

## PLANNING & ENVIRONMENT COMMITTEE MEETING

Tuesday 31<sup>st</sup> January 2012, 7.00PM

### ADDENDUM TO REPORT OF THE ASSISTANT DIRECTOR OF PLANNING AND DEVELOPMENT MANAGEMENT

#### Page 1-172

Reference: H/04210/11

Address: Former Wyevale Garden Centre, Daws Lane, NW7 4SL

#### Page 6 – amendment to condition 1:

The development hereby permitted shall be carried out in accordance with the following approved plans: Planning, Design and Access Statement; 282 EX(01)01 rev B; 282 EX(01)02 rev B; 282 EX(02)01 rev A; 282 EX(03)01 rev A; 282 EX(03)02 rev A; 282 EX(04)01 rev A; 282 EX(04)02 rev A; 1052.03; 2050.01; 2052.01; 2053.01; 2054.01; 2056.01, 2057.01, 3571/L02 rev 05, 3571/P01 rev 04, 3571/P02 rev 04

#### Page 45 - Updated comments from Environmental Health Officer

There is a new Air Quality report condition proposed to assess more accurately using the up to date London area Emissions inventory and to carry out necessary mitigation measures.

Without prejudicing the new report, comparing the amount of traffic journeys on the A1/A41 which is 62,000 per day and 5600 per day on Daws lane. The number of school children is 240 maximum. No of journeys per day are in the worst case 480 which is far less than 1% of total on A1/A41 and less than 10% on Daws Lane. Therefore the school it self will not significantly worsen air quality.

From LBB accurate 2007 stage 4 Air Quality predictions (new predictions will be slightly better due to more cars having abatement technology and the London low Emission zone) - there are no national Air quality objective exceedances on site for Particulates PM10 and Lead- which are known to affect children's health.

The 60ug/m<sup>3</sup> annual mean level objective for NO<sub>2</sub> exceeds in a very small SE part of the site away from the playground.

Therefore the risk of exceedance of the 1 hour mean objective for NO<sub>2</sub> in the play ground area is greatly reduced and unlikely to happen. This is the objective that is most relevant to children playing. Which means it is unlikely that exposure to air quality in the playground is to be harmful unless there is a rare London wide air pollution episode/smog. Studies have shown it is still beneficial to health to exercise in moderately polluted areas.

Small amounts of the school building façade exceed the 40ug/m<sup>3</sup> annual mean objective for NO<sub>2</sub>.

The most sensitive reception class with youngest children has been moved from this area to the eastern part of the site.

The conditioned report will discuss whether measures are needed for internal parts of the school, for instance filters on air intake and whether further redesign and location of playground is necessary.

There are conditions proposed relating to a School travel plan and conditions to mitigate noise from plant, construction noise, hazardous building materials, small risk of contamination from infill from old lido and mitigation measures to minimise traffic noise in classrooms.

### Page 22 – Consultation and views expressed

22 letters of objection and 5 letters of support were received after the end of the initial consultation period. These raised the same issues as set out in the report.

### Page 36 - Response to consultation on amended documents

As set out in paragraph 1.28 on page 36 of the officers' report, additional consultation was carried out following receipt of an updated Transport Statement, Travel Plan and additional information on proposed community uses.

The report states that at the time of preparing the report, 18 respondents had written with further comments in objection and 2 respondents in support.

By the end of the consultation period (26<sup>th</sup> January) further responses had been received in objection and the total responses are set out below:

#### **Support**

Responses received on behalf of 2 residents re-iterating previous issues raised.

#### **Objection**

Responses received on behalf of 58 residents.

15 from Poets Corner

34 from NW7 postcode

8 from elsewhere in Barnet

1 from out of Barnet

14 of the respondents re-iterated previous concerns raised and 44 raised particular points about the amended documents.

The comments made on the amended documents are as follows:

- The Travel Plan is not accurate (**Officer comment: Officers believe the Travel Plan to be accurate, it having been prepared and submitted consistent with London-wide standards**)
- The travel Plan reflects what most people observe in terms of parents driving most of the way to school, parking and walking the final short distance (**Officer comment: The School Travel Plan findings are discussed in section 6 of the main report**)

- The school encourages parents not to park in Daws Lane so they are not counted in any surveys (**Officer comment: A variety of different surveys have been carried out and are discussed in section 6 of the main report. School Travel Plan surveys are about mode of travel and parents are included in the survey. Parents are encouraged to park away from schools as part of a School Travel Plan**)
- Many parents are already not walking but driving to and from school (**Officer comment: This is discussed in section 6 of the main report**)
- Other users of the park or parents collecting from other schools can no longer use the Mill Hill park car parks as they are full (**Officer comment: The Wise Lane car park survey results are set out in Appendix 8 showing varying occupancy levels, although it should be noted that there are plenty of free bays in the afternoon**)
- Some families are renting in Poets Corner and will return to permanent homes. This should be accounted for (**Officer comment: The analysis is based on the current situation. There will always be some movement of children in year with families moving into and out of the area**)
- The Travel Plan doesn't include all children and therefore the full catchment area as not all parents responded to the survey (**Officer comment: This is noted and has always been recognised by officers and is stated in the main report – section 6.2.5**)
- Contrary to the Community Access Plan proposals, the school will not be available to all the community. Use of the facilities will be at a cost (not forthcoming) and food will have to be kosher. For security reasons it will be impossible for the school to be used for general community use (**Officer comment: It is accepted by Officers that the community use proposals will not be the same as the facilities offered by the former garden centre. The cost of hire together with the facilities available will be agreed within the Community Access Plan. The applicant has indicated that the kitchen, although kosher, will be available for use**)
- Many of the proposed activities for community use already take place in Mill Hill so would be little, if any, benefit to the community (**Officer comment: The school is undertaking consultation with the community to find out what type of uses the school could provide**)
- A cafe within a functioning school would not be a suitable venue for our Community. The community will not be able to use the facilities eg café, vegetable plots during school hours, despite school's statement (**Officer comment: Officers accept that regular use during school hours is unlikely, but this is the case for most community use of educational buildings**)
- Much is made of the out of hours use of the school. This will not benefit the elderly who do not go out in the evenings (**Officer comment: as above**)

- The Plan was only put forward to make sure permission was granted but will not happen (**Officer comment: The Community Access Plan will need to be agreed and is required as part of the legal agreement attached to the permission**)
- The Travel Plan mentions use of the school by Mill Hill Synagogue. Have the traffic implications of this been considered? (**Officer comment: All future uses will be considered when the full details of the Community Access Plan are submitted**)
- The 2 other garden centres mentioned cannot replace Wyevale in terms of accessibility or amenity (**Officer comment: This is accepted by officers**)
- Misleading information given by applicant about future of the site if planning permission for the school is not granted. The applicants and the supporters of the school have given a false impression that the school own the site and if permission is not granted they will not sell it and will leave it empty (**Officer comment: Officers are advised by the Department of Education that the position is that the government has funded the purchase of the property on Daws Lane for use as a school. There are provisions in the funding agreement relating to the land which could be exercised by the Secretary of State. However, these provisions could only be exercised at his discretion. This would depend on the particular circumstances at the time. A key consideration for the Secretary of State would be the pupils at the school and their continuity of education**)
- Misleading information given by applicant as to the reasons why a new school could not be built at the former site of Copthall Girls School (**Officer comment: The suitability of this site for a new school is addressed in the main report. The site lies within the green belt. Any new building would fail to comply with green belt policy unless it could be demonstrated that very special circumstances justify the proposal**)
- Concern over integrity of planning process. It appears that comments in support of the application have been submitted on behalf of other people. These are false as they were not submitted by the individual personally and give an inaccurate picture of the level of support for the application (**Officer comment: The matters previously drawn to the attention of officers have been looked into and satisfactory answers received. The level of consultation responses received, both objection and support, has been broken down within the report so that officers and Members can clearly see the level of support and objection from residents based on proximity to the site**)
- The applicants and the school have alleged 'malice' and 'racism' as a motive for objections. This has lead potential objectors to refrain from writing in and, again, resulted in an inaccurate reflection of the true level of objection (**Officer comment: The level of objection received to this and also the previous application have been**

**detailed in the main report so that Members are aware of the level of objection/ support to the scheme from the time of the submission of the first application in April 2011)**

- The assertions and allegations made by the school and its supporters call into question the integrity of the process for which the council have a duty of care and for which it has responsibility **(Officer comment: Officers consider that appropriate consultation has been carried out in connection with the application in accordance, with the statutory requirements. The recommendation has been made based on the officers' analysis of the application and the issues raised and does not rely on assertions that may or may not have been made by the applicant)**

### **Mill Hill Residents association**

A further letter was also received from Mill Hill Residents Association, objecting to the revised Travel Plan as the additional number of parents stating they drive to school is greater, verifying their initial concerns.

### **Action Mill Hill**

A letter was received on behalf of Action Mill Hill raising concerns about the seriously flawed consultation process, namely:

- the number of consultation letters sent out which was confusing for residents as well as large groups, charities and commercial service providers, resulting in some people not being able to respond individually to the consultation as they were unclear what the proposals were **(Officer comment: The application has been subject to 2 rounds of consultation – the initial consultation on receipt of the application and a second consultation following receipt of updated transport and community access proposals information. Additional letters sent in relation to each of the 2 consultations were sent to extend the consultation period and provide clarification. This was done to try and ensure residents had the most up to date information and to make the process as transparent as possible)**
- documents not always available to view easily in Mill Hill library or on the Council's website making it difficult to read and review the numerous additional documents **(Officer comment: Any confusion with the documents in the library is regrettable, however the plans were also available at Barnet House and on-line. Once officers became aware of the problems with the web site over the Christmas break, the consultation period was extended to ensure residents had time to view the documents and make comments)**
- applicants and council officers informed residents that the documents hadn't changed from the first application, when they had **(Officer comment: Many of the plans and documents submitted were essentially the same as in the previous application. Officers are not aware of any specific instances of misleading advice being given)**
- misleading information about the future of the site if planning permission not granted, resulting in many residents and Service Providers not

responding as they felt they would not get anything other than an empty site (see reply above)

This document also includes a summary of the objections of the Group which have not been fundamentally, or at all, addressed by the recent documentation, namely:

- Traffic congestion
- Pedestrian safety
- Negative changes to frontage and green belt breaches
- Destruction of tourist and economic site
- Diminution of shopping facilities where no accessible alternative
- Breaching Equalities Act 2010
- Breaching equal access policies
- Not responding to local citizens and their needs
- Council waiving £330,000 entitlement from assignment of lease

Additionally:

- Community use has been weakened with none of the issues raised by local elderly and disabled residents addressed (**Officer comment: the weight to be given to the various planning considerations is addressed in the main report. Officers accept that the future community use of the school will not replicate the facilities of the garden centre and this has been taken into consideration**)

Specific objections to recent documentation:

- Surveys were conducted by numerous residents and park users. These established that 5 cars (10%) of the 19% who did not complete the questionnaire in November but did contribute to the September questionnaire drive to school (**Officer comment: This comment is noted but the school surveys were carried out in a manner consistent with national practice**)
- Those cars who park in the 3 car parks or roads opposite the school are less than 5 minutes walk away and incorrectly claim they park and stride (**Officer comment: This comment is noted but only applies to one parent who responded to the November survey**)
- Inaccuracies in applicant's surveys and statements (**Officer comment: The council received the survey data in good faith and have no reason to believe it to be inaccurate, notwithstanding that there are likely to be day-to-day variations in travel patterns**)
- Barnet officers have relied on an automatic traffic counter that has been placed by the applicants or their agents to gather data and which would have given lower figures than is actually the case (**Officer comment: The ATC data is believed to provide accurate information on traffic flows and speeds. Some turning movements are not included because of the location of the ATC, however these are not believed to be significant. The ATC flows do vary by day, however the difference between the ATC data and the manual count is 615 (not 800) versus 585 for the survey day in March 2011**)

- Will have to be some actions to mitigate the risk to health if the school goes ahead. The site has failed acceptable levels of air quality and Barnet planners have failed to effectively analyse the issues. There are numerous reports available on air quality and health related issues. Putting children here will put them at risk in the most extreme way. The site has already failed to meet the government's own guidelines on air pollution and yet the Council have ignored this. Conditions proposed to be attached to the permission cannot ensure the children are safe. Proposed 'community garden' is in an area which exceeds the Governments air quality limits. This is unacceptable for the vulnerable elderly and disabled (**Officer comment: The school itself will not significantly worsen air quality. Although the site is not ideal the school is not directly adjacent to a busy road and not all of the site is in an air quality exceedance area. The school can be designed to reduce indoor air pollutants**)
- Community use proposals are unlikely to happen. What the elderly and disabled and the community want is a multiple use site with a real possibility of interaction between neighbours and friends while purchasing essential items in an open ambient space for the entire community to share (**Officer comment: Although it is regrettable that a use that many local residents valued has closed down the planning authority, in determining this application, is considering the merits of the proposed application for a change of use to a school.**)
- The alternative public amenities in Mill Hill listed by the applicants clearly acknowledges that the garden centre was thought of as a Public amenity even by the applicants. The alternatives include expensive restaurants, delicatessens and public houses, not accessible to children or affordable to those on incapacity benefits. The applicants have not understood this objection and Barnet planners have not analysed this list. The alternative 'garden centres' listed are not comparable (**Officer comment: Officers have addressed the impacts and alternative facilities within the main body of the report**)
- The application documents demonstrate that the application fails on air quality, traffic generation and community use and fails to demonstrate why the balance should be in favour of the increased school that doesn't exist yet compared to the impact we have identified. Any finding that the application value outweighs the harm caused to the elderly and disabled is demonstrably unreasonable (**Officer comment: various issues addressed in the main report**)

### **Letter to Councillors**

A bundle of documents from the Action Group was received addressed to Councillors. This included a letter about :

- the specific issues around the Equality Act 2010
- the inadequate assessment of alternative locations for the school
- the existence of 2 business plans with total funding secured to put back the Garden centre, Café (and if possible) the Aquatics centre plus provide facilities specifically designed for the elderly and disabled,
- the concerns about the consultation process and misleading number of support letters

- breach of covenant on the land which restricts use of land to recreational use. Barnet should enforce the covenant.
  - Air quality and need to protect health and welfare of residents (children)
- The letter is accompanied by among other documents, 65 personal and 15 service provider testimonials about the impact of the loss of the garden centre on residents and the local community.

**Page 173-182**

**Reference: B/04775/11**

**Address: St Johns The Baptist Church, Wood Street, Barnet, Herts, EN5 4BW**

Amend Condition 1 to read as follows:

The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No's: 01 - Site location plan, 02 - Existing Plan, 01 Rev 1 - Proposed Sections, 02 Rev 1 - Proposed Sections, 03 Rev 1 - Proposed Sections, 10 - Proposed Plan, 001 Rev 1 - Tree Constraints Plan, Design and Access Statement by Metropolitan Workshop, Heritage Statement by Metropolitan Workshop, Arboricultural Implication Assessment by Writtle Park Ltd dated 24th November 2011 (date received 28-Nov-2011);

Tree survey and Tree Constraints Plan by Writtle Park Ltd dated 13th October 2011, 15 - Arboricultural Impact Assessment (date received 13-Dec-2011);

001 – Typical Surface Details, 013, 014 (date received 03-Jan-2012);

Arboricultural Method Statement by Writtle Park Ltd dated 24<sup>th</sup> January 2012, 001 Rev 2 – Tree Protection Plan (date received 25-Jan-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

Add the following condition –

The development hereby permitted shall be carried out in accordance with the details set out within the Arboricultural Method Statement dated 24<sup>th</sup> January 2012 unless otherwise specified in writing by the Local Planning Authority.

Reason:

To safeguard the health of the existing tree(s) which represent an important amenity feature

Add the following condition –

No site works or works on this development shall be commenced before the temporary tree protection has been erected around existing tree(s) in accordance with the details shown on Drawing no 001 Rev 2. This protection shall remain in position



until after the development works are completed and no material or soil shall be stored within these fenced areas.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature.

Add the following condition -

The approved development shall be constructed in accordance with the approved construction details submitted on plans 1113 P 103 01 Rev 1 & 03 Rev 1.

Reason:

In the interests of highway safety in accordance with Policy M11 of the London Borough of Barnet Adopted Unitary Development Plan 2006.

Add the following condition -

A Construction Management Plan must be submitted to and approved by the Local Planning Authority before commencement of works.

Reason:

In the interests of highway safety in accordance with Policy M11 of the London Borough of Barnet Adopted Unitary Development Plan 2006.

Add the following informative –

Any details submitted in respect of the Construction Management Plan above shall control the hours, routes taken, means of access and security procedures for construction traffic to and from the site and the methods statement shall provide for the provision of on-site wheel cleaning facilities during demolition, excavation, site preparation and construction stages of the development, recycling of materials, the provision of car parking facilities for contractors during all stages of development (Excavation, site preparation and construction) and the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials and a community liaison contact and precautions to minimise damage to trees on or adjacent to the site.

Add the following informative –

The applicant is advised that Barnet High Street (the whole length) and Wood Street are Traffic Sensitive Roads; deliveries during the construction period should not take place between 8.00 am-9.30 am and 4.30 pm-6.30 pm Monday to Saturday. Careful consideration must also be given to the optimum route(s) for construction traffic and the Environment and Operations Directorate should be consulted in this respect

Add the following informative –

For any construction works affecting or adjacent to the public highway, the applicant must contact the council's First Contact on 0208 359 2000 for any necessary Highways Licences required.

Add the following informative –

The applicant is advised that for any proposed furniture on the public highways will require a Street Trading Licence. Applications for Street Trading Licences should be submitted to the council's Licensing Team, London Borough of Barnet, Building 4, North London Business Park, Oakleigh Road South, London N11 1NP. Please note that this licence is on a temporary basis and is chargeable.

Add the following informative -

The applicant must conform to all trading licence requirements including type of furniture allowed and permitted hours for placing furniture on the public highways. The applicant will be required to clear the trading site for as long as necessary to allow the council or other authority to exercise its powers and duties.

The following comments were received from Traffic and Development –

The proposal is for the improvement of St John The Baptist churchyard and the adjacent Church Passage. Church Passage is a footway that is maintainable at public expense by the Highways Authority and its runs from Barnet High Street (A1000) to Wood Street.

Church Passage is currently very narrow with buildings on one side and a high hedge on the other and there are perceived safety issues for pedestrians. There is a strong pedestrian desire line from the Town Centre, along Church Passage to Barnet College and Public Transport links.

In addition to the improvement within the Churchyard itself, the works will include the widening and the relaying of the pavement on Church Passage These improvements result in Church Passage being opened up and improve visibility and safety for users.

Church Passage will continue to be maintained at public expense, however, the Highway Authority will not adopt the widened section of the Church Passage or any other private areas. The existing public highway will be delineated by road studs or similar approved material. This demarcation must be provided to ensure there is a clear separation from the area of public highway.

The proposals will not alter the existing parking provision of the Church or the vehicular access.

The construction details of all area within the scheme must be approved, as these private paths and paved areas will be used by the public and adjoin the public highways. A Construction Management Plan is required as the site is located between two main roads and construction should not affect the flow of traffic on these routes.

The application is recommended for approval on highway grounds subject to 2 conditions and 4 informatives and is not expected to have a detrimental impact on the public highway and will improve highway safety.

The following comments were received from English Heritage (Historic building and area matters) –

This application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

The following comments were received from English Heritage (Archaeology) –

Thanks for your input regarding the new landscaping at St John the Baptist. I think that we are all agreed that the non-dig strategy that has been adopted for the proposals makes it unlikely that burials, disarticulated human remains or burial vaults will be affected, which is great news. We've also agreed, however, that the groundworks should be monitored by HADAS on the off-chance that any remains are encountered, and also to keep an eye out for any residual artefactual material (pottery and brick/tile) that might have migrated into the subsoil.

As this is a Council project and the archaeological observations will be carried out in a voluntary capacity, I do not think we need to have an archaeological planning condition on the consent, as long as everyone is aware of how we will proceed.

**Page 190-195**

**Reference: B/04867/11**

**Address: 170 & 172 High Street, Barnet, Herts, EN5 5XP**

Amend Condition 1 to read as follows:

The development hereby permitted shall be carried out in accordance with the following approved plans:

TT11, TT13, TT14 - Design and Access Statement (date received 6-Dec-2011);

TT12a (date received 10-Jan-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

**Page 196-201**

**Reference: B/04904/11**

**Address: 170 & 172 High Street, Barnet, Herts, EN5 5XP**

Amend Condition 1 to read as follows:

The development hereby permitted shall be carried out in accordance with the following approved plans:

TT11, TT13, TT14 - Design and Access Statement (date received 6-Dec-2011);

TT12a (date received 10-Jan-2012).

Reason: For the avoidance of doubt and in the interests of proper planning.

**Page 202-207**

**Reference: B/04870/11**

**Address: 176 High Street, Barnet, Herts, EN5 5SZ**

The development hereby permitted shall be carried out in accordance with the following approved plans: TT21, TT23 - Design and Access Statement (date received 6-Dec-2011);

TT22a (date received 10-Jan-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

**Page 208-214**

**Reference: B/04897/11**

**Address: 176 High Street, Barnet, Herts, EN5 5SZ**

The development hereby permitted shall be carried out in accordance with the following approved plans: TT21, TT23 - Design and Access Statement (date received 6-Dec-2011);

TT22a (date received 10-Jan-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

**Page 215-219**

**Reference: B/04869/11**

**Address: 1B Church Passage, Barnet, Herts, EN5 4QS**

Amend Condition 1 to read as follows:

The development hereby permitted shall be carried out in accordance with the following approved plans: TT31, TT34 - Design and Access Statement (date received 6-Dec-2011);

TT32a (date received 10-Jan-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

**Page 220-226**

**Reference: B/04900/11**

**Address: 1B Church Passage, Barnet, Herts, EN5 4QS**

Amend Condition 1 to read as follows:

The development hereby permitted shall be carried out in accordance with the following approved plans: TT31, TT34 - Design and Access Statement (date received 6-Dec-2011);

TT32a (date received 10-Jan-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.