

## Report of the Head of Planning & Enforcement Services

**Address** OAKHURST, 1 NORTHGATE NORTHWOOD

**Development:** 1 five-bedroom two storey with basement level detached dwelling with associated parking and amenity space, involving demolition of existing detached dwelling.

**LBH Ref Nos:** 30779/APP/2010/1108

**Drawing Nos:** P.RD.01 Rev. A  
Arboricultural Implications Assessment  
Arboricultural Survey  
Ecological Survey Report & Desk Top Study, March 2010 Rev. A  
Design and Access Statement  
D 02 04  
Tree Protection Plan Rev A  
Tree Constraints Plan  
P.04 Rev. A  
P.03 Rev. A  
Report on Oakhurst, Northgate, Northwood Dated 9th Aprilm 2010 (Ref: KPT/ac)  
P.01  
P.02  
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P.08

**Date Plans Received:** 14/05/2010                      **Date(s) of Amendment(s):** 14/05/2010  
**Date Application Valid:** 15/06/2010

### Reason for Urgency

Although this application has not been before Members of the committee at least 5 working days in advance of the meeting, it is considered to warrant urgent action as an appeal against non-determination has now been lodged, and the Local Planning Authority needs to advise the Planning Inspectorate of the determination that would have been made, had the appeal not been lodged, within the appeal time frame.

### 1. SUMMARY

This application seeks permission to demolish the locally listed 'Oakhurst' and erect a 5-bedroom detached property with a similar siting, scale and design. Although permission has already been granted for the renovation, refurbishment and extension of Oakhurst, the applicants claim that the property is structurally unsound and in too poor a state of repair for its renovation to be viable and a building survey has been submitted in support of the application.

The Council has produced an independent building survey that suggests that other options are available to allow the restoration of the building that could be viable. In the absence of information to demonstrate that all options for the renovation of the building have been fully explored, it is considered that the demolition of the locally listed building is unacceptable.

The detailed design of the replacement building is also not considered acceptable and as evidence of bats has been found in the roof of the building, additional surveys are required. No information has been provided as regards energy conservations and a contribution from the new building towards renewable energy. The application is recommended for refusal.

## **2. RECOMMENDATION**

**That the Planning Inspectorate be advised of any comments received from English Nature and the London Wildlife Trust and that had an appeal for non-determination not been lodged, the application would have been refused for the following reasons:**

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

In the absence of a full structural survey or similar and/or a financial viability appraisal, the proposal fails to demonstrate that all options for the renovation and repair of Oakhurst have been explored. Until such time that all options have been explored, it is considered that its demolition is premature. The proposal is therefore considered to be contrary to PPS5.

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

The proposed inclusion of a large basement, with windows to the rear that would need to be served by a light well(s). This would appear as a alien feature, detrimental to the character and appearance of the Copsewood Area of Special Local character, contrary to Policies BE5, BE13 and BE19 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

The proposed rear amenity area would be overshadowed by protected trees on and close to the site to such an extent that the area would not afford sufficiently usable space for its future occupiers. As such, the proposal is contrary to Policy BE23 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

The proposal would involve the retention of a smaller rear garden at the rear to serve Oakhurst. Given that the retained space would be dominated and shaded by a protected Oak tree (T29), the proposal would result in pressure to remove or substantially reduce this tree which the Local Planning Authority would find difficult to resist, which would be compounded by other tree loss on site. The proposal would therefore be detrimental to the visual amenity and character of the Copsewood Estate Area of Special Local Character, contrary to Policy BE38 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

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 Oakhurst and the impact of the development upon trees affected by the development with bat roosting potential and the impact of the development upon reptiles has not been fully considered. In the absence of full 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.

**6 NON2 Non Standard reason for refusal**

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).

**INFORMATIVES**

**1 I52 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 I53 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 (February 2008) 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
BE8	Planning applications for alteration or extension of listed buildings
BE12	Proposals for alternative use (to original historic use) of statutorily listed buildings
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.
PPS3	Housing
LPP	London Plan (February 2008)
SPG	Residential Layouts, July 2006 and Accessible Hillingdon, January 2010
LPG	London Plan Interim Housing Supplementary Planning Guidance, April 2010

### 3

Historically, Local Planning Authorities relied on the requirement of the Conservation Regulations (1994) to obtain licences from Natural England to discharge the role of the Habitat Directive and therefore comply with Article 16. This allows the LPA to grant permission for a development knowing it may affect a European Protected Species because the Licence would deal with the detailed matters required to meet the Habitat Directive.

The *Wooley v Cheshire* (5 June 2009) judicial review judgement made it clear that Local Authorities must not approve development without fully considering the impacts on European Protected species. The judgement makes clear that planning authorities, in exercising their planning and other functions, must have regard to the requirements of the EC Habitats Directive and not rely on Natural England licensing processes following the granting of an application.

The judicial review case determines that this approach is unlawful. The judgement makes clear that planning authorities, in exercising their planning and other functions, must have regard to the requirements of the EC Habitats Directive and not rely on licensing processes following the granting of an application.

## 3. CONSIDERATIONS

### 3.1 Site and Locality

The application site lies on the south side of Northgate and is currently occupied by 'Oakhurst', a timber framed Tudor vernacular style, detached 4-bedroom house which is currently vacant. Building works are currently taking place on and around the site. Oakhurst originally had a very substantial plot, with more than half of the site, mainly towards the rear covered with mature woodland. The application site extends to approximately 0.1 hectares and has a 20m wide frontage onto Northgate which has been boarded up with 1.8m high hoarding. Access into the larger site is situated immediately to the east. The site contains many trees. The application site and the wider Oakhurst site form part of the Copsewood Estate 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 demolish the existing property and erect a replacement 5 bedroom detached house. The house would mimic the existing property, incorporating an integral single garage, but would now include a basement. The house would be 17.6m wide and have a maximum depth of 10.45m, with an eaves height of 5.6m and ridge height of 8.0m. At its nearest point, the house would be set back from the road by 15m, matching the siting of the existing house.

The house would mimic the scale, proportion and design of the existing house. It would have a double ridged roof running parallel to the road, with a front and a rear gable within the roof and a projecting two storey gabled bay at the front which incorporates the garage and also wraps around at the side to form a cat slide side element on part of the western side elevation of the house. The house would be timber framed.

A number of reports have been submitted in support of this application:

#### Design and Access Statement:

This describes the site and the planning history. The proposal is described in terms of the principle of demolition. In particular, the report states that English Heritage inspected the property in October 2008 and statutory listing was discounted. The findings of the survey are summarised at Section 7.01 and it is concluded that the extent of repairs necessary would virtually involve the complete re-build of the building and this is not financially viable. The survey is a new up-to date material consideration and concludes that Oakhurst should be demolished with a new house erected on site. The statement then describes the use and amount of development, layout, landscaping, scale and appearance. Access is then described and other matters raised by the development considered, with the developers confirming that they have no objections to the making of a commensurate contribution towards education provision in the locality and to the imposition of a condition requiring the development achieves Code Level 3.

#### Arboricultural Survey

This describes the survey and the wider site.

#### Arboricultural Implications Assessment

This describes the larger Oakhurst site and the proposed development. It assesses the condition of the trees on the wider site, including the application site and identifies approx. 16% as being of 'B' grade (trees of moderate quality and value, likely to make a useful contribution for 20 years or more), 68% 'C' grade (trees of low quality and value, likely to make a contribution for 10 years or more) and 16% 'R' grade (trees in such a condition that they are unlikely to have a useful life expectancy beyond 10 years and for reasons of sound arboricultural management should be removed). The report goes on to advise that it is not surprising to find a high percentage of category 'C' trees in a woodland setting as views of many of the trees will be severely restricted and the British Standard BS5837 describes these trees as 'trees present in groups or woodlands, but without conferring on them significantly greater landscape value' and that 'Category C trees will usually not be retained where they would impose a significant constraint on development'. It goes on to state that the new house and its driveway will result in the direct loss of trees

#### Ecological Survey Report & Desk Top Study, March 2010

This has been prepared, primarily to discharge conditions on the previous permission (30779/APP/2009/2036). It describes the larger Oakhurst site as comprising approximately 0.9 hectares of amenity grassland, broadleaf woodland, introduced shrubs and buildings. It describes the desk top study undertaken and the sources of information used. Search parameters are identified with a view of providing an assessment of the likely protected species to be found on site. Taking into account habitat type, the desk top study identified the protected species likely to be encountered, namely badger, bats, birds, dormice and reptiles. The study then describes the protected species surveys and the evidence indicating the presence of a species. The results of the desk top study are discussed, and states that 35 records of protected/ BAP (Biodiversity Action Plan) species within 2km of the site.

The field survey identified two badger setts with evidence of recent use in the woodland areas, with one of the setts being within the application site, close to the proposed house.

These are likely to be outlying setts which tend not to be extensive underground and are used sporadically. There was also extensive evidence of badgers on the site, such as footprints and badger hair.

Evidence was also found of bats within Oakhurst. The survey recommends that a further survey will be necessary to confirm the species present. A formal tree assessment was also made of those trees identified from an initial site visit as having the potential to support roosting bats due to presence of roosting opportunities such as woodpecker holes, split limbs and cracks and classifies the trees with potential as being low, low-medium and medium.

The survey also advises that the site contains habitat that would be likely to support a range of breeding birds and common reptile species. Although the hazel-dominated woodland and is connected to the wider landscape so that it does provide habitat suitable for the dormouse, the lack of any species records suggests that their presence is very unlikely.

The report then goes on to assess the legal and planning policy constraints. It goes on to make recommendations for further survey and mitigation. This advises of the need for a formal bat survey of Oakhurst to identify the type of species present and the type of roost. Mitigation works include the soft felling of 6 trees with low roosting potential for bats from February to March or in October when bats are least vulnerable. Soft-felling involves cutting trees in sections and these are lowered to the ground and left in situ for 24 hours prior to their removal to allow any bats should they be present to disperse. On those trees with a medium potential, soft-felling is recommended under the supervision of a suitably qualified ecologist. The works were scheduled for the week commencing 12 March 2010 and an appendix to the report states that no bats were noted during the supervised soft-felling.

The loss of some nesting bird habitat is involved, so it is recommended that clearance should be undertaken during August to February inclusive. Should it be necessary to remove any breeding bird habitat during the breeding season, these works will be carried out under the supervision of an ecologist and the area checked in advance for the presence/absence of any remaining birds nests. If any active nests are found, then all vegetation clearance/building works must cease and an appropriate buffer zone established. The buffer zone must be left intact until the young have fledged and the nest is no longer in use.

External lighting should be minimised.

The report then goes on to state that given the statutory protection given to badgers and their setts, all heavy machinery within 30m, light machinery within 20m and light work such as digging conducted within 10m of a badger sett is licensable. The report states that as the badger setts are located within 28m and 30m of the proposed works, providing appropriate mitigation works are adhered to, disturbance to the badgers will be kept to a minimum and a licence from Natural England will not be required. However, as badgers are known to be active in the area of the development, measures are recommended such as the area being fenced off at least 20m from the setts to form exclusion zone for tyred vehicles, works only undertaken during daylight hours, ramps installed in open trenches overnight to ensure badgers are not trapped, holes being provided at base of the fence to allow continued access by badgers etc.

Habitat manipulation would ensure that the work areas would not be suitable for reptiles.

Within the grassed areas, this involves a cutting regime over two weeks to ensure that these areas are no longer suitable for reptile basking and foraging. In addition, all potential refugia should be removed by hand by a suitable ecologist. Once the area has been strimmed to ground level and potential refuges have been removed, reptiles would then be extremely unlikely to be present in the area. Within the woodland areas with reptile potential, the areas affected by the proposal would be raked clear of leaves and debris under the supervision of a suitably experienced ecologist.

The report concludes that subject to further surveys and appropriate mitigation measures, relevant nature conservation legislation will not be contravened, ecological impacts will be reduced to a minimum and are not anticipated to preclude the site's development. The future development of the site also offers an opportunity to enhance the site's ecological value.

### **3.3 Relevant Planning History**

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

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 3/6/08 and 8/2/2010 respectively. Condition 25 attached to the latter, requiring that the approved works to Oakhurst be substantially complete before the occupation of the two new houses, has been appealed and a decision is awaited.

Oakhurst was locally listed in April 2010.

An application to erect a new house within the side garden of 'Oakhurst' (ref. 67012/APP/2010/1107) has also been submitted and is being reported to this committee meeting.

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

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

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

Part 1 Policies:

- |        |   |
|--------|---|
| PT1.9  | To seek to preserve statutory Listed Buildings and buildings on the Local List.                         |
| 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
BE8	Planning applications for alteration or extension of listed buildings
BE12	Proposals for alternative use (to original historic use) of statutorily listed buildings
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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.
PPS3	Housing
LPP	London Plan (February 2008)
SPG	Residential Layouts, July 2006 and Accessible Hillingdon, January 2010
LPG	London Plan Interim Housing Supplementary Planning Guidance, April 2010
SPD	Planning Obligations Supplementary Planning Document, July 2007

## 5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **23rd July 2010**

5.2 Site Notice Expiry Date:- Not applicable

## 6. Consultations

### External Consultees

35 neighbouring properties have been consulted and a site notice has been displayed. A petition with 54 signatories has been received from the Residents of Northgate and adjacent roads, stating the following:



'We the undersigned wish to be represented at the North Planning Committee meeting, re. 67012/APP/2010/1108 Oakhurst, Northwood - Demolition of Oakhurst and erection of dwelling. We object to the wanton destruction of Oakhurst.'

1 individual response has also been received, raising the following points:

- (i) Application appears to be similar to previously withdrawn application;
- (ii) Oakhurst is within the Copsewood Area of Special Local Character and is a listed building.

Northwood Residents Association: Oakhurst is listed as a building of architectural or historical interest on the local list of buildings.

Natural England: No response to date.

London Wildlife Trust: No response to date.

### **Internal Consultees**

#### **CONSERVATION OFFICER:**

PROPOSAL: One five bed, two storey house with basement, with associated parking and amenity space, involving the demolition of Oakhurst

BACKGROUND: There have been a number of proposals which have sought to demolish and replace Oakhurst, but the Council's stance has been that this is a building of local architectural and historic interest which should be retained, refurbished, modernised and extended.

Oakhurst is an early 1920's building of considerable local character, built by the furniture making and carpentry firm of Frederick Tibbenham Ltd. and now included on the Council's Local List of Buildings of Architectural and Historic Interest. With its partner, Tudor House adjacent, it makes a significant contribution to the street scene of Northgate and the Copsewood Estate Area of Special Local Character.

The replacement of this building with a new house to a similar design, is to deny that this historic asset is of intrinsic interest and importance. The new house would have no historic interest and would be incapable of looking anything other than what it was, a new house in black and white.

Without prejudice to the principle of replacing Oakhurst with a modern house, there are a number of aspects about the current proposal which are unacceptable.

1. The porch has been omitted from the floor plans.
2. The fenestration is missing from the side elevation and the relationship of windows on ground and first floors at the rear, is bottom heavy.
3. The garage is too narrow for a car
4. The extensive basement would require four very large lightwells, which would be very inappropriate in appearance in this open, sylvan context. These lightwells are not shown on the elevations and their relationship with the French windows to the ground floor rooms is unclear.

Policies HE7, 8 and 9 of PPS5 require Local Planning Authorities to take into account the desirability of utilising the positive role which heritage assets have in place-shaping and the special significance of the asset to the local community, both of this and future generations. HE9.2 states that consent for the demolition of a heritage asset should be refused unless substantial public benefits outweigh that loss.

It is considered that Oakhurst is of considerable local interest, and much valued by the community. There is no public benefit to be gained from its replacement.

RECOMMENDATIONS: Unacceptable

TREE OFFICER:

The site forms part of the larger 'Oakhurst' site, which comprises the existing house (Oakhurst) and two plots to the rear of it. This site is dominated by the existing building and the mature Oak trees behind it.

The middle-aged and mature trees on and close to the larger 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. In terms of Saved Policy BE38 of the Hillingdon UDP (HUDP), the valuable Oak trees and mixed woodland are features of merit that should be retained for the future and constrain the development of this site.

Two of the three 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 property 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 there is also a side garden (lawn) to the west of the house, such that the approved scheme secures 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 plan does not include a key to tree retention/removal, the plan (and the tree protection plan, Rev A, Dec 2009) seems to suggest that the existing trees on this site will be retained.

The scheme retains the mature Oak (T29) in the garden at the rear of the house, which has south-facing windows to the living room. The house would not have a garden/lawn to the west. The (rear) garden of the house would be dominated and shaded by Oak tree (T29) and to a lesser extent by the declining Oak (T28), which stands close to the site (and is not shown on the Block Plan and is shown 'removed' on the tree protection plan). The shade effect and dominance of T29 (and T28 - off-site) would have an adverse impact on the living conditions of future occupiers of the proposed dwelling particularly when the 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 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. The proposed development would consequently lead to the loss or substantial reduction of this valuable, protected tree (T29), in addition to the removal/loss or reduction of T28 (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 tree protection plan (Rev A, Dec 2009), which relates to the larger 'Oakhurst' site, does not include details of tree protection for this site. Furthermore, whilst the application includes an arboricultural implications assessment for the larger site, including this scheme, it does not include

more detailed information about the services, surfaces, working/storage areas, or a demolition/construction method statement to show that the scheme for the development of this site is feasible in terms of the long-term retention of trees.

Overall, the proposed development makes inadequate provision for the protection and long-term retention of a valuable Oak tree protected by Tree Preservation Order number 173, the loss or substantial reduction of 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.

Note: A tree preservation order application has not been made for consent to remove T28.

SUSTAINABILITY OFFICER:

Ecology Observations

I object to the proposed development as insufficient information has been provided regarding European and UK protected species. The application needs to be determined in full knowledge of the implications of these species and therefore surveys, and mitigation cannot be left to be considered through condition after the principle of development has been established.

European Protected Species

Initial bat surveys have found evidence of bats within the Oakhurst building as well trees with medium roosting potential. The ecological report states:

It is necessary to undertake a formal bat survey of the main house in order to identify the species present and the type of roost.

The Council cannot approve this application without fully considering the impacts on bats. Conditioning further surveys and mitigation has been found to be an unlawful approach. The applicant must properly determine the presence of bats, then provide sufficient evidence based answers to the following questions as taken from the habitats directive:

- \* that there should be no satisfactory alternative to the plan or project as a whole or in the way it is implemented
- \* that the plan or project must be 'in the interests of preserving public health or public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of importance for the environment'.
- \* and that the favourable conservation status of the species affected must be maintained

The applicant will first need to update the ecological report with a full bat survey of the building. This will allow a proper assessment of the quantity and species of bats likely to be impacted on because of the development and the most appropriate mitigation required.

Policy Support

- \* The application does not comply with article 16 of the Habitat Directive and is therefore in breach of Regulation 3(4) of the Conservation (Natural Habitats, &c.) Regulations 1994.
- \* The development does not comply with Policy 3D.14 of the London Plan
- \* The development does not comply with Policy EC2 of the Unitary Development Plan
- \* The development conflicts with the principals of Planning Policy Statement 9.

In addition Circular 06/2005: Biodiversity and Geological Conservation states:

It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.

For information for the applicant

Historically, Local Planning Authorities relied on the requirement of the Conservation Regulations (1994) to obtain licences from Natural England to discharge the role of the Habitat Directive and therefore comply with Article 16. This allows the LPA to grant permission for a development knowing it may affect a European Protected Species because the Licence would deal with the detailed matters required to meet the Habitat Directive.

The *Wooley v Cheshire* (5 June 2009) judicial review judgement made it clear that Local Authorities must not approve development without fully considering the impacts on European Protected species. The judgement makes clear that planning authorities, in exercising their planning and other functions, must have regard to the requirements of the EC Habitats Directive and not rely on Natural England licensing processes following the granting of an application.

The judicial review case determines that this approach is unlawful. The judgement makes clear that planning authorities, in exercising their planning and other functions, must have regard to the requirements of the EC Habitats Directive and not rely on licensing processes following the granting of an application.

Further information can be provided if required.

UK Protected Species

Similar to the issue regarding Bats, the ecology report also suggests that the site could be harmful to reptiles. Some reptiles are protected under the Wildlife and Countryside Act 1981. The ecology report does not properly describe the impacts to reptiles and therefore cannot demonstrate that there will not be an adverse impact.

The ecology report needs to be updated with a full reptile survey which includes the implications for their continued protection. This needs to be submitted prior to approval to allow the application to be determined in knowledge of the full impacts on reptiles.

Policy Support

- \* The development does not comply with Policy 3D.14 of the London Plan
- \* The development does not comply with Policy EC2 of the Unitary Development Plan
- \* The development conflicts with the principals of Planning Policy Statement 9.

Energy Observations

I object to the proposed development as no energy statement has been provided to demonstrate compliance with Policy 4A.7 of the London Plan. This requires that an applicant demonstrates a 20% reduction in CO2 emissions to come from renewable energy sources.

The development does not comply with Policy 4A.7 of the London Plan.

## **7. MAIN PLANNING ISSUES**

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

Oakhurst is an early 1920's building of considerable local character, built by the furniture making and carpentry firm of Frederick Tibbenham Ltd., and now is included on the Council's Local List of Buildings of Architectural and Historic Interest. With its partner, Tudor House adjacent, it makes a significant contribution to the street scene of Northgate and the Copse Wood Estate Area of Special Local Character. Oakhurst as a locally listed building, in terms of PPS5, represents a designated historical asset.

PPS5 advises that:

'There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification.'

As part of this application, a structural survey report has been submitted as part of the Design and Access Statement. This states that the building was visually inspected in April 2010. It identifies major problems relating to the structural stability of the building, largely as a result of the poor construction techniques used in the 1920s and resultant deterioration of the building in recent years. It summarises the principal findings, namely clear evidence of structural instability, badly damaged timber frame requiring rebuilding with unavoidable internal damage to walls, need for re-roofing, beetle infestation affecting strength of building, replacement of all windows required and a complete re-wiring needed. The statement also states that the building attempts to mimic a Tudor building but the wrong structural techniques have been used, hastening the deterioration of the building. The extent of repairs necessary would virtually involve the complete re-build of the building and this is not financially viable. In addition, it appears that building movement has occurred and this would need underpinning works or new footings with the negative ramifications for the future sale of the building. This is a new up-to date material consideration and Oakhurst should be demolished with a new house erected on site.

As part of the appeal on condition 25 attached to planning permission 30779/APP/2009/2036, the Local Planning Authority commissioned an independent report on the building and structural condition of Oakhurst. The report is not a detailed structural report but is based on a visual inspection of the building carried out in June 2010. The reports main findings are that Oakhurst is subject to structural and/or foundation movement and damage, including recent movement. The majority of the structural movement and damage is associated with foundation movement and/or caused by structural failure of the main enclosure walls timber frame, damaged by dampness, timber decay and wood-boring insects. Severely damaged timber framed baseplates has caused structural failure, instability and distortion of the timber frame, in particular the main rear wall and main flank wall. It goes on to state that 'the building enclosures, building timber frame and main enclosure walls timber frame are sub-standard, defective and have been adversely affected by structural and or foundation movement and will require significant and potentially major strengthening, improvement and remedial works and/or reconstruction'.

This report goes on to identify possible remedial and improvement works. Various options are identified, from schemes with no underpinning through to schemes with limited and full

underpinning with the last option being the reconstruction of the building on new foundations. The author of the report does discount the options which do not involve any underpinning as the building would still be susceptible to foundation movement, but a regime which involved limited or full under-pinning works may be acceptable. Much would depend on more detailed surveys. The author does state that underpinning should not act as a significant deterrent to investors, providing the foundation problems are fully investigated and appropriate remedies put in place.

Furthermore, the replacement of this building with a new house to a similar design, is to deny that this historic asset is of intrinsic interest and importance. The new house would have no historic interest and would be incapable of looking anything other than what it was, a new house in black and white.

Policies HE7, HE8 and HE9 of PPS5 require Local Planning Authorities to take into account the desirability of utilising the positive role which heritage assets have in place-shaping and the special significance of the asset to the local community, both of this and future generations. HE9.2 states that consent for the demolition of a heritage asset should be refused unless substantial public benefits outweigh that loss.

It is considered that Oakhurst is of considerable local interest, much valued by the local community. There is no public benefit to be gained from its replacement.

It is therefore considered that in the absence of a full structural survey or other appropriate survey and/or a financial feasibility appraisal, on the information currently available to the Local Planning Authority, there appear to be other potentially workable options to bring the building back into a habitable state that would largely conserve the existing building. Without all options being fully explored, this application which proposes the demolition of the building is premature. As such, it is considered that the proposal is contrary to PPS5.

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

As the proposal is for a replacement house, this is not relevant to this application.

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

The principle of demolition has been considered at Section 7.01 above.

The replacement house seeks to mimic the existing house on site. A notable exception to this is the inclusion of a large basement. The basement would be served by lightwells which would appear as alien features in the context of the spacious and open character of the Copsewood Area of Special Local Character. As such, the proposal is contrary to Policies BE5, BE13 and BE19 of the adopted Hillingdon Unitary Development Plan, Saved Policies (September 2007).

#### **7.04 Airport safeguarding**

No airport safeguarding issues are raised by this application.

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

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

#### **7.06 Environmental Impact**

Policies EC2 and EC5 of the saved UDP require development proposals to safeguard the ecological value of sites. As part of this application, an Ecological Survey Report & Desk Top Study has been submitted. This assesses the larger Oakhurst site and records evidence of bats being present within the roof space of Oakhurst and badger activity on site. This includes two setts being present on the larger site, although these are likely to be outlying setts which do not tend to have extensive underground workings and are only

sporadically used by badgers. The study also identifies some of the trees as having the potential to support bat roosts and the larger site as containing suitable habitat for other species such as breeding birds and reptiles. The site was also identified as providing habitat suitable for dormice, but in the absence of any reported species records, their presence is extremely unlikely. The study states that further bat surveys are needed and recommends various mitigation.

The study was primarily prepared in order to discharge condition 12 of planning application 30779/APP/2009/2036. The Sustainability Officer objects to the proposal as the report specifically states that further bat surveys are required and highlights recent case law which suggests that all survey information should be before the Local Planning Authority prior to any decision being made on the application. The impact of the development upon the trees with potential roosting opportunity for bats has also not been sufficiently investigated. Furthermore, the ecology report does not properly describe the impact of the development upon reptiles and therefore cannot demonstrate that there will not be an adverse impact. The ecology report needs to be updated with a full reptile survey which includes the implications for their continued protection.

The proposal therefore fails to provide full and accurate information to enable the Local Planning Authority to fully assess the impact of the development in terms of biodiversity and the ecological value of the site and fails to comply with 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.

The Planning Inspectorate should also be informed of any comments received from English Nature and the London Wildlife Trust.

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

This has been dealt with in Section 7.03 above.

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

As the proposed building would largely replace the existing building with one of a similar siting, scale, design and siting of windows, there would be no additional adverse impact upon the amenities of adjoining residents. As such, the proposal would comply with Policies 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 proposed house, including the basement provides a floor area over 350m<sup>2</sup>. Furthermore, it is considered that all the habitable room windows, including a basement staff bedroom window, which would appear to be served by a rear lightwell would have adequate outlook and natural lighting.

The proposed house would also have a rear garden area in excess of 500m<sup>2</sup> which greatly exceeds the minimum 100m<sup>2</sup> advocated by paragraph 4.15 of the above guidance. However, this space would be overshadowed by protected trees on and close to the site. As such, it is considered that the amenity space would not be sufficiently usable.

The proposal is therefore contrary to Policy BE23 of the adopted Unitary Development Plan Saved Policies (September 2007).

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

The proposal would provide adequate off-street parking on the hardstanding which would be served by the existing access into the site. As such, the proposal complies with Policy AM14 of the adopted Unitary Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

This is dealt with at Sections 7.01, 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 Oakhurst, the Tree Officer advises that the retained garden at Oakhurst 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.

Overall, the proposed development makes inadequate provision for the protection and long-term retention of a valuable Oak tree (T29) 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**

The application has not included any information as regards energy efficiency and the requirement to satisfy 20% of its energy demand from renewable sources, and if not, whether there are any mitigating circumstances. As such, the proposal is contrary to Policies 4A.1, 4A.3, 4A.4, 4A.6 and 4A.7 of the London Plan (February 2008).

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

A sustainable drainage condition could have been attached if the application had been recommended for approval.

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



This scheme for a replacement house raises no implications for noise or air quality.

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

These are dealt with in the main report.

#### **7.20 Planning Obligations**

As the proposed scheme would not breach the threshold of a net increase of 6 habitable rooms, there would be no requirement for a S106 contribution to make provision for education provision in accordance with Policy R17 of the adopted Hillingdon Unitary Development Plan Saved Policies (September 2007).

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

Not applicable to this application

#### **7.22 Other Issues**

There are no other 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**

It is considered that the demolition of Oakhurst has not been adequately justified. Furthermore, the smaller garden area would not be sufficiently usable in terms of overshadowing by trees which would be likely to lead to pressure to remove a protected Oak tree. Also, the provision of a basement served by lightwells is inappropriate within the Copsewood Area of Special Local character and as evidence of bats has been found in

the roof of the building, additional surveys are required. No information has been provided as regards energy conservations and a contribution from the new building towards renewable energy. The application is recommended for refusal.

As an appeal for non-determination has been received, the Planning Inspectorate needs to be informed of the decision that would have been made on the application, together with any additional comments received from English Nature and the London Wildlife Trust.

## **11. Reference Documents**

PPS3: Housing (June 2010)

PPS5: Planning for the Historic Environment (March 2010)

PPS9: Biodiversity and Geological Conservation (August 2005)

London Plan (February 2008)

Mayor's Interim Housing Supplementary Planning Guidance, April 2010

Adopted Hillingdon Unitary Development Plan Saved Policies (September 2007)

Council's Planning Obligations Supplementary Planning Document, July 2008

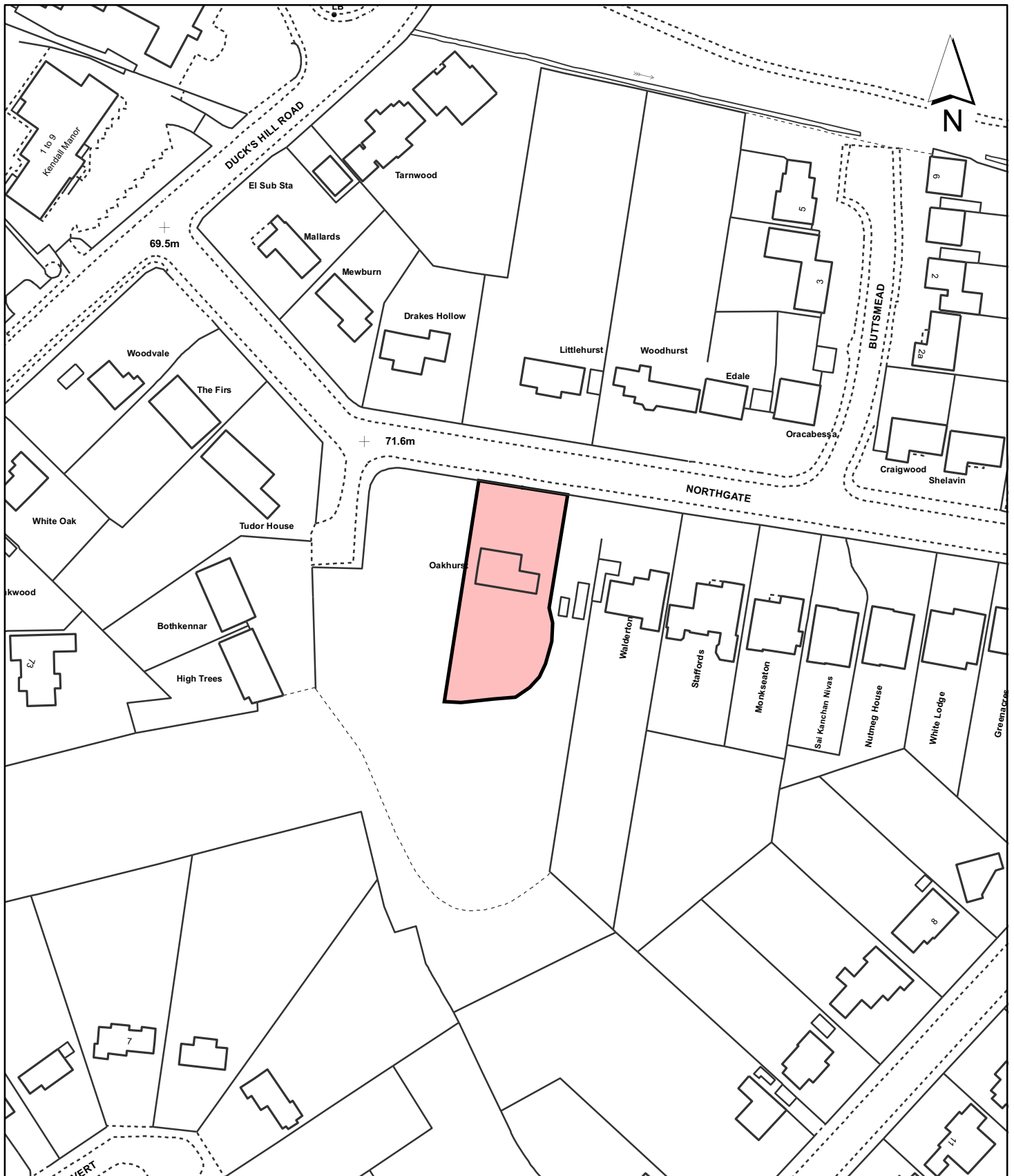
HDAS: Residential Layouts, July 2006 and Accessible Hillingdon, January 2010



Consultation Responses

Report upon the Building and Structural Condition of the Property, prepared by Andrew Dust, dated 5/7/10

**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. All rights reserved. London Borough of Hillingdon 100019283 2009</p>	<p>Site Address</p> <p style="text-align: center;"><b>Oakhurst, 1 Northgate Northwood</b></p>		<p style="text-align: center;"><b>LONDON BOROUGH OF HILLINGDON</b></p> <p style="text-align: center;"><b>Planning, Environment &amp; Community Services</b></p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p style="text-align: center;"><b>30779/APP/2010/1108</b></p>	<p>Scale</p> <p style="text-align: center;"><b>1:1,250</b></p>	
	<p>Planning Committee</p> <p style="text-align: center;"><b>North</b></p>	<p>Date</p> <p style="text-align: center;"><b>September 2010</b></p>	
		 <p style="font-size: 2em; font-weight: bold; color: gold;">HILLINGDON</p> <p style="font-size: 0.8em; color: blue;">LONDON</p>	