PART OF OAKHURST NORTHGATE NORTHWOOD

**Development:** Erection of two storey 5 bedroom, detached dwelling with basement to include associated amenity space, parking and the installation of a vehicular crossover

**LBH Ref Nos:** 67012/APP/2011/2712

**Drawing Nos:** P001/06 Rev D  
P001/07 Rev B  
P001/05 Rev C  
P001/04 Rev C  
P001/01 Rev A  
P001/08 Rev C  
P001/02 Rev B  
P001/03 Rev B  
P001/09 Rev A  
P001/SUR/01 Rev A  
P001/10  
Arboricultural Survey, dated 13/10/2011  
Tree Constraints Plan Rev A, Nov. 2011  
D&A  
Arboricultural Implications Assessment, dated 17/11/11  
Tree Protection Plan, Rev. E, dated Nov. 2011  
Ecology Report, dated 24/09/10  
Ecology Plans  
Agent's email dated 6/1/12  
Agent's email dated 28/2/12

<b>Date Plans Received:</b>	07/11/2011	<b>Date(s) of Amendment(s):</b>	07/11/2011
<b>Date Application Valid:</b>	24/11/2011		24/11/2011
			06/01/2012
			08/02/2012
			24/02/2012
			28/02/2012

### 1. SUMMARY

The proposal is for a five bedroom detached house on the garden area at the side of 'Oakhurst', a locally listed building. A fence has been erected, subdividing the site into two and this part of the site was last used as a builders compound in conjunction with the construction of two houses at the rear of Oakhurst, which have now been built and are occupied. An application for a similar house on this site was previously dismissed at appeal on tree grounds. The Inspector's decision was subject of a judicial review which was also dismissed. The Tree Officer confirms that these grounds are still valid and the application should be refused on these grounds. The Council's Sustainability Officer also advises that given the length of time that has now lapsed, the ecology information needs to be up-dated, particularly as regards the Badger setts on and close to the site, as although these appeared not to be occupied when they were last surveyed, Badgers are a transitory species and setts can be quickly re-colonised. The scheme also does not make provision for an education contribution. It is recommended accordingly.

## 2. **RECOMMENDATION**

**An appeal against non-determination has been submitted by the applicant (Appeal Ref: APP/R5510/A/12/2175907) as such the Council no longer has Authority to determine the application.**

**It is therefore recommended, that the Planning Inspectorate be advised that had an appeal not been submitted the Local Planning Authority would have refused the application for the reasons set out below:**

### **1 NON2 Non Standard reason for refusal**

The proposed house would involve the further subdivision of the retained residential curtilage of Oakhurst. With the separation of its side garden, the occupiers of Oakhurst would be more reliant on the amenity space to the rear which is dominated and shaded by an Oak tree (T29). The shade effect and dominance of the Oak tree (T29) would have an adverse impact on the living conditions of future occupiers of Oakhurst particularly when the Oak tree is in leaf. As such, and given that there is very little mitigation due to the loss of the lawn at the side of the existing house, future occupiers of Oakhurst in order to allow more light to enter their garden, would be likely to seek the removal, or at least the substantial reduction, of the protected tree, which the Local Planning Authority would find difficult to resist. The proposed development would therefore not afford adequate usable amenity space for Oakhurst and be likely to result in the indirect loss or substantial reduction of a valuable, protected tree which would be compounded by other tree loss, detrimental to the visual amenity and character of the Copsewood Estate Area of Special Local Character. The proposal is therefore contrary to Policies BE13, BE19, BE23 and BE38 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

### **2 NON2 Non Standard reason for refusal**

The proposal fails to provide up to date, accurate information as regards the impact of the development upon European and UK protected species. In particular, there are badger setts on and close to the site that have not been surveyed recently and the latest survey undertaken in September 2010 cannot be relied upon, given the transient nature of badgers. In the absence of full and accurate information, the Local Planning Authority has been unable to fully assess the impact of the development upon protected species, contrary to the National Planning Policy Framework, Policy 7.19 of the London Plan (July 2011) and Policy EC2 of the adopted Hillingdon Unitary Development Plan, Saved Policies (September 2007).

### **3 NON2 Non Standard reason for refusal**

Overall, the proposed development makes inadequate provision for the protection and long-term retention of a valuable Oak tree (T29) and (Hawthorn, Pine, Yew, Cypress) trees in group G1 protected by Tree Preservation Order number 173. The loss of these trees, in particular the loss or substantial reduction of T29, would harm the appearance, amenity and wooded character of the Copsewood Estate Area of Special Local Character, contrary to Saved Policy BE38 in the Hillingdon UDP.

### **4 NON2 Non Standard reason for refusal**

The development is estimated to give rise to a number of children of school age and additional provision would need to be made in the locality due to the shortfall of places in schools serving the area. Given that a legal agreement at this stage has not been offered or secured, the proposal is considered to be contrary to Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and the adopted London Borough of Hillingdon Planning Obligations Supplementary Planning Document

(July 2008).

## INFORMATIVES

### 1 152 **Compulsory Informative (1)**

The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

### 2 153 **Compulsory Informative (2)**

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (July 2011) and national guidance.

BE5	New development within areas of special local character
BE6	New development within Gate Hill Farm and Copsewood Estates areas of special local character
BE10	Proposals detrimental to the setting of a listed building
BE13	New development must harmonise with the existing street scene.
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE22	Residential extensions/buildings of two or more storeys.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
EC2	Nature conservation considerations and ecological assessments
EC5	Retention of ecological features and creation of new habitats
R17	Use of planning obligations to supplement the provision of recreation, leisure and community facilities
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
LPP 3.1	(2011) Ensuring equal life chances for all
LPP 3.3	(2011) Increasing housing supply
LPP 3.4	(2011) Optimising housing potential
LPP 3.5	(2011) Quality and design of housing developments
LPP 3.8	(2011) Housing Choice
LPP 5.13	(2011) Sustainable drainage
LPP 5.3	(2011) Sustainable design and construction
LPP 7.2	(2011) An inclusive environment
LPP 7.4	(2011) Local character
HDAS-LAY	Residential Layouts, Hillingdon Design & Access Statement,

### 3. CONSIDERATIONS

#### 3.1 Site and Locality

The application site lies on the south side of Northgate and forms a corner site which previously formed part of the side garden area and curtilage of 'Oakhurst', before being separated by a fence and used as a builders compound in connection with the building of two new houses at the rear of Oakhurst which are now occupied. Oakhurst is a locally listed timber framed Tudor vernacular style, detached 4-bedroom house which is currently vacant and in a poor state of repair.

To the west, there is an access road which serves the adjoining properties of 'High Trees' and 'Bothkennar'. Northgate and the surrounding area forms part of the Copsewood Estate Area of Special Local Character which is characterised by large detached houses on substantial, typically verdant plots. The site is also covered by Tree Protection Order (TPO) 173.

#### 3.2 Proposed Scheme

This application seeks permission to erect a detached house to the side of Oakhurst with a basement and integral double garage, together with the formation of a new vehicular access on an L-shaped plot of land which prior to its use to provide a builders compound in connection with the building of two new houses in the former rear garden of Oakhurst, previously comprised the side garden of Oakhurst. The house would be 17.5m wide and have a maximum depth of 15.6m, with an eaves height of 5.4m and ridge height of 8.5m. At its nearest point, the house would be set back from the road by 10.0m, which would be approximately 6.3m forward of the adjoining front elevation of Oakhurst and set back by a minimum 2.0m from the new shared side boundary. The house would also be set back 5.1m from the adjoining access road serving the adjoining properties, High Trees and Bothkennar.

The house would have a crown roof and be double fronted with gable elements at the front and rear. The two gables to the front would cover projecting two storey staggered bays and, at the rear, a central gable is proposed, with a balcony area above the extended ground floor element. On the western side of the house, a cat-slide element is proposed, with a lower ridge height and half hipped roof, incorporating the integral garage on the ground floor and a front dormer window at first floor level.

This scheme differs slightly from the previous application (67012/APP/2010/1107) in terms of its siting, dimensions and roof design. For instance, the house is set slightly further forward on its plot (10.0m as compared to the previous 10.8m) and nearer to the new side boundary and has a deeper overall depth (15.6m as compared to 14.5m). A rear gable has been omitted with the remaining gable more centrally sited.

A number of original and up-dated reports have been submitted in support of this application:

Design and Access Statement:

This describes the site and the planning history on this and the adjoining site. It considers the Inspector was incorrect to dismiss the previous appeal and considers this scheme against policy guidance.

Arboricultural Survey:

This describes the survey and the wider site.

Arboricultural Implications Assessment:

This assesses the impact of the development upon the trees.

Ecological Survey Report & Desk Top Study, March 2010:

This is the original assessment.

### **3.3 Relevant Planning History**

67012/APP/2010/1107 Land Forming Part Of Oakhurst Northgate Northwood

Erection of 1, five-bedroom two-storey with basement level, detached dwelling with associated parking and amenity space, involving installation of new vehicular crossover to front.

**Decision:** 03-02-2011

**Appeal:** 03-02-2011 Dismissed

#### **Comment on Relevant Planning History**

A similar proposal for a detached house on this site was considered by the North Planning Committee on 16/09/10 (67012/APP/2010/1107 refers), when committee agreed that had an appeal against non-determination not been received, the application would have been refused for the following reason:

1. The proposed house, together with the provision of an extensive area of hardstanding in the front garden, by reason of its siting, size, bulk and design, would be detrimental to the open and verdant character of the surrounding area, unduly intrude into the setting of 'Oakhurst', the adjoining locally listed building and would appear as an awkward and bulky addition within the street scene. The proposed development therefore fails to harmonise with the character and appearance of this part of the Copsewood Estate Area of Special Local Character, contrary to Policies BE5, BE6, BE10, BE13 and BE19 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007), Policies 3A.3, 4B.1 and 4B.8 of the London Plan, guidance within The London Plan Interim Housing Supplementary Planning Guidance, April 2010 and Planning Policy Statement 3: Housing (as amended).

2. The proposal fails to provide full and accurate information as regards the impact of the development upon European and UK protected species. In particular, further survey work is required regarding bats roosting within the trees affected by the development and the impact of the development upon reptiles has not been fully considered. Furthermore, the proposed house would appear to have a siting much nearer to a badger sett than the 28m suggested in the submitted Ecological Survey Report & Desk Top Study. In the absence of full and accurate information, the Local Planning Authority has been unable to fully assess the impact of the development in terms of the ecological value of the site, contrary to PPS9, Policy 3D.14 of the London Plan (February 2008), Policy EC2 of the adopted Hillingdon Unitary Development Plan, Saved Policies (September 2007) and the Mayor's Interim Housing Supplementary Planning Guidance, April 2010.

3. The proposal involves the loss of the side garden area which is currently used by the occupiers of 'Oakhurst'. With the subdivision of the plot, the occupiers of Oakhurst would be more reliant on the amenity space to the rear which is dominated and shaded by an Oak tree (T29). The shade effect and dominance of the Oak tree (T29) would have an adverse impact on the living conditions of future occupiers of Oakhurst particularly when the Oak tree is in leaf. As such, and given that there is very little mitigation due to the loss of the lawn at the side of the existing house, future occupiers of Oakhurst in order to allow more light to enter their garden, would be likely to seek the removal, or at least the substantial reduction, of the protected tree, which the Local Planning Authority would find difficult to resist. The proposed development would therefore not afford adequate amenity space for Oakhurst and be likely to result in the indirect loss or substantial reduction of a valuable, protected tree which would be compounded by other tree loss, detrimental to the visual amenity and character of the Copsewood Estate Area of Special Local Character. The proposal is therefore contrary to Policies BE13, BE19, BE23 and BE38 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

4. The proposal fails to provide adequate details of tree protection or detailed information about the services, levels, surfaces, working/storage areas, or a demolition/construction method statement which would show that the scheme for the development of this site is feasible in terms of the long-term retention of trees on and close to the site. In the absence of this information, the proposal is contrary to Policy BE38 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

5. The application has failed to demonstrate that the development would integrate sufficient measures to minimise emissions of carbon dioxide, including provision of a 20% reduction in carbon dioxide emissions through on site renewable energy generation, in accordance with the Mayor's Energy Hierarchy. The proposal is therefore contrary to Policies 4A.1, 4A.3, 4A.4, 4A.6 and 4A.7 of the London Plan (February 2008).

6. The development is estimated to give rise to additional demands being placed on local health care facilities and additional provision would need to be made in the locality to maintain the existing service provision. Given that a legal agreement at this stage has not been offered or secured, the proposal is considered to be contrary to Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) and the adopted London Borough of Hillingdon Planning Obligations Supplementary Planning Document (July 2008).

The application was subsequently dismissed at appeal on 03/02/11. A copy of the Inspector's decision is attached at Appendix 1. The Inspector's decision was subject to a judicial review, which was dismissed. At the North Planning Committee on 16/09/10, a proposal for the demolition of Oakhurst and erection of a replacement house with a basement on the adjoining site was also considered (30779/APP/2010/1108 refers) which was also dismissed in the Inspector's decision letter dated 03/02/11.

Prior to these applications, the first application for the redevelopment of the larger Oakhurst site (ref. 30779/APP/2007/3799) proposed the demolition of Oakhurst and erection of 4 new detached houses. This was followed by an application (ref. 30779/APP/2007/1295) which involved retaining an extended Oakhurst and erecting three new detached houses. Both these applications included a house in a similar position to that now proposed but the applications were either withdrawn or no further actioned.

Two applications (refs. 30779/APP/2007/3799 and 30779/APP/2009/2036) for the refurbishment and extension of Oakhurst and the erection of two new detached houses to

the rear of the site, omitting the house to the side of Oakhurst were approved on 03/06/08 and 08/02/2010 respectively. The two new houses have now been built and are occupied.

Oakhurst was locally listed in May 2010.

#### **4. Planning Policies and Standards**

##### **UDP / LDF Designation and London Plan**

The following UDP Policies are considered relevant to the application:-

###### Part 1 Policies:

- PT1.10 To seek to ensure that development does not adversely affect the amenity and the character of the area.
- PT1.16 To seek to ensure enough of new residential units are designed to wheelchair and mobility standards.
- PT1.39 To seek where appropriate planning obligations to achieve benefits to the community related to the scale and type of development proposed.

###### Part 2 Policies:

- BE5 New development within areas of special local character
- BE6 New development within Gate Hill Farm and Copsewood Estates areas of special local character
- BE10 Proposals detrimental to the setting of a listed building
- BE13 New development must harmonise with the existing street scene.
- BE19 New development must improve or complement the character of the area.
- BE20 Daylight and sunlight considerations.
- BE21 Siting, bulk and proximity of new buildings/extensions.
- BE22 Residential extensions/buildings of two or more storeys.
  
- BE23 Requires the provision of adequate amenity space.
- BE24 Requires new development to ensure adequate levels of privacy to neighbours.
- BE38 Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
- EC2 Nature conservation considerations and ecological assessments
- EC5 Retention of ecological features and creation of new habitats
- R17 Use of planning obligations to supplement the provision of recreation, leisure and community facilities
  
- AM7 Consideration of traffic generated by proposed developments.
- AM14 New development and car parking standards.
- LPP 3.1 (2011) Ensuring equal life chances for all
- LPP 3.3 (2011) Increasing housing supply
- LPP 3.4 (2011) Optimising housing potential

LPP 3.5	(2011) Quality and design of housing developments
LPP 3.8	(2011) Housing Choice
LPP 5.13	(2011) Sustainable drainage
LPP 5.3	(2011) Sustainable design and construction
LPP 7.2	(2011) An inclusive environment
LPP 7.4	(2011) Local character
HDAS-LAY	Residential Layouts, Hillingdon Design & Access Statement, Supplementary Planning Document, adopted July 2006
SPD-PO	Planning Obligations Supplementary Planning Document, adopted July 2008

## 5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **1st February 2012**

5.2 Site Notice Expiry Date:- Not applicable

## 6. Consultations

### External Consultees

37 neighbouring properties have been consulted and a notice has been displayed on site. A petition with 26 signatories has been received from the residents of Northgate and adjacent roads, stating the following:

'We the above signed are against the demolition of Oakhurst, and new planning application Ref: 67012/APP/2011/2712 and further changes against the existing plans requested by Margaret Lang, Patricia Bernays, Geoffrey Bernays. The property, Oakhurst, which is listed locally, has been under threat for more than 2 years now with Banner homes, and this latest proposal is a further back door application to have the Tudor house 'Oakhurst' to be demolished, when there was only ever agreement to refurbish this house in return for application for two new homes to be built in the grounds. The two new homes have been built and sold by Banner homes in the summer of 2011, but Oakhurst remains empty, and this latest application is all about the greed and avarice of the few who own the title, and don't want to keep to the original application, which was to build two new houses and refurbish the character property which is Oakhurst. We beg to challenge the destruction of this beautiful Arts & Crafts Tudor House that is Oakhurst and the sister house to the 'Tudor House' next door.'

A letter has since been received from the petition organiser, agreeing to withdraw the petition if the application is refused.

2 individual responses raise the following points:

- (i) Cutting down more trees and changing the face of Northgate would result in a faceless, modern through-road;
- (ii) New vehicular crossover onto Northgate near to the sharp bend in the road, coupled with possible on-street parking will make this already dangerous situation worse for neighbours entering and exiting their drives;
- (iii) There has been too much development in the local area;
- (iv) Application is for profit and greed;
- (v) This is another back door application which seeks to demolish Oakhurst;
- (vi) Led to believe on original application that Oakhurst would be saved once they had permission



to build two houses in the rear garden.

Officer's comments:

The points raised by the petitioners and points (iii) to (iv) by individuals are noted, but the point made about the possible demolition of Oakhurst is only speculation and the determination of any planning application has to be on its individual merits, having regard to the development plan. As regards point (i), this is dealt with in the officer's report. As regards point (ii), no objections were raised to this impact of the scheme by the Inspector on the previous scheme.

### **Internal Consultees**

CONSERVATION OFFICER:

BACKGROUND: An application for a house on the side garden of Oakhurst was dismissed at appeal in February 2011. The decision rested on the sustainability of developing the side garden, given that the protected oak tree, T29, would leave the rear garden of Oakhurst overshadowed for much of the year.

This proposal would occupy the same footprint as that of the previous application, and require the same areas for access and hardstanding. As previously, it is considered that the size of the built up area, and its position forward of the building line, would render it very dominant in relation to Oakhurst, with a resulting negative impact on the setting of this locally listed building, and of the streetscene.

Notwithstanding the above, the roofline has been amended since the previous application to make the front, side and rear elevations less bulky in appearance. This design is considered to be an improvement overall.

RECOMMENDATIONS: Unacceptable.

TREE OFFICER:

The site forms part of the larger 'Oakhurst' site (3 houses), which comprises the existing house ('Oakhurst') and two plots and new houses (1 and 2) built to the rear of it. This site forms part of the gardens (side garden/lawn) to 'Oakhurst' (plot 3), which are shown on the approved plan for the development of the Oakhurst site for which planning permission was granted in 2009 (Site Plan, Dwg. No. P.02 F - two new houses and extensions to Oakhurst), and is seemingly residential (not vacant) land.

The middle-aged and mature trees on and close to the Oakhurst site (including plots 1 and 2 of the 'Oakhurst' development), and the area of woodland beyond, comprise large-scale and prominent features in the local landscape of the Copsewood Estate Area of Special Local Character. The trees and woodland are contiguous with the woodland on properties adjoining the larger site. Some of the trees have high/very high amenity values and make a highly significant contribution to the wooded and semi-natural character of the Area of Special Local Character. Tree Preservation Order number 173 (TPO 173) protects most of the trees and the area of woodland, and a linear group (G1) of trees on the bank close to the road frontage and close to the western boundary of the site.

The middle-aged and mature trees on and close to this site, include three mature Oak trees (T28, T29 and T31 on TPO 173) that are prominent features in the local landscape of the Copsewood Estate Area of Special Local Character (ASLC). Two of the Oaks (T29 and T31) have high/very high amenity values and make a highly significant contribution to the wooded and semi-natural character of the Area of Special Local Character. However, the other Oak (T28) is in decline and

has a relatively low amenity value. The linear group (G1) of protected trees on the bank close to the road frontage and close to the western boundary of the site has a moderate, collective amenity value.

In terms of Saved Policy BE38 of the Hillingdon UDP (HUDP), the valuable Oak trees and mixed woodland are landscape features of merit that should be retained for the future and constrain the development of this site. The linear group of trees is also a landscape feature of merit, most of which should be retained for the future and constrains the development of the site (other than for access to the site, if feasible).

The mature Oak trees (T29 and T31 on TPO 173) behind the existing house (Oakhurst) are very large and impressive, and are categorised by the applicants as B1/2. The third Oak (T28), which stands between T29 and T31, has declined and died back in the last couple of years, and is categorised by the applicants as R (removal). The existing house has dual aspect living rooms, a garden to the south and a lawn to the side/west. The rear/south garden of the existing house (Oakhurst) is dominated and shaded by Oak tree T29 and to a lesser degree by T28, which has a sparse crown with some dead branches, and with the Oak (T31) to the south, but this impact is mitigated by the fact that (as per the approved layout for the development of the Oakhurst site) there is also a side garden (lawn) to the west of the house, which was retained as part of the approved scheme (2009) for the development of the Oakhurst site, which secured the long-term retention of the three Oak trees in accordance with the Saved Policy BE38 of the adopted HUDP.

The Block Plan shows the layout of the proposed house and the trees on the site. Whilst the Block Plan (Dwg. No. P001/08 Rev.C) and the Site Plan (Dwg.No. P001/02 Rev. B) do not include keys (or other indications) to tree retention/removal, the tree protection plan - Rev E, Nov 2011) seems to indicate that most of the existing trees on and close to this site will be retained and that the Oak (T28) will be removed due to its declining/poor condition, together with eight of the trees in the group/belt at the front of the site (to facilitate the proposed access/drive) to the house. The scheme seemingly retains the mature Oak (T31) in the garden at the rear of the house, which has south-facing windows, and involves the removal of T28. The Oak (T29) at the rear of Oakhurst is also shown on these plans, but is not the Tree Constraints Plan (Rev A, Nov 2011).

The Arboricultural Survey (October 2011) includes 47 trees, yet the report (paragraph 5.3) seemingly refers to 53 trees. T29 on TPO 173 (T257) is also mentioned (paragraph 6.3), but is neither included in the survey nor shown on the revised Tree Constraints Plan appended to the report. T29 is, however, shown on the revised Tree Protection Plan. The application also includes an Arboricultural Implications Assessment (AIA) for the proposed development. Such an assessment (and survey) should consider all of the implications in relation to all trees on and close to the site that could influence the development of the site or might be important as part of the local landscape character, including 'potential future relationships between trees and buildings and general infrastructure' (ref. application form, part 16 and paragraph 1.3 of the AIA).

The AIA refers to the tree survey, which does not include T29, and refers to 47 trees and T29 (on TPO 173). The AIA refers, at paragraph 5.1.2, to land adjacent to Oakhurst rather than the side garden/lawn to Oakhurst (as per the approved development). At paragraph 5.1.4 of the AIA, it is stated that 'the scheme takes account of the relationship that would arise with the Oak tree on the adjoining site (T29 on TPO 173). The relationship of the new house to the side of the existing house (Oakhurst) with the trees to be retained would be acceptable. The Oak (T29) would cast only a small shadow across the rear garden of the new property, for a short period during the day, and its influence on the new house would be minimal.' There is, however, no mention in the AIA of the influence of the tree and the inter-related effect of the proposed house and the tree on the existing house (Oakhurst). Furthermore, whilst at paragraph 5.2.1 of the AIA it is stated that layout of the new house allows for the provision of suitable amenity areas for the new property and a reasonable juxtaposition between the trees and the new house, there is no mention of the provision of suitable

amenity areas for the existing house (Oakhurst) and the juxtaposition of the trees, in particular T29, the existing house and the proposed house.

Given the proposed layout of this site, the existing house (Oakhurst) would no longer have a garden/lawn to the west (as per the approved layout) and the (rear) garden of that house would be dominated and shaded by Oak tree (T29). The shade effect and dominance of T29 would have an adverse impact on the living conditions of future occupiers of Oakhurst particularly when that Oak tree is in leaf. For this reason and given that there is very little mitigation due to the loss of the lawn at the side (of the existing house), future occupiers of Oakhurst would likely seek the removal, or at least the substantial reduction, of this fine protected tree, and in this case it would not be reasonable for the Local Planning Authority to resist such pressure, because T29 would cause an unreasonable inconvenience. The proposed development would consequently lead to the indirect loss or substantial reduction of this valuable, protected tree (T29 - off-site) and would be detrimental to the visual amenity and character of the Area and conflict with Saved Policy BE38 of the adopted HUDP.

The mature Oak (T31) and other protected Cypresses close to it will have a shade effect on the garden of the proposed house. However, given the size/shape of the canopy of the tree, its location away from the proposed house, the removal of T28, to which there is no objection, and the size of its garden (large), it will not dominate or shade the garden to such an extent that it would cause unreasonable inconvenience to the future occupiers. Therefore, in this case, whilst future occupiers of the house may well seek the removal, or at least the substantial reduction, of this fine protected tree (T31), it would be reasonable for the Local Planning Authority to resist such pressure.

At paragraph 5.1.3 of the AIA, it is stated that the new driveway, which will exit onto Northgate and necessitate the felling of five trees, 'will...overlap the root protection areas of the Hawthorn (T16), the Corsican Pine (T20) and the Cypress (T21). In order to avoid conflict with the roots here a no dig driveway will need to be incorporated and, since this is the access point for the construction site, the thickness of the no dig driveway will need to take this into account'. This matter is considered further in the next section and section 6.3 of the AIA (and at paragraphs 3.3 to 3.4 of the method statement - AMS - appended to it), but there is no mention of the significant change in levels and treed bank between the road and the main part of the site and whether access would be feasible with the bank retained/these levels maintained.

The protected trees at the front of the site stand on the top of the bank about 0.5-0.75m above the level of the pavement along Northgate. The Block Plan shows the proposed, 4.8m wide access/driveway, but does not show the proposed levels (or levels changes) in proximity to the trees at the front of the site. Given that there will have to be a cut through the bank (and the root zone of retained trees) to construct the access/drive, it will not be possible to use 'no-dig' techniques to ensure that the trees retained in proximity to the new access will not be damaged.

These matters were considered at an earlier appeal in relation to this site. In his appeal decision dated 5 January 2011 (a judicial review against this decision was dismissed) the Inspector found that the effect of tree T29 on the reduced amenity space of Oakhurst would threaten/have an impact on the tree and that the likely loss or substantial reduction of it would result in significant harm to the character and appearance of the ASLC, and dismissed the appeal on that basis alone.

Overall, the proposed development makes inadequate provision for the protection and long-term retention of a valuable Oak tree (T29) and (Hawthorn, Pine, Yew, Cypress) trees in group G1 protected by Tree Preservation Order number 173. The loss of these trees, in particular the loss or substantial reduction of T29, would harm the appearance, amenity and wooded character of the Copsewood Estate Area of Special Local Character, contrary to Saved Policy BE38 in the Hillingdon UDP.

## SUSTAINABILITY OFFICER:

The information submitted is difficult to fully appraise due to the quality of the copies. It makes it difficult to fully understand the implications for the proposed development as I think it relates to the previous larger scheme.

Of most concern though is the impact on the Badger Sett. As stated, Badgers are transient animals and an unused sett one year, can become a used sett another year. Given the time from the last survey (September 2010), I would like to see an updated assessment of the impacts on the nearby badger sett and the foraging paths used. Furthermore, a badger sett has to be disused sometime before it can be destroyed or interfered with. I note the inspectors comments in relation to this but would advise that we have duties under the Wildlife Acts to ensure this issue is properly considered - therefore the badger issue remains a concern.

I would also like to see a clear ecological statement on how the proposed development specifically relates to the previous studies and surveys. This may not require further surveys, but because the quality of the information I have seen it makes it difficult to fully understand the impacts of the development.

The badger issue is a concern though and we will need updated information on this.

The application is expected to meet Code Level 4 of the Code for Sustainable Homes and this should be conditioned as part of any subsequent approval.

## EDUCATION SERVICES:

A contribution of £12,796 is required.

### **7. MAIN PLANNING ISSUES**

#### **7.01 The principle of the development**

The site is located within the Copsewood Estate, Northwood Area of Special Local Character, a traditional residential area where there would normally be no objection in principle to new residential development, subject to other policy considerations.

The Inspector, in considering the appeal on the previous application (67012/APP/2010/1107), did not raise any objections in principle to the development, including issues of 'garden grabbing' but concluded it was only the impact on a protected tree that caused the appeal to fail.

#### **7.02 Density of the proposed development**

Policy 3.4 of the London Plan (July 2011) advises that Boroughs should ensure that development proposals should optimise housing outputs, having regard to their local context, design principles and public transport accessibility. At Table 3.2, the London Plan establishes a density matrix to establish a strategic framework for appropriate densities at different locations.

Although of limited relevance to small infill development proposals, the site is located within a suburban context and has a Public Transport Accessibility Level (PTAL) of 1a/1b. Taking these parameters into account, the matrix recommends a density of 35-55 u/ha and 150-200 hr/ha. This proposal equates to a density of 6 u/ha and 131 hr/ha (counting habitable rooms over 20sqm and capable of subdivision as 2 rooms). Although the density is well below that recommended by the London Plan, given the open and spacious character of the Copsewood Area of Special Local character and the setting of the locally listed Oakhurst, no objections are raised to the density. Again, the Inspector on the

previous application did not raise any objection to this aspect of the proposal.

#### **7.03 Impact on archaeology/CAs/LBs or Areas of Special Character**

The impact of the new house on Oakhurst and the local area did form one of the Council's previous objections to the scheme (67012/APP/2010/1107 refers). However, the Inspector in considering the appeal concluded that the new house would preserve the setting of Oakhurst and that it would not result in harm to the character and appearance of the Copsewood Area of Special Local Character.

This proposal does alter the siting, dimensions and design of the house, but it is considered that these alterations are not significant, given the spacious plot size. Furthermore, although the Council's Urban Design/Conservation Officer remains concerned about the impact of the scheme, it is acknowledged that the roofline has been amended since the previous application which makes the front, side and rear elevations less bulky in appearance and that this design is considered to be an improvement overall.

Since the Inspector's appeal decision, the new London Plan has been adopted in July 2011. However, it is considered that there has been no material change in policy to suggest that a different conclusion should now be reached on the proposal from that of the Inspector.

#### **7.04 Airport safeguarding**

There are no airport safeguarding issues raised by this application.

#### **7.05 Impact on the green belt**

The application does not have any implications for the green belt.

#### **7.06 Environmental Impact**

The previous application included ecological surveys which were able to persuade the Inspector that the scheme made adequate provision for the safeguarding of protected species.

Originally, no ecological information was submitted with this application. Now, the previous information has been re-submitted with plans amended by hand.

The Council's Sustainability Officer advises that the plans are hard to read. Of more importance is the fact that the last Badger surveys were carried out in September 2010. As badgers are a transient species, and frequently vacate and re-colonise/re-use setts, the surveys would need to be up-dated.

#### **7.07 Impact on the character & appearance of the area**

This has been dealt with at Section 7.03 above.

#### **7.08 Impact on neighbours**

As previously considered within the committee report on the previous scheme (67012/APP/2010/1107 refers), the nearest property to the proposed house would be Oakhurst to the east. This contains ground floor living room and dining room windows and first floor bedroom windows in the side elevation of the property that faces the application site. However, these rooms are all dual aspect, with large windows also serving these rooms in either the front or rear elevations of the building. It is therefore considered that these rooms would continue to have an adequate outlook and natural lighting (but see tree comments). Furthermore, despite the new house being sited forward of Oakhurst, it would not encroach upon a 45° line of sight taken from these windows. The only other implication for altering the main aspect of these rooms would be the impact upon the trees which is discussed below.

As regards adjoining properties to the west, the nearest property, Bothkennar would be

sited over 30m from the nearest corner of the new property and the side boundary on this side of the application site is also well screened by trees and vegetation. The proposed rear balcony would also only be sited within 21m of the access road serving this and the other adjoining property, High Trees. The proposed house also does not contain any side windows above the ground floor so that there would be no overlooking of the adjoining properties to the side of the new house. To the rear of the site, the rear elevation of the new house would be in excess of 100m away from the nearest properties on Copsewood Way and also approximately 50m from the new houses granted permission under applications 30779/APP/2007/3799 and 2009/2036.

The proposed house would therefore not have any adverse impact upon the amenities of surrounding residential occupiers, in compliance with Policies BE19, BE20, BE21 and BE24 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

#### **7.09 Living conditions for future occupiers**

The Council's HDAS: 'Residential Layouts' advises at paragraphs 4.6 to 4.8 and in Table 2 that in order to provide suitable living accommodation, a 5 bedroom, two storey house should have a minimum floor area of 101m<sup>2</sup>. The maximum floor space required by the London Plan, at Table 3.3, is 113sq.m. The proposed house, including the basement provides a floor area over 420m<sup>2</sup>. Furthermore, it is considered that all the habitable room windows, including a basement staff bedroom window, which would be served by a side lightwell would have adequate outlook and natural lighting.

The proposed house would also have a rear garden area in excess of 1,000m<sup>2</sup> which greatly exceeds the minimum 100m<sup>2</sup> advocated by paragraph 4.15 of the above guidance. The usability of this space and the impact on protected trees is considered elsewhere in the report.

#### **7.10 Traffic impact, car/cycle parking, pedestrian safety**

The proposal would provide adequate parking within the hardstanding area, served by the existing access into the site. As such it would accord with Policy AM14 of the saved UDP.

#### **7.11 Urban design, access and security**

This has been dealt with at Sections 7.03 and 7.09 above.

#### **7.12 Disabled access**

The layout of the house is such that it would be capable of satisfying Lifetime Homes standards, with little modification and/or clarification. A condition could be attached to ensure compliance with these standards if the application had not been recommended for refusal.

#### **7.13 Provision of affordable & special needs housing**

This is not relevant to this application.

#### **7.14 Trees, Landscaping and Ecology**

The Council's Tree Officer advises that the larger Oakhurst site contains many middle aged and mature trees and an area of woodland at the rear of the larger 'Oakhurst' site that form prominent features in the local landscape. These trees help to define the character of the Copsewood Area of Special Local Character. Tree Preservation Order 173 protects most of the trees and the area of woodland at the rear of the larger site and a linear group of trees (G1) at the front of the site and close to the western boundary. In particular, the large Oak trees and mixed woodland are features of merit that should be retained. Two of the three mature Oak trees behind Oakhurst (T29 and T31) are impressive, although a third (T28) has declined and died back in the last couple of years and is shown to be removed. No specific objections are raised by the Tree Officer to the

tree's loss.

In terms of the proposed garden area to serve the new house, the Tree Officer advises that although one of these trees, T31 and other protected Cypresses close to it will have a shade effect on the garden, given the removal of T28 and the overall size of the garden, this will not result in unreasonable inconvenience to future occupiers so that the Local Planning Authority would be able to resist further tree loss.

This would not be the case with the area of retained garden at Oakhurst. Currently, the occupiers of Oakhurst have the benefit of the lawn area to the side of their property. This would be lost to the new house, so that the rooms in Oakhurst would have more of a single aspect and the occupiers of Oakhurst would be reliant of the area to the rear of the property to provide usable private amenity space. This area is dominated and shaded by T29 and to a lesser degree by T28. The Tree Officer advises that given the extent of shading, it would be difficult to resist pressure for either the felling or substantial reduction of T29, the impact of which would be compounded by the loss of T28. As a result, the proposal would be detrimental to the visual amenity and character of the area. This issue was fundamental in the reasoning of the previous Inspector for dismissing the previous appeal (67012/APP/2010/1107 refers). A judicial challenge of the Inspector's decision, which included arguments about the status of the land at the side of Oakhurst has also now been dismissed.

The Tree Officer also advises that protected trees at the front of the site stand on the top of the bank about 0.5-0.75m above the level of the pavement along Northgate. The Block Plan shows the proposed, 4.8m wide access/driveway, but does not show the proposed levels (or levels changes) in proximity to the trees at the front of the site. Given that there will have to be a cut through the bank (and the root zone of retained trees) to construct the access/drive, it will not be possible to use 'no-dig' techniques to ensure that the trees retained in proximity to the new access will not be damaged.

Overall, the proposed development makes inadequate provision for the protection and long-term retention of a valuable Oak tree (T29) and (Hawthorn, Pine, Yew, Cypress) trees in group G1 protected by Tree Preservation Order number 173, which would be detrimental to the visual amenity and wooded character of the Copsewood Estate Area of Special Local Character, contrary to Saved Policy BE38.

#### **7.15 Sustainable waste management**

This application is for a new house within its own curtilage. As such, there is no requirement for specific provision for the storage of waste and recycling to be shown on the plans.

#### **7.16 Renewable energy / Sustainability**

Whilst the application has not included any information as regards energy efficiency and sustainability a condition could be attached requiring the development to meet Level 4 of the Code for Sustainable Homes which would meet the requirements of Policies 5.1, 5.3, 5.4, 5.5 and 5.7 of the London Plan (July 2011).

#### **7.17 Flooding or Drainage Issues**

This is not an area that is prone to flooding. A condition could be attached to ensure that the development complies with the principles of sustainable urban drainage if the application had been recommended differently.

#### **7.18 Noise or Air Quality Issues**

The proposal for a new house within a traditional residential area does not present any particular noise or air quality issues.

### **7.19 Comments on Public Consultations**

The comments raised by the petitioners and the individual local resident have been dealt with in the main report.

### **7.20 Planning Obligations**

Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007) is concerned with securing planning obligations to offset the additional demand on recreational open space, facilities supporting arts, cultural and entertainment activities, and other community, social and education facilities through planning obligations in conjunction with other development proposals. These UDP policies are supported by more specific supplementary planning guidance.

Given the nature and scale of the scheme, only a potential contribution towards additional educational provision would be generated. Education Services advise that a contribution towards additional education space of £12,796 is required.

No Unilateral Undertaking has been submitted as part of the current application and on this basis, the proposal fails to comply with Policy R17 of the UDP Saved Policies (September 2007) and it is recommended the application should be refused on this basis.

### **7.21 Expediency of enforcement action**

Not applicable to this application

### **7.22 Other Issues**

There are no other planning issues raised by this application.

## **8. Observations of the Borough Solicitor**

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.



**9. Observations of the Director of Finance**

Not applicable to this application

**10. CONCLUSION**

The proposed house, in a prominent position on the open side garden of the locally listed Oakhurst is considered to harm the character and appearance of the Copsewood Area of Special Local Character and the setting of Oakhurst. The proposed loss of this garden land would be detrimental to the surrounding area. Furthermore, the subdivision of the plot would be likely to result in pressure to remove or substantially reduce an impressive protected Oak to the rear of Oakhurst that the Local Planning Authority would find difficult to resist. Also, sufficient tree information on the application site has not been submitted and the scheme does not provide sufficient survey information as regards protected species and the survey information that has been submitted appears to be inaccurate in terms of describing a badger sett in relation to the proposed works. Finally, no S106 contribution towards an education contribution has been secured.

The Planning Inspectorate should be advised that had an appeal for non-determination not been received, the application would have been refused on these grounds, together with any comments received from English Nature and the London Wildlife Trust.

**11. Reference Documents**

National Planning Policy Framework (March 2012)

London Plan (July 2011)

Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007)

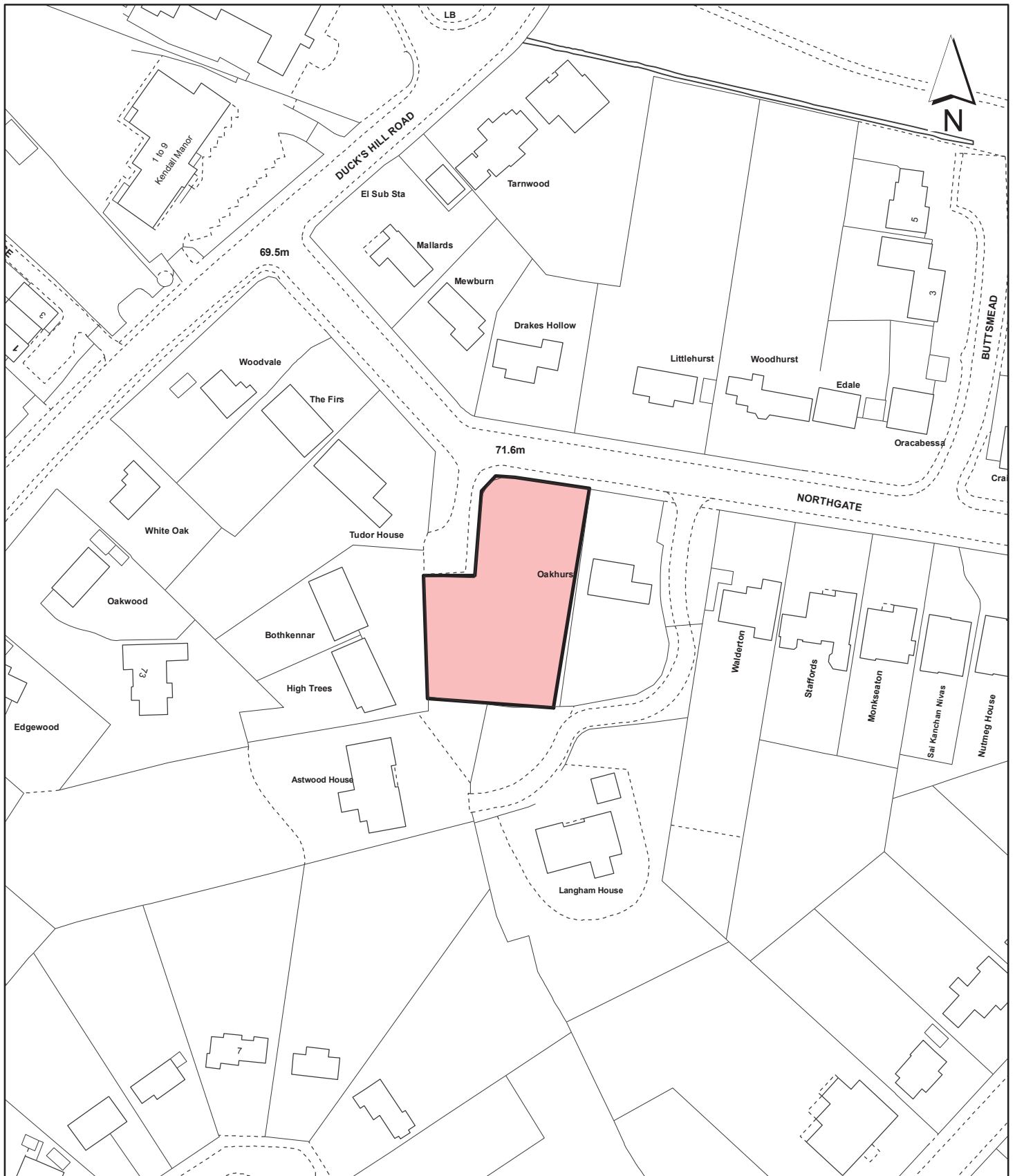
Council's Planning Obligations Supplementary Planning Document, July 2008



HDAS: Residential Layouts, July 2006 and Accessible Hillingdon, January 2010

Consultation Responses

**Contact Officer:** Richard Phillips

**Telephone No:** 01895 250230



<p><b>Notes</b></p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown copyright and database rights 2012 Ordnance Survey 100019283</p>	<p>Site Address</p> <p><b>Land forming part of Oakhurst Northgate, Northwood</b></p>		<p><b>LONDON BOROUGH OF HILLINGDON</b> Planning, Environment, Education &amp; Community Services</p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>	
	<p>Planning Application Ref:</p> <p><b>67012/APP/2011/2712</b></p>	<p>Scale</p> <p><b>1:1,250</b></p>		 <p><b>HILLINGDON</b> LONDON</p>
	<p>Planning Committee</p> <p><b>North</b></p>	<p>Date</p> <p><b>June 2012</b></p>		