

# Barnet Local Plan EIP – Note on Policy CDH07 – Amenity Space and Landscaping

## Reason for producing this Note

On Wednesday 2<sup>nd</sup> November at the hearing session's, consideration of Matter 8 – Character, Design and Heritage, Inspector Wildgoose requested provision of a Note covering the following :

- Review CDH07 for inconsistencies with London Plan, in particular Table 11 and para 6.21.3 as London Plan states that private outdoor space must achieve minimum depth/width, and that outdoor space does not contribute to minimum internal space.
- Table 11 – justification needed for house outdoor amenity space standards
- Clarify how CDH07(a) and Table 11 row 3 works with householder development.
- London Plan para 3.6.2 states that amenity space standards are minimums. Council to clarify flexibility in para 6.21.3, provision of internal living space alternatives. Rationale for dropping standards below the minimum.
- Council also needs to set out justification for making provision for contributions to outdoor space where minimum standards are not met. Not a clear justification for outdoor spaces other than play spaces.
- Consider modification to CDH07(a)(ii) to refer to Policy S4 of London Plan instead of Shaping Neighbourhoods SPG
- Council to reflect on cross-reference to future Planning Contributions SPD (MM173). Opportunity to clarify expected contributions within the Plan via detail in appendices including allowance for index linking.
- Clarify preference for onsite contributions, make clear that this is the Council's preference in CDH07(a)(iii).
- Distinguish in terms of the scale aspect to reflect that provision onsite is not always going to be the best solution, and that contributions in those circumstances might be better.
- Consider a modification to ensure that the five criteria in CDH07(b) only apply where hard or soft landscaping is proposed.
- Consider benefits of cross reference to ECC06 rather than reiterate biodiversity requirements
- Similarly cross-refer to ECC02(a) with regards to sustainable drainage for CDH07(b)(v).
- Consider CDH07b(iv) against G7 of the London Plan. Clarify that existing trees of value should be retained (not all trees), and specify what a suitable size and species will be (use G7(c) of London Plan).
- Revise CDH07a(iii) to clarify that it only applies where a proposal has been found incapable of compliance with CDH07a(i) or a(ii). Should it not be sub-criterion (iii), but a separate criterion where (a) cannot be met. (iii) needs to be a separate part.
- Clarify CDH07(b)(i) "effective amenity and access" and "particular regard to parking areas" Element on parking areas could be clarified in supporting text. Clarify usable space so that for instance parking areas would not be considered a usable space. Danger of focus on parking areas when there may be other areas of unusable space.
- Clarify 'wild gardens' at CDH07b(ii). Clarity of wording.
- Biodiversity Net Gain CDH07b(iii), possible cross-reference to ECC06.
- Follow up on Matter 8 Statement Q6d modification to CDH07(b)
- Follow up on Matter 8 Statement Q6g modification on trees and treelined streets to ensure consistency with para.131 NPPF.

The following format has been used in this Note to denote further proposed modifications to the submission version of plan as revised by the proposed modifications listed in EXAM 4.

- ~~Strikethrough text~~ to indicate text proposed for removal.
- Underlined text to indicate additional text.

## Background

This Note sets out explanations for aspects of the wording of the policy and supporting text for Policy CDH07 - Amenity Space and Landscaping in the draft Barnet Local Plan, further proposed modifications seeking to ensure clarity and consistency with the London Plan and the NPPF.

## Consideration

- 1) **Review CDH07 for inconsistencies with London Plan, in particular Table 11 and para 6.21.3 as London Plan states that private outdoor space must achieve minimum depth/width, and that outdoor space does not contribute to minimum internal space.**

The Council refers to London Plan policy D6 Housing quality and standards which states: "Where there are no higher local standards in the borough Development Plan Documents, a minimum of 5 sq.m. of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m. should be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5m. This does not count towards the minimum Gross Internal Area space standards required in Table 3.1." The Council has adopted a higher standard for houses and some flatted developments. The justification for these standards is set out in response to Point 2.

The Council does not consider that a revision to Table 11 is merited on this basis as there is no inconsistency with the London Plan, However revisions are proposed to para 6.21.3 to provide further clarity. Policy CDH07 does seek a degree of flexibility to ensure schemes for town centre development come forward where, due to the site context, it is not possible to provide amenity space for all units.

The Council refers to the Mayor's 2016 Housing SPG which at para 2.3.2 recognises that 'in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement. This area must be added to the minimum GIA. Enclosing balconies as glazed, ventilated winter gardens can be considered an acceptable alternative to open balconies and is recommended for all dwellings exposed to NEC noise category C or D141. Winter gardens must have a drained floor and must be thermally separated from the interior. Provision for outdoor gardens should be set in the context of local standards.'

The Council confirms that the Mayor's Housing SPG has not been replaced and remains part of London Plan guidance

[London Plan Guidance | London City Hall](#)

The Council proposes the following modifications to para 6.21.3 (also set out in Summary below):

Amenity space for new development should meet the standards set out in Table 11. ~~In tall buildings, where site constraints make it difficult to provide private outdoor open space that offers good amenity for all units, additional internal living space that is equivalent to the area of the private open space requirement will be expected as an integral part of the design. In exceptional circumstances, having regard to London Plan guidance, where it is demonstrated that site constraints make it impossible to provide private open space for all dwellings in flatted developments in line with the standards set out in Table 11, the provision of additional internal living space equivalent to the amenity space requirement within a proportion of dwellings may be accepted.~~ This additional space must be added to the minimum GIA internal space standard.

## 2) **Table 11 – justification needed for house outdoor amenity space standards**

The Council refers to its response at Point 1. The Council has proposed a locally distinctive target for houses in Table 11 which is reflective of a historic approach to provision of amenity space. London Plan Policy D6 allows for local amenity space requirements and this is reflected in recent Local Plans adopted in LB Brent and LB Lambeth for example.

This locally distinctive target approach was accepted in the 2022 LB Brent Local Plan policy BH13 which expects private amenity space of 50 sqm for a family home (3 bedrooms or more) situated at ground floor level and 20sqm for all other housing.

These standards were established through the 2013 Sustainable Design and Construction SPD, and the 2016 update to the SPD. They have been applied successfully since 2013.

A locally distinctive approach has also been taken in the 2021 Lambeth Local Plan which states at para 5.34: “In exceptional circumstances, having regard to London Plan guidance, where it is demonstrated that site constraints make it impossible to provide private open space for all dwellings in flatted developments in line with the standards set out above, the provision of additional internal living space equivalent to the amenity space requirement within a proportion of dwellings may be accepted. In the case of houses, the policy requires 30m<sup>2</sup> private external amenity space per dwelling. In exceptional circumstances the council may consider a smaller quantity of private amenity space per house and some communal provision where it is demonstrated to the satisfaction of the council that the space provided will adequately meet the needs of the intended occupants. Proximity of a development site to an existing park or open space alone does not constitute a sufficient reason not to provide on-site external amenity space.”

Local Plan policy CDH07 seeks to ensure a suitable level of provision of amenity space for residential development. It reflects the typologies set out in the 2010 Characterisation Study and is a locally distinctive target reflective of a historic approach to provision of amenity space and reflects other development standards. Back to back family housing for example would be expected to provide 10.5m deep rear gardens to achieve 21m distance between garden facing habitable rooms.

## 3) **Clarify how CDH07(a) and Table 11 row 3 works with householder development.**

The Council seeks as a general rule, to protect existing outdoor amenity space. No householder development should reduce amenity space to less than the minimum required for that dwelling type by Table 11. The Council therefore withdraws MM174 and proposes the following modification to Table 11

Development proposals ~~should not normally be permitted if it compromises the minimum outdoor amenity space standards.~~

It also proposes to a revision to policy CDH05 as follows

~~Extensions to existing properties should~~ Not reduce result in amenity space provision falling below the standards set out in Table 11.

- 4) **London Plan para 3.6.2 states that amenity space standards are minimums. Council to clarify flexibility in para 6.21.3, provision of internal living space alternatives. Rationale for dropping standards below the minimum.**

The Council refers to its response at Points 1 and 2 with corresponding changes to para 6.2.3.

- 5) **Council also needs to set out justification for making provision for contributions to outdoor space where minimum standards are not met. Not a clear justification for outdoor spaces other than play spaces.**

The Council acknowledges that there is no support for off-site contributions for outdoor amenity space where minimum standards are not met and therefore proposes to replace CDH07(a) (iii) as set out below in Summary.

As a consequence the Council also proposes to make the following modification to para 6.21.3. This also takes into account duplication with para 6.21.5 with regards to contributions to children's play space.

Para 6.21.3 (proposed deletions). Also set out below in Summary

~~Where the standards cannot be met and an innovative design solution is not possible the Council will seek a Planning Obligation. Barnet's Planning Obligations SPD sets out the S106 criteria requirements for open spaces. These contributions are separate from and in addition to any contribution that is required where a development is located in an area of open space deficiency. Similarly, residential development in areas of playspace deficiency as well as those in areas with sufficient playspace will normally be expected to make a contribution either on site or financially for playspace. Further information on areas of open space and playspace deficiency in Barnet and is set out in the Planning Obligations SPD.~~

- 6) **Consider modification to CDH07(a)(ii) to refer to Policy S4 of London Plan instead of Shaping Neighbourhoods SPG**

The Council agrees modification to CDH07(a)(ii) as set out below in Summary

- 7) **Council to reflect on cross-reference to future Planning Contributions SPD (MM173). Opportunity to clarify expected contributions within the Plan via detail in appendices including allowance for index linking.**

The Council refers to its forthcoming Note on Viability which will confirm its approach with regards to securing S106 contributions through the Plan or via SPD.

- 8) **Clarify preference for onsite contributions, make clear that this is the Council's preference in CDH07(a)(iii).**

The Council agrees modification to CDH07(a)(iii) as set out below in Summary to clarify preference for on site contributions.

- 9) **Distinguish in terms of the scale aspect to reflect that provision onsite is not always going to be the best solution, and that contributions in those circumstances might be better.**

This consideration has been factored into the modification to CDH07(a)(iii) as set out below in Summary.

- 10) **Consider a modification to ensure that the five criteria in CDH07(b) only apply where hard or soft landscaping is proposed.**

The Council proposes to amend CDH07(b) as follows:

Development proposals should ~~to~~ include hard and soft landscaping where possible and must ensure that..:

- 11) **Consider benefits of cross reference to ECC06 rather than reiterate biodiversity requirements**

The Council proposes to simplify the wording of CDH07(b)(iii) as follows:

Provision is made for an appropriate level of new and existing wildlife habitat including tree and shrub planting to enhance biodiversity. There is no net loss of wildlife habitat and that there is a biodiversity net gain of at least 10%, either within the development site or off site and in accordance with Policy ECC06”.

- 12) **Similarly cross-refer to ECC02(a) with regards to sustainable drainage for CDH07(b)(v).**

The Council proposes to revise CDH07(b)(v) as follows:

Provision is made for Sustainable Urban Drainage Systems in accordance with policy ECC02(a)

- 13) **Consider CDH07b(iv) against G7 of the London Plan. Clarify that existing trees of value should be retained (not all trees), and specify what a suitable size and species will be (use G7(c) of London Plan).**

The Council has had regard to London Plan Policy G7c – Trees and Woodlands and reference to trees of value. The Council proposes to amend CDH07(b)(iv) as follows:

Existing trees of value should be are-retained-and their root systems are safeguarded, or replaced if necessary with suitable size and species of tree, wherever possible. Retained trees must have their stems, canopy and root systems safeguarded. Where trees are removed they should be replaced to an equal value of the trees removed, with suitable size and species of tree. If it is not possible to provide the number of trees to the value removed, a contribution to the local authority can be made, to provide trees within the streets and open spaces to this value

- 14) **Revise CDH07a(iii) to clarify that it only applies where a proposal has been found incapable of compliance with CDH07a(i) or a(ii). Should it not be sub-criterion (iii), but a separate criterion where (a) cannot be met. (iii) needs to be a separate part.**

The Council acknowledges that there is a contradiction with in CDH07 and that a revision is merited at CDH07a(iii). The revision clearly states the Council's preference of amenity space to be provided on site whilst providing some flexibility for those sites where this is not possible. It is considered necessary to provide this degree of flexibility to ensure residential units in town centres can be delivered. For example, additional housing through conversion of larger units above retail parades into smaller units.

- 15) **Clarify CDH07(b)(i) "effective amenity and access" and "particular regard to parking areas" Element on parking areas could be clarified in supporting text. Clarify usable space so that for instance parking areas would not be considered a usable space. Danger of focus on parking areas when there may be other areas of unusable space.**

The Council considers that this can be clarified through additional wording at para 6.22.7.

**Para 6.22.7:**

"Gardens make a significant contribution to local character, enhancing biodiversity, landscaping including trees, tranquillity, sense of space and the setting of buildings. Front gardens also support local character, visually enhance suburban residential streetscape and environmentally friendly local character. Any provision of space for vehicle parking within front gardens should be carefully considered to ensure it is appropriately sited to minimise impact on character whilst ensuring that it is usable with acceptable access from the highway and maintaining pedestrian access to the building. Garden development that is considered to be detrimental to local character, such as large extensions or infill will be refused. Further guidance on managing the impact of development on gardens is set out in Barnet's suite of design focused SPDs the forthcoming Sustainable Design and Development Guidance SPD"

The reference to 'amenity' in the policy is in relation to 'visual amenity' rather than the use of front gardens as 'outdoor amenity space' for the occupiers. It is proposed to clarify this wording:

(b) i. Design and layout is sympathetic to the local character, whilst providing effective ~~amenity and access for future occupiers~~ and with minimal visual impact, with particular regard to unusable space parking areas."

- 16) **Clarify 'wild gardens' at CDH07b(ii). Clarity of wording.**

The Council considers that reference to wild gardens is no longer merited as it is a term no longer in use. The wording is proposed to be amended to refer to the biodiversity priorities set out in policy ECC06:

bii. Hardstandings should contribute positively to the streetscene, maintaining a balance between hard and soft landscaping, ~~with opportunities taken to add wild gardens supported where possible.~~ wherever possible the soft landscaping is to be designed to enhance quality of biodiversity with the use of native species and habitat creation in accordance with Policy ECC06

**17) Biodiversity Net Gain CDH07b(iii), possible cross-reference to ECC06.**

The Council have made it clearer that the Biodiversity Net Gain is in accordance with ECC06 as set out below.

**18) Follow up on Matter 8 Statement Q6d modification to CDH07(b)**

The Council's modification to CDH07(b) as set out in the Matter 8 Statement is reflected in the version of CDH07 below.

**19) Follow up on Matter 8 Statement Q6g modification on trees and treelined streets to ensure consistency with para.131 NPPF.**

The Council's modification to CDH07(b)(iv) as set out below provides greater emphasis on trees and tree-lined streets to ensure consistency with national policy.

## Summary of Modifications to CDH07

### Proposed Modifications to Policy CDH07 Amenity Space and Landscaping

- a) Development proposals should as a minimum provide:
- i. Amenity space standards as set out in Table 11.
  - ii. Play spaces in accordance with policy S4 of the London Plan and the Mayor's SPG on Shaping Neighbourhoods—Play and Informal Recreation.
  - iii. ~~Where amenity space does not meet the standards in (i) or (ii) contributions to off-site provision will be expected.~~ In exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement.
- b) Development proposals should to include hard and/or soft landscaping where possible and must ensure that:
- i. Design and layout is sympathetic to the local character, whilst providing effective ~~amenity and access for future occupiers~~ with minimal visual impact, with particular regard to parking areas.
  - ii. Hardstandings should contribute positively to the streetscene, maintaining a balance between hard and soft landscaping, ~~with opportunities taken to add wild gardens supported where possible~~ wherever possible the soft landscaping is to be designed to enhance quality of biodiversity with the use of native species and habitat creation in accordance with Policy ECC06
  - iii. Provision is made for an appropriate level of new and existing wildlife habitat including tree and shrub planting to enhance biodiversity. ~~There is no net loss of wildlife habitat and that there is a biodiversity net gain of at least 10%, either within the development site or off-site and in accordance with Policy ECC06.~~
  - iv. Existing trees ~~are retained and their root systems are safeguarded, or replaced if necessary with suitable size and species of tree,~~ should be valued and retained wherever possible. Retained trees must have their stems, canopy and root systems safeguarded. Where trees are removed they should be replaced to an equal value of the trees removed, with suitable size and species of tree. If it is not possible to provide the number of trees to the value removed, a contribution to the local authority can be made, to provide trees within the streets and open spaces to this value

v. Provision is made for Sustainable Urban Drainage Systems in accordance with Policy ECC02(a)

### **Proposed Modifications to Para 6.21.3**

Amenity space for new development should meet the standards set out in Table 11. ~~In tall buildings, where site constraints make it difficult to provide private outdoor open space that offers good amenity for all units, additional internal living space that is equivalent to the area of the private open space requirement will be expected as an integral part of the design. In exceptional circumstances, having regard to London Plan guidance, where it is demonstrated that site constraints make it impossible to provide private open space for all dwellings in flatted developments in line with the standards set out in Table 11, the provision of additional internal living space equivalent to the amenity space requirement within a proportion of dwellings may be accepted.~~ Amenity space for new development should meet the standards set out in Table 11. In tall buildings, where site constraints make it difficult to provide private outdoor open space that offers good amenity for all units, additional internal living space that is equivalent to the area of the private open space requirement will be expected as an integral part of the design. This additional space must be added to the minimum GIA internal space standard. Where the standards cannot be met and an innovative design solution is not possible the Council will seek a Planning Obligation. Barnet's Planning Obligations SPD sets out the S106 criteria requirements for open spaces. These contributions are separate from and in addition to any contribution that is required where a development is located in an area of open space deficiency. Similarly, residential development in areas of playspace deficiency as well as those in areas with sufficient playspace will normally be expected to make a contribution either on site or financially for playspace. Further information on areas of open space and playspace deficiency in Barnet and is set out in the Planning Obligations SPD.

## **Conclusion**

The Council invites the Inspectors to consider and recommend that the Council makes the additional further modifications set out in this paper recognising that those considered to be Main Modifications will need to be formally consulted upon following the examination hearing sessions.