

MEETING

EAST AREA PLANNING SUB-COMMITTEE

DATE AND TIME

WEDNESDAY 9TH APRIL, 2014

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, NW4 4BG

TO: MEMBERS OF EAST AREA PLANNING SUB-COMMITTEE (Quorum 3)

Chairman: Councillor Andreas Tambourides
Vice Chairman: Councillor Bridget Perry

Councillors

Alison Cornelius	Alan Schneiderman	Joanna Tambourides
Arjun Mittra	Stephen Sowerby	Jim Tierney
Barry Rawlings	Andrew Strongolou	

Substitute Members

Richard Cornelius	David Longstaff	Lisa Rutter
Rowan Quigley Turner	Kath McGuirk	Brian Salinger
Pauline Coakley Webb	Alison Moore	
Anne Hutton	Robert Rams	

You are requested to attend the above meeting for which an agenda is attached.

Andrew Nathan – Head of Governance

Governance Services contact: Chidilim Agada 020 8359 2037
chidilim.agada@barnet.gov.uk

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes of last meeting	
2.	Absence of Members (If any)	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Public Question Time (If any)	
5.	Members' Items (If any)	
	Reports of the Acting Assistant Director of Planning and Development Management	
	Coppetts Ward	
6.	21 Queens Parade, Friern Barnet Road, London, N11 3DA - B/05995/13	1 - 10
	East Barnet Ward	
7.	Land to the rear of 43 Park Road, Barnet, Herts, EN4 9QD - B/00953/14	11 - 20
8.	179A Victoria Road, Barnet, Herts, EN4 9PA - B/00548/14	21 - 30
	East Finchley Ward	
9.	Flat 4, 13 Fortis Green, London, N2 9JN - F/00428/14	31 - 38
	West Finchley Ward	
10.	36 Alexandra Grove, London, N12 8HG - F/00475/14	39 - 50
	Woodhouse Ward	
11.	50 Finchley Park, London N12 9JL - TPO/00040/14/B	51 - 62
12.	Any item(s) the Chairman decides are urgent	

FACILITIES FOR PEOPLE WITH DISABILITIES

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LOCATION: 21 Queens Parade, Friern Barnet Road, London, N11 3DA
REFERENCE: B/05995/13 **Received:** 18 December 2013
WARD(S): Coppetts **Accepted:** 22 January 2014
Expiry: 19 March 2014

Final Revisions:

APPLICANT: Mr M Lee
PROPOSAL: Change of use of vacant ground floor shop from A1 use to D1 (Dental Clinic) with provision of new shop front.

RECOMMENDATION: Refuse

- 1 The applicant has failed to provide sufficient evidence to demonstrate that the application shop unit has been actively and continuously marketed as a shop (Use Class A1) for at least 12 months, at an appropriate price for both rent and sale, prior to the submission of the application and that there has been no interest expressed in the unit for retail or similar use, and in the absence of such evidence the loss of this A1 retail unit would detract from the vitality of the local parade, of which this site is part, contrary to policy 4.8 of The London Plan (2011), policy CS6 of the Barnet Core Strategy (2012) and policy DM12 of the Development Management Policies DPD (2012).

INFORMATIVE(S):

- 1 The plans accompanying this application are:
 - Planning Statement produced by Stuart Henley & Partners Chartered Surveyors.
 - Ordnance Survey Map showing the Application Site Location 4241_05 and 4241_06
- 2 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council’s website. A pre-application advice service is also offered.

The applicant did not seek to engage with the Council prior to the

submission of this application through the established formal pre-application advice service. In accordance with paragraph 189 of the NPPF, the applicant is encouraged to utilise this service prior to the submission of any future formal planning applications, in order to engage pro-actively with the Council to discuss possible solutions to the refusal reasons.

Further information was suggested during the processing of the application. Unfortunately it was not submitted. If the applicant wishes to submit a further application, the Council is willing to assist in identifying possible solutions through the pre-application advice service.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The 'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The London Plan is recognised in the NPPF as part of the development plan.

The NPPF states that "good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

NPPF retains presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

The Mayor's London Plan July 2011:

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Relevant policies:

- 2.7 - Outer London: economy
- 4.7 - Retail and town centre development
- 4.8 - Supporting a successful and diverse retail sector
- 6.13 - Parking
- 7.2 - An inclusive environment
- 7.3 - Designing out crime
- 7.15 - Reducing noise and enhancing soundscapes

Relevant Local Plan (2012) Policies:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11th September 2012

Relevant Core Strategy DPD (2012) Policies: CS NPPF, CS1, CS5, CS6, CS9, CS11 and CS12.

Relevant Development Management DPD (2012) Policies: DM01, DM02, DM03, DM04, DM12 and DM17.

Design Guidance No. 10 Shopfronts (2011).

Relevant Planning History:

Site history for current landparcel :

95860 - 21 Queens Parade, Friern Barnet Road, London, N11 3DA

Case Reference: **B/05995/13**

Planning applications picked up in spatial search

Site Address:	21 Queens Parade Friern Barnet Lane N11
Application Number:	C03634
Application Type:	Full Application
Decision:	Refuse
Decision Date:	12/04/1972
Appeal Decision:	No Appeal Decision Applies
Appeal Decision Date:	No Appeal Decision Date exists
Proposal:	Change of use to fish and chip shop
Case Officer:	

Site Address: 21 QUEENS PARADE FRIERN BARNET ROAD LONDON N11 3DA

Application Number: N03634B/02
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 14/11/2002
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of existing single storey rear extension, erection of new single storey rear extension (storeroom of shop premises).**

Case Officer:

Site Address: 21 Queens Parade Friern Barnet Road London N11
Application Number: C03634A
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 06/09/1972
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **change of use to a fish and chip shop**
Case Officer:

Site Address: 21 Queens Parade, Friern Barnet Road, London, N11 3DA
Application Number: 04878/11
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 19/03/2012
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Two storey rear extension to existing shop premises and loft conversion to existing flat involving rear dormer**

Case Officer: Lisa Cheung

Site Address: 21 Queens Parade, Friern Barnet Road, London, N11 3DA
Application Number: B/04280/13
Application Type: Full Application
Decision: Not yet decided
Decision Date: Not yet decided
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Conversion of upper floors into 3 self-contained units.**
Case Officer: Mumtaz Shaikh

Consultations and Views Expressed:

Neighbours Consulted: 109 Replies: 15 representation in support of the application has been received. This includes support from local Councillor.

Neighbours Wishing To Speak 0

Internal /Other Consultations:

Transportation -The proposal is for conversion of existing A1 use store into a D1 Dental Practice with 3 consulting rooms. No off street parking is provided for the existing premises and no off street parking is proposed for the new use. The site is located at Friern Barnet Local Shopping frontage in close proximity to several bus routes and amenities.

Taking into consideration the site's location and that the existing A1 use could generate similar or higher level of trips than the proposed D1 use, the proposal with no off street parking provision is considered acceptable on highways grounds.

Environmental Health - No objection subject to sound insulation condition between proposed ground floor dental clinic and residential above.

Date of Site Notice: 30 January 2014

2. PLANNING APPRAISAL

Application referred to committee at the request of Councillor Rawlings & Councillor Coakley Webb for the following reason:

"The premises have been vacant for some 18 months with an agent's board displayed on site. It is considered that the proposal addresses parts i, ii and iii of policy DM12 and the use of the premises as a dental surgery would not detract from the vitality / viability of the parade".

Site Description and Surroundings:

The application site comprises a three-storey, mid-terrace property with two-storey rear extension and rear dormer window located on the southern side of Friern Barnet Road, which is located close to the junction with Hollyfield Avenue on the east side and on the west side it is also located within close proximity to the junction where Friern Barnet Road meets Friern Barnet Lane, Woodhouse Road and Colney Hatch Lane.

The property on the ground floor comprises a vacant shop unit which is located within a parade of shops known as Queens Parade and it is also a part of protected Friern Barnet Local Shopping Frontage. Part of the existing first floor provides storage area for the ground floor shop. However, part first, second and third floor of the building is being used as 1 x 3-bedroom flat.

The area surrounding the application site is mixed commercial and residential in nature comprising terraced, semi-detached and detached properties.

The property is not listed and is not located within conservation area.

Proposal:

The application is for change of use of existing ground floor vacant shop from A1 to D1 (Dental Clinic) with provision of new glazed shop front which comprises a central door with 2 large equal size windows on either side.

Planning Considerations:

1) Principal of change of use / Impact upon the vitality and viability of a local shopping parade

Development Management Policy DM12 is relevant to the issue of the principal of the loss of shops in local centres and parades. It states that,

DM12: Maintaining Local Centres and Parades

The Council will protect all retail uses (Class A1) in the existing local centres, parades and isolated shops unless it can be demonstrated that:

- i. there will be no significant reduction of shopping facilities as a result; and*
- ii. alternative shopping facilities that are similarly accessible by walking, cycling or public transport exist to meet the needs of the area; and*
- iii. the proposed use is within Class A2, A3, A4, A5 or meets an identified local need; and*
- iv. there is no demand for continued Class A1 use, and that the site has been marketed effectively for such use*

A proposal that either creates an over concentration of Class A2, A3, A4, and A5 uses or has a significant adverse effect on the amenity of existing residents will be refused. Community uses will be expected to present an active frontage at ground floor and be able to demonstrate a similar weekday footfall to a Class A1 Use. Proposals for residential use should not cause a break in a frontage.

Assessment of the Proposal

The proposed shop at present is vacant. The previous use of the shop unit was retail (Glass Merchant and Glaziers). The proposal would result in a loss of a retail unit.

The recent shopping survey (carried out in February 2014) of Queens Parade which is part of Friern Barnet Local Centre confirms the existing uses of the shop units in the parades as follows:

Use Class	Number	Percentage
A1	9	50%
A2	1	5.56%
A3	3	16.66%

A4	0	0%
A5	2	11.11%
D1	1	5.56%
Sui generis	1	5.56%
Vacant	1	5.56%
Total	18	100%

Queens Parade at present comprise 50% of shops in retail use (Use Class A1), 33.33% within non-retail use (Use Class A2, A3, A4 and A5), 5.56% within (Use Class D1), 5.56% (as Sui Generis) and 5.56% as vacant.

- The proposed change of use from retail to Dental Clinic (Use Class D1) in respect of the above policy DM12 would result in a loss of 1 retail unit (i.e. the application shop unit which is currently vacant but was used Glass Merchant and Glazier (Use Class A1)).
- There is also no information provided with this application to demonstrate that there is no demand for continued Class A1 use, and that the site has been marketed effectively for such use.
- The proposed use does not fall within Use Class A1, A3, A4 and A5 or there is no evidence to identify that the proposed use would meet an identified local need. The applicant currently has a Dental Clinic at No. 28 Queens Parade and would now like to occupy ground floor shop unit at No. 21 Queens Parade as Dental Clinic. The reason given for this is that it would be a bigger premises and would be able to provide disabled/wheelchair facilities. The applicant is supported by 15 representations which are largely from Queens Parade, 1 from adjacent Hollyfield Avenue, 1 from Ashmore Court and local Councillors.

The application therefore fails to comply with the above Council policy DM12 and is considered to be unacceptable as it would affect the vitality and viability of the existing Local Shopping Centre and it would set precedent for others to follow.

Residential Amenity

The upper floors of the existing application site has an established residential use comprising flat(s) above the ground floor shop. The proposed Dental Clinic comprising 3 surgery rooms is likely to result in some drilling noise associated with the dental practice and equipments used. The current application does not indicate any sound insulation measures between the proposed ground floor use and residential above and therefore if the proposal was recommended for approval a condition requiring sound insulation details between ground and first floor of the premises would be attached to minimise its impact on the upper floor residential use.

Transportation

The proposal is for conversion of existing A1 use store into a D1 Dental Practice with 3 consulting rooms. No off street parking is provided for the existing premises and no off street parking is proposed for the new use. The site is located within Friern Barnet Local Shopping frontage in close proximity to several bus routes and amenities.

Taking into consideration the site's location and that the existing A1 use could generate similar or higher level of trips than the proposed D1 use, the proposal with no off street parking provision is considered acceptable on highways grounds.

New Shopfront

The application is proposing installation of a new glazed shopfront to the existing ground floor shop. The proposed new shopfront replaces the more traditional style timber framed glazed shopfront comprising stall risers with a modern style shopfront comprises no stall riser. The proposed shopfront design appears to be more in keeping with the neighbouring shopfront at No. 20 Queens Parade and therefore in principle is considered to be acceptable. However, if the application was to be recommended for approval stall riser of height similar to that exist at No. 20 Queens Parade would have been requested. The door to the proposed new shopfront is set against the ground level and therefore would provide reasonable level access for disabled and less mobile users. The new shopfront subject to the above is considered to be in keeping with the character and appearance with the shopfronts of the surrounding shops in the parade and the area and would not be detrimental to the amenities of the occupiers of neighbouring properties. This part of the proposals is therefore considered to be acceptable.

3. COMMENTS ON GROUNDS OF OBJECTIONS

There are no objections received for this application

4. EQUALITIES AND DIVERSITY ISSUES

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

Having taken all material considerations into account, it is considered that this proposal does not comply with the Adopted Barnet Local Plan policies and guidance because the application involves the loss of retail unit within Protected Local Shopping Frontage and that it has not been effectively marketed for continued A1 use. This application is therefore recommended for REFUSAL.

SITE LOCATION PLAN: 21 Queens Parade, Friern Barnet Road, London, N11 3DA

REFERENCE: B/05995/13

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LOCATION: Land to the rear of 43 Park Road, Barnet, Herts, EN4 9QB
REFERENCE: B/00953/14 **Received:** 21 February 2014
WARD(S): East Barnet **Accepted:** 21 February 2014
Expiry: 18 April 2014

Final Revisions:

APPLICANT: Mr J Westrope
PROPOSAL: Erection of a new two-storey house with associated car parking and amenity space.

RECOMMENDATION: Refuse

- 1 The proposed dwelling, by reason of its detached form, its siting, its design and its lack of connectivity with the adjacent housing estate from which it would be accessed, would appear as a detached and discordant feature within the street scene which would not preserve or enhance local character, respect the pattern of surrounding buildings, and would not safeguard trees. The proposal would be detrimental to the character and appearance of the street scene and the wider locality and would be contrary to Policies CS NPPF, CS1 and CS5 of the Local Plan Core Strategy (adopted September 2012) and Policy DM01 of the Development Management Policies DPD (adopted September 2012), and the Residential Design Guidance SPD (adopted April 2013).

INFORMATIVE(S):

- 1 The plans accompanying this application are: Location Plan 1-202, Drawing No. P/200, 201, 203.
- 2 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council’s website. A pre-application advice service is also offered.

The applicant did not seek to engage with the Council prior to the submission of this application and following the determination of the previous application through the established formal pre-application advice service. In accordance with paragraph 189 of the NPPF, the applicant is encouraged to utilise this service prior to the submission of any future formal planning applications, in order to engage pro-actively with the Council to discuss possible solutions to the refusal reasons.

- 3 This is a reminder that should an application for appeal be allowed, then the proposed development would be deemed as 'chargeable development',

defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Therefore the following information may be of interest and use to the developer and in relation to the appeal process itself:

The Mayor of London adopted a Community Infrastructure Levy (CIL) charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for a £0 per sq m rate for education and health developments. This planning application was assessed as liable for a £2905 payment under Mayoral CIL at this time.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking were set at a rate of £0 per sq m. This planning application was assessed as liable for a £11205 payment under Barnet CIL at this time.

Liability for CIL is recorded to the register of Local Land Charges as a legal charge upon a site, payable should development commence. The Mayoral CIL charge is collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail.

If Affordable Housing Relief or Charitable Relief applies to this development, such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

The assumed liable party will be sent a 'Liability Notice' providing full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the original applicant for permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice; also available from the Planning Portal website.

The Community Infrastructure Levy becomes payable upon commencement of development. A 'Notice of Commencement' is required to be submitted to the Council's CIL Team prior to commencing on site; failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of any appeal being allowed, please contact us: cil@barnet.gov.uk.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The 'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that "good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people". The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

The Mayor's London Plan July 2011:

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The Mayor's Housing Supplementary Planning Guidance (November 2012) provides guidance on how to implement the housing policies in the London Plan.

Relevant Local Plan (2012) Policies:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11 September 2012.

Relevant Core Strategy DPD (2012): Policies CS NPPF, CS1, CS5.

Relevant Development Management DPD (2012): Policies DM01, DM02, DM08 and DM17.

Supplementary Planning Documents and Guidance

The Council's Residential Design Guidance SPD was adopted in April 2013. This sets out information for applicants to help them design an extension to their property which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation.

Included advice states that large areas of Barnet are characterised by relatively low

density suburban housing with an attractive mixture of terrace, semi-detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.

In respect to amenity, development should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

The Council adopted a Sustainable Design and Construction SPD in April 2013, following public consultation. This SPD provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

Relevant Planning History:

Site Address: r/o 43B Park Road NEW BARNET
Application Number: N09102A
Application Type: Outline Application
Decision: Refuse. **1)** Proposal would result in loss of rear garden amenity space of 43b Park Road. **2)** Result in backland development, creating a poor residential environment, detrimental to residential and visual amenities of occupiers of neighbouring properties
Decision Date: 23/08/1999
Proposal: **Erection of detached three-bedroom house with 2 parking spaces (outline).**

Site Address: R/O 43 Park Road, Barnet, Herts, EN4 9QD
Application Number: B/04233/13
Application Type: Full Application
Decision: Refuse. **1)** Detached and discordant feature in the street scene which would not preserve or enhance local character, respect the pattern of surrounding buildings or safeguard trees. **2)** Substandard internal floor area and room sizes. **3)** Unsatisfactory parking provision for future occupants.
Decision Date: 07/11/2013
Proposal: **Erection of 1no. two storey dwellinghouse including 2no. off-street parking and hard/soft landscaping.**

Consultations and Views Expressed:

Neighbours Consulted: 107 Replies: 5 letters of objection have been received at the time of drafting report.
Neighbours Wishing To Speak: 0

The objections raised may be summarised as follows:

- Proposed dwelling will block the view from neighbouring properties.
- Proposed dwelling would overlook neighbours.
- Proposal would result in a loss of trees.
- Proposal would adversely impact property values.
- Development in back gardens results in a loss of ground to absorb heavy rain, increasing flood risk.
- Appletree Gardens is a private estate which does not give access to vehicles

other than those owned by residents - access will not be given.

- The applicant has assumed they will be able to connect to a private sewerage system but permission will not be given.
- Proposal would be contrary to covenants on the site.
- Proposal would appear as an exception to the general design of the area.

Councillor Evangeli has requested that this application be referred to the Committee, in order for the Committee to discuss all the ramifications and implications of developments in back gardens in East Barnet.

Any additional representations received following the publication of this report will be reported at the Meeting.

Date of Site Notice: 13 March 2014

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site forms the rear portion of the lawned garden to No. 43 Park Road, a two storey property which contains two flats.

The site is adjacent to No. 7 Appletree Gardens. This is the end property in a terrace of three. Appletree Gardens is a development set to the rear of three storey flatted buildings which front Park Road. It has its own access from Park Road, and comprises two storey pairs of semi-detached dwellings and rows of three terraced properties. The properties are all broadly similar in design, with ground floor bay windows and porch canopy roofs, dormer-type roofs above the first floor windows, horizontal roof ridges with gable ends, and a regular pattern of red-brick and yellow-brick groupings. The properties are arranged fronting a large area of hardstanding to provide parking, with bin stores located close to the access road. Appletree Gardens was constructed following the approval of planning permission in 1989 for a scheme including the flatted development fronting Park Road and the two storey dwellings in Appletree Gardens.

Proposal:

This application proposes the construction of a two storey dwelling in land to the rear of No. 43 Park Road, and adjacent to No. 7 Appletree Gardens. The proposed dwelling would measure approximately 11 metres in depth at ground floor level, 7.5 metres in depth at first floor level, and 5.4 metres in width. It would have a pitched roof with a ridge height of 7.5 metres. The submitted drawings show that it would be positioned approximately 1 metre from the common boundary with the curtilage of No. 7 Appletree Gardens, and approximately 1 metre from the common boundary with No. 41 Park Road.

This application follows the refusal of planning application B/04233/13 which proposed a detached two storey dwelling at the site. The application was refused for three reasons. The first states that the proposed dwelling, by reason of its detached form, its siting and its lack of connectivity with the adjacent housing estate from which it would be accessed would appear as a detached and discordant feature which would not preserve or enhance local character, respect the pattern of

surrounding buildings, and would not safeguard trees. The second states that the proposed dwelling, by reason of its substandard internal floor area and bedroom sizes would not provide a satisfactory level of amenity for future occupants. The third states that the proposed development would not provide for satisfactory off-street parking and access.

The changes between the previous scheme and the current application are as follows:

- The width of the proposed dwelling has been increased from 4.8 metres to 5.4 metres.
- A single storey rear projection is now included within the design, forming a rear conservatory.
- The parking spaces have been repositioned approximately 6 metres further north within the site.

Planning Considerations:

As noted above, this application follows a recently refused planning application. Having regard to the differences between the current scheme and the previously refused proposal, it is necessary to assess whether the previous reasons for refusal have been overcome, and whether any additional concerns are raised by the amendments.

Impact on the character of the area

In the previous application, it was acknowledged that the design of the proposed building would reflect the visual appearance of the neighbouring properties which front Appletree Gardens, and no objections were raised by the Local Planning Authority in respect of the design. In the current application, the width of the building has been increased. This results in a change to the proportions and appearance of the front elevation of the building, which would no longer reflect the appearance of the neighbouring properties. The proposal would therefore appear as an incongruous feature within the street scene, not reflective of the surrounding development.

In the previous application, it was noted that Appletree Gardens contains rows of terraced and semi-detached dwellings, laid out in a planned estate fronting a communal parking and landscaped area. The estate has a regular appearance. The proposed dwelling would be of a greater width than the neighbouring buildings, and would be a detached building set at the edge of the existing development. It was noted that the dwelling proposed at that time would appear as an uncharacteristically small dwelling in its own right. In this instance, the proposal would appear as an uncharacteristic addition to the main development. The dwelling would not front the communal parking area but would have a landscaped garden area to the front and its own parking area. It would appear as a visually separate and distinct entity from the estate it would adjoin, detached from and discordant with the character and appearance of the street scene. It would appear in stark contrast with the general pattern of development at Appletree Gardens. In this respect, the proposal would, as with the previous application, adversely affect the character and appearance of the locality.

In addition, the applicant has submitted an Arboricultural statement which shows the proposed dwelling would be positioned within the root protection area of a number of

trees which are located within neighbouring gardens, in close proximity to the application site. Trees would also be removed in order to facilitate the creation of the vehicular access. The damage caused to the trees, and the loss of trees, would cause further detriment to the character and appearance of the area.

Quality of accommodation

The current application proposes a two bedroom house. The Sustainable Design and Construction SPD requires a minimum internal floor area of 83 square metres. The submitted drawings include measurements which state that the proposal would have an internal floor area of 83 square metres. The SPD states that residential development should meet or exceed the minimum space standards. Given that the proposal would meet the minimum requirement, the proposal would overall provide an acceptable level of accommodation for future occupants. The bedrooms and other rooms would meet the relevant minimum internal room size requirements, and would have adequate fenestration. As a result, it is considered that the proposal would provide adequate accommodation for future occupants, and the second reason for refusal attached to the previously refused application has been overcome.

Parking provision

In the previous planning application, the proposed vehicular access was to the south of the plot, with the parking area for two vehicles accessed directly from this access. Objections were raised given that access to the proposed access and parking spaces would have been restricted by existing established parking spaces serving Appletree Gardens. In the current application, the position of the access and parking spaces has been relocated approximately 6 metres to the north, to enable direct access from Appletree Gardens. The proposed access and parking area would not result in a loss of existing parking, and would be independently accessible. As a result, the parking provision is considered to be acceptable and the third reason for refusal attached to the previous planning application has been overcome.

Other Matters

No objections were raised by the Local Planning Authority in the previous planning application in respect of the impact of the proposal on the amenities of neighbouring occupants. The proposed dwelling has been sited such that it would not appear overbearing or visually intrusive when viewed from any neighbouring property. The position of the windows within the dwelling would be commensurate with the relationship between neighbouring windows to other properties, and would not result in any overlooking which would cause harm to the amenities of the occupants of any neighbouring property.

The proposal would provide a rear amenity area of sufficient size to meet the minimum size requirements.

3. COMMENTS ON GROUNDS OF OBJECTIONS

The impact of development on views, or on property values, or on legal covenants, is not a material planning consideration. The area is not identified by the Environment Agency as being one of high flood risk. All other comments are addressed in the appraisal above.

4. EQUALITIES AND DIVERSITY ISSUES

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

The proposal is contrary to the Development Plan policies, and is therefore recommended for refusal.

SITE LOCATION PLAN:
EN4 9QD

Land to the rear of 43 Park Road, Barnet, Herts,

REFERENCE:

B/00953/14



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AGENDA ITEM 8

LOCATION: 179A Victoria Road, Barnet, Herts, EN4 9PA

REFERENCE: B/00548/14

Received: 01 February 2014

Accepted: 31 January 2014

WARD(S): East Barnet

Expiry: 28 March 2014

Final Revisions:

APPLICANT: M Gear (Engineering) Ltd

PROPOSAL: Demolition of existing buildings and the construction of 1no. two-storey detached dwelling and 2no. two-storey semi-detached dwellings. Provision of off-street parking, refuse storage and amenity space.

RECOMMENDATION: Refuse

- 1 The proposed buildings, by reason of their size, siting, and proximity to the site boundaries, in combination with the small size of the resultant plots, would appear as a cramped, visually obtrusive and contrived development. It would not reflect the size and character of neighbouring development, and would be detrimental to the character and appearance of the locality. The proposal is contrary to Policies CS NPPF, CS1 and CS5 of the adopted Local Plan Core Strategy (September 2012), to Policies DM01 and DM02 of the adopted Local Plan Development Management Policies DPD (September 2012) and to the adopted Residential Design Guidance SPD (2013).
- 2 The proposed building on Plot 1 by reason of its height, depth and proximity to the boundary with neighbouring property No.173 Victoria Road, would appear prominent, overbearing and visually intrusive when viewed from the rear garden of No.173 Victoria Road. The proposal would therefore be detrimental to the amenities of the occupants of these neighbouring properties, and contrary to Policies CS NPPF and CS5 of the Local Plan Core Strategy (adopted September 2012), to Policy DM01 of the Development Management Policies DPD (adopted September 2012) and to the adopted Residential Design Guidance SPD (2013).
- 3 The proposed development, by reason of the length and width of the access road and the inability to provide an easily accessible refuse collection point on site fails to meet the principles of accessible and inclusive design, contrary to the requirements of policy 7.2 of the Mayors London Plan (July 2011) and policy DM03 of Barnet's adopted Local Plan Development Management Policies DPD (September 2012).
- 4 The creation of a bin collection point at the front of 177 Victoria Road would require the removal of the existing front wall and hedge and would be out of

character for the surrounding area. The proposal would be contrary to Policy DM01 of the adopted Development Management Policies DPD (2012) and to guidance contained in the adopted Residential Design Guidance SPD (2013) and adopted Sustainable Design and Construction SPD (2013).

INFORMATIVE(S):

- 1 The plans accompanying this application are: 841-SPL-001 PL1; 841-SPL-101 PL1; 841-SPL-202 PL1; 841-SPL-203 PL1; 841-SPL-250 PL1; 841-SPL-251 PL1; 841-SPL-252 PL1; 841-SPL260 PL1; 841-SPL-261 PL1; Refuse Strategy Pre Application Advice by RDT Design dated January 2014; Residential Development Proposals by JB Planning Associates; Refuse Strategy Pre Application Advice by RDT Design dated January 2014; Noise Impact Assessment by M. Gear Engineering ltd dated 31.08.2011; marketing information from Maunder Taylor; Access Appraisal by WSP dated 22.08.12; 841-SPL-201 PL1; 841-SPL-200 PL1; 841-SPL-100 PL1; Design and Access Statement by RDT design dated January 2014; TS11-211P\1; Sustainability Checklist by RDT Design dated Dec 2012.
- 2 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.
- 3 This is a reminder that should an application for appeal be allowed, then the proposed development would be deemed as 'chargeable development', defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Therefore the following information may be of interest and use to the developer and in relation to the appeal process itself:

The Mayor of London adopted a Community Infrastructure Levy (CIL) charge on 1st April 2012 setting a rate of £36.72 per sq m on all forms of development in Barnet except for a £0 per sq m rate for education and health developments. This planning application was assessed as liable for a £12,233.95 payment under Mayoral CIL at this time.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £141.63 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking were set at a rate of £0 per sq m. This planning application was assessed as liable for a £47,188.10 payment under Barnet CIL at this time.

Liability for CIL is recorded to the register of Local Land Charges as a legal charge upon a site, payable should development commence. The Mayoral

CIL charge is collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail.

If Affordable Housing Relief or Charitable Relief applies to this development, such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

The assumed liable party will be sent a 'Liability Notice' providing full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the original applicant for permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice; also available from the Planning Portal website.

The Community Infrastructure Levy becomes payable upon commencement of development. A 'Notice of Commencement' is required to be submitted to the Council's CIL Team prior to commencing on site; failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of any appeal being allowed, please contact us: cil@barnet.gov.uk.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The Mayor's London Plan: July 2011

Core Strategy DPD (Adopted) 2012: CS NPPF; CS 1; CS 4; CS 5

Development Management Policies DPD (Adopted) 2012: DM01; DM02; DM03; DM04; DM08; DM14; DM17

Residential Design Guidance SPD (Adopted) 2013

Sustainable Design and Construction SPD (Adopted) 2013

Relevant Planning History:

Site Address: 181A Victoria Road NEW BARNET
Application Number: N11683A
Application Type: Outline Application
Decision: Refuse
Decision Date: 16/03/1999
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Redevelopment of vehicle repair yard with the erection of 2 three-storey blocks of studio flats totalling 16 units with associated access and parking. (Outline Application).**

Case Officer:

Site Address: 179A Victoria Road, Barnet, Herts, EN4 9PA
Application Number: B/00157/11/ENQ
Application Type: Pre-Application Enquiry
Decision: Not yet decided
Decision Date: Not yet decided
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Construction of 1 detached and 2 semi-detached houses.**
Case Officer: Lisa Cheung

Site Address: 179A Victoria Road, Barnet, Herts, EN4 9PA
Application Number: B/00029/13
Application Type: Full Application
Decision: Refuse
Decision Date: 08/03/2013
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of existing buildings and the construction of 1no. two storey detached dwellinghouse and 2no. two storey plus rooms in the roofspace semi-detached dwellinghouses. associated amenity space, refuse storage and car parking spaces.**

Case Officer: Lisa Cheung

Site Address: 179A Victoria Road, Barnet, Herts, EN4 9PA
Application Number: B/00548/14
Application Type: Full Application
Decision: Not yet decided
Decision Date: Not yet decided
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of existing buildings and the construction of 1no. two-storey detached dwelling and 2no. two-storey semi-detached dwellings. Provision of off-street parking, refuse storage and amenity space.**

Case Officer: James Stone

Consultations and Views Expressed:

Neighbours Consulted: 102 Replies: 1 letter of objection
Neighbours Wishing To Speak 0

The objections raised may be summarised as follows:

- lack of parking

Date of Site Notice: 20 February 2014

2. PLANNING APPRAISAL

The application has been referred to the East-Area Sub Committee at the request of Cllr Rams for the following reasons:

'I consider that the proposals are in character with the appearance of the locality and reflect the size and character of neighbouring development. I consider the proposal will not be detrimental to the neighbouring properties. I therefore support this scheme. Given the current use I think it would be an improvement to the existing site and therefore would like the application to be determined by committee.'

Site Description and Surroundings:

The application site relates to a large plot of land located on the eastern side of Victoria Road. The land is occupied by an assortment of single storey flat roofed buildings which are currently occupied by an Engineering Company who have occupied these premises for a long period of time. The existing building is wholly commercial in character and appearance. The site is landlocked in that it is surrounded by built form on all sides and access is provided via a narrow access road from Victoria Road. This site sits behind No's 177 and 179 Victoria Road, a pair of semi-detached residential properties. The rear gardens of these properties are shorter than neighbouring properties to the north.

This area is now predominantly residential in character however historically has been mixed with both residential and commercial uses operating side by side.

Adjacent site No.181 Victoria Road to the south is also used for commercial purposes and has a number of buildings on the site which have been used for various uses within the B/B2/B8 use classes. Planning permission has been granted for the redevelopment of this site to provide residential dwellings and office units. There are purpose built blocks of local authority flats to the south east, residential properties in Victoria Close to the rear and rear gardens of properties along Victoria Road to the north.

Proposal:

The application seeks permission for the demolition of the existing commercial buildings and for the erection of a pair of semi-detached dwellings (both 3 bedrooms) and for the erection of a detached dwelling (2 bedrooms). The existing access to the site would be used to provide vehicular access to the site. A turning head would be provided at the rear of 177/179 Victoria Road along with the provision of 2 parking spaces and a bin store. The scheme also includes the provision of a bin store for collection days at the front of 177 Victoria Road (the applicant also owns 177 Victoria Road). A third parking space would be provided adjacent to the proposed detached dwelling along the southern boundary.

The dwellings at plots 1 and 2 would have an approximate height of 8m whilst the proposed dwelling at plot 3 would have an approximate height of 7m. Plot 1 would be located approximately 2m from the boundary with 173 Victoria Road whilst Plot 3 would also be located approximately 2m from the boundary with the premises to the south. The rear elevations of the proposed dwellings would be located at a maximum of 17m and a minimum of 3m from the rear boundary.

It should be noted that a similar scheme, which was also for the erection of a pair of semi-detached dwellings and a detached dwelling, was refused at the site under ref: B/00029/13. The main differences between the refused scheme and the current proposal relate to the design of the dwellings but it should be noted that the layout of the overall scheme is still very similar.

B/00029/13 was refused because:

- 1) The proposed buildings, by reason of their size, siting, and proximity to the site boundaries, in combination with the small size of the resultant plots, would appear as a cramped, visually obtrusive and contrived development. It would not reflect the size and character of neighbouring development, and would be detrimental to the character and appearance of the locality.
- 2) The proposed building on Plot 1 by reason of its height, depth and proximity to the boundary with neighbouring property No.173 Victoria Road, would appear prominent, overbearing and visually intrusive when viewed from the rear garden of No.173 Victoria Road.
- 3) The proposed development, by reason of the length and width of the access road does not provide an adequate refuse collection point on site.
- 4) The proposed development fails to provide adequate quality and usable amenity space for the new dwellings detrimental to the amenities of the future and existing occupiers of these dwellings
- 5) The development does not include a formal undertaking to meet the extra health, education and libraries services costs together with associated monitoring costs arising as a result of the development

It is considered that all of these reasons for refusal still apply to the current application apart from the 4th and 5th reasons. The 4th reason for refusal is explained in more detail below but the 5th reason for refusal is no longer relevant because of the introduction of the Community Infrastructure Levy (CIL). S106 contributions are not required as part of the current application.

Planning Considerations:

Loss of employment

The proposal would see the loss of employment on this site. Policy DM14 seeks to protect existing employment sites unless it can be demonstrated, via an effective marketing exercise, that there is no interest in the site for employment purposes. The Council will only permit the loss of a B Class use where it can be demonstrated to the council's satisfaction that a site is no longer suitable and viable for its existing or alternative business use in the short, medium and long term and a suitable period of effective marketing has been undertaken.

It is considered that the site has been effectively marketed with little interest and no

offers. It has been demonstrated that there is no interest in this site for employment purposes and given the site constraints, the loss of employment use is considered to be acceptable.

Principle of residential use on the site

This area is now predominantly residential in character and so a residential use on this site is considered to be acceptable.

Design and layout of the development

There are serious constraints to development on this site and whilst it is considered that dwellings can be achieved on this site, the proposed 3no dwellings are considered to result in a cramped form of overdevelopment. The site is not only small but is awkwardly shaped which means that the size and location of any dwellings on this site must be given serious consideration. The pattern of development in this area is somewhat scattered as a result of the creation of closes and cul-de-sacs over the years. However most of the properties, especially those in close proximity to this backland site, are similar in size, scale and design. There are also ample gardens to the rear of these properties. The proposed dwellings are significant in their size when compared to the plot sizes. With regards to the dwellings on Plots 2 and 3 in particular, the depth of the dwellings is similar to the depth of the rear garden. The overall development, given the proximity to boundaries, particularly the rear boundaries and the northern boundary is cramped and out of character with the pattern of existing neighbouring development. There is very little spacing between the pair of semi-detached dwellings and the detached dwelling plus there is little spacing between the dwelling on Plot 1 and the boundary with No.173 Victoria Road (further issues in respect of this relationship are discussed later on). The development is not in keeping with the pattern and layout of neighbouring development. The design of the rear gardens, governed by the awkward shape of the site is not in keeping with the layout of neighbouring sites which is that of relatively long gardens. These issues were raised under ref: B/00029/13 and it is not considered that they have been adequately addressed under the current proposal.

The size of the dwellings is also out of keeping with the size of the dwellings around the site. The detached dwelling would be of a similar height at 7m however the pair of semi-detached dwellings would have a height of 8.2m to the ridge. Not only are the roofs of these dwellings disproportionate when compared to the overall size of the properties, appearing at odds with neighbouring properties but because they are higher, they would appear overly dominant and visually obtrusive when viewed from neighbouring properties and their rear gardens, harmful to the character and appearance of the application site and surrounding locality. It is accepted that the height of the proposed dwellings has been reduced when compared to the refused scheme B/00029/13, and that the design of the dwellings has been changed from gable-ended to hipped roof to reduce the massing, but the dwellings are still considered to be overly dominant.

The design principle of hipped roofs is acceptable because of the existence of numerous other hipped roof properties along Victoria Road.

Part of Local Plan policy DM01 states that development proposals should be based

on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. This proposal fails to do this and instead results in an isolated stand alone incongruous unsympathetic development which fails to harmonise with what is around it.

Residential amenity

The dwelling on Plot 1 given its size, height and proximity to the boundary would be overbearing and overly dominant, resulting in a sense of enclosure. The applicants have attempted to reduce the impact of the dwelling by changing the roof to a hipped design but it is still considered that given the close proximity of plot 1 to the boundary that it would still have an unacceptable impact on the amenity enjoyed by the residents of 173 Victoria Road.

In new residential development there should be a minimum distance of 21 meters between properties with facing windows to habitable rooms to avoid overlooking and 10.5m to a neighbouring garden. This development backs onto a car garage site and so the distance of 10.5m to a neighbouring garden does not apply here to the rear of the site however the site sits behind No.177 and 179 Victoria Road. The dwelling on Plot 1 meets the required distance of 10.5m to the rear garden of No.177 however habitable room windows in the front elevation of the dwelling on Plot 2 would only be 10m away from the rear garden of No.179. These standards are the absolute minimum and no shortfall will be supported. As such, this element of the proposal raises serious concerns about overlooking from the dwelling on Plot 2 to the rear garden of No.179 and it is considered the current layout and positioning of habitable room windows would have a significantly adverse impact on the amenities of those living at No.179, resulting in a loss of privacy, reducing the quality and usability of the garden area. Whilst it could be argued that there is built form to the rear of this garden and has been for many years, the existing buildings are single storey. Introducing large dwellings to the rear within 10.5m of the rear garden will allow for opportunities for overlooking and subsequent loss of privacy, not currently experienced. The development therefore fails to comply with the requirements set out in the Councils draft SPD - Residential Design Guide and there is no justification for non compliance.

Outdoor amenity space is highly valued and suitable provision will help to protect and improve the living standards of residents as well as contribute to maintaining and enhancing the wider character of the borough. Residential units with insufficient and poor quality amenity space are unlikely to provide good living conditions for future occupiers. The Sustainable Design and Construction SPD (2013) requires at least 40m² of amenity space for houses with four or less habitable rooms. Plot 3 has 3 habitable rooms whilst plots 1 and 2 have 4 habitable rooms. All three plots would provide adequately sized and easily accessible rear amenity space.

A noise survey was submitted as part of the current and previous applications given potential noise issues from neighbouring sites. The Councils Environmental Health Team reviewed the noise report under the previous application and concluded that whilst the site is located in a noisy area, this can be mitigated with appropriate construction methods and ventilation/glazing systems. As such, no objections are raised on noise and disturbance grounds from surrounding uses.

Parking and refuse

The parking provision is in accordance with the parking standards and the continued use of the access road for vehicle and pedestrian access is considered acceptable on highways grounds. However the vehicle access will not allow refuse vehicles to enter and turn within the site. As such, in order for refuse to be collected, the bins would have to be wheeled to the front of 177 Victoria Road on collection day. There are concerns with regards to the management of this process, ensuring that the occupiers bring the bins back into the site once they have been emptied however it is accepted that people putting their bins out for collection is a very common occurrence and as such, it does not form a reason for refusal however there are concerns about the inclusiveness of this part of the scheme. Local plan policy DM03 requires development proposals to meet the highest standards of accessible and inclusive design by demonstrating that they can be used safely, easily and with dignity by all regardless of disability, age, gender, ethnicity or economic circumstances and are convenient and welcoming with no disabling barriers so everyone can use them independently without undue effort, separation or special treatment. Wheeling a refuse bin which will have refuse in it along an access road which is 35m long and not wide enough to provide a separate pedestrian footpath will not be safe or easy for all to do. This arrangement would require undue effort which conflicts with the requirements of policy DM03.

The applicant has attempted to address the fact that the bin stores would be located at a significant distance from the public highway by incorporating land at the front of 177 Victoria Road which would be used as a bin collection point on the day of collection. In the submitted refuse statement the applicant has explained that the refuse department at Barnet Council are in acceptance of the locations of the proposed bin store. However, this proposition is considered unacceptable in planning terms for numerous reasons. Firstly, the bin store would require the removal of the existing front wall and hedge and would be out of character for the surrounding area. Secondly, the proposed arrangement does not overcome the problem raised under ref: B/00029/13 which is that not everyone would be necessarily able to wheel a bin for the distance required to the collection point. In fact, the current proposal would require the wheeling of bins over a greater distance than was proposed under the refused application.

3. COMMENTS ON GROUNDS OF OBJECTIONS

Covered in report.

4. EQUALITIES AND DIVERSITY ISSUES

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

The proposal is not considered to comply with the Council's adopted policies and guidance, and is therefore recommended for refusal.

SITE LOCATION PLAN: 179A Victoria Road, Barnet, Herts, EN4 9PA

REFERENCE: B/00548/14



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LOCATION: Flat 4, 13 Fortis Green, London, N2 9JN

AGENDA ITEM 9

REFERENCE: F/00428/14

Received: 27 January 2014

Accepted: 05 February 2014

WARD(S): East Finchley

Expiry: 02 April 2014

Final Revisions:

APPLICANT: Miss Papic

PROPOSAL: Extension to roof including new gable roof and dormer windows to both sides to facilitate a loft conversion. Amendments to rear elevation.

RECOMMENDATION: Approve Subject to Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Design & Access Statement, Drawing Nos. EX10, EX13, GA50, GA13, EX60, GA52, EX11, EX50, EX12, EX51, GA51, GA12, GA60 Rev P3 and GA11 Rev P2.

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 2 This development must be begun within three years from the date of this permission.

Reason:

To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 3 The materials to be used in the external surfaces of the building(s) shall match those used in the existing building(s).

Reason:

To safeguard the visual amenities of the building and surrounding area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 4 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows, other than those expressly authorised by this permission, shall be placed at any time in the

flank elevations, of the extension hereby approved, facing neighbouring properties.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

- 5 The use of the roof extension hereby permitted shall at all times be ancillary to and occupied in conjunction with the main building and shall not at any time be occupied as a separate unit.

Reason:

To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

- 6 Before the building hereby permitted is occupied the proposed window(s) in the eastern elevation facing the adjoining neighbour shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

INFORMATIVE(S):

- 1 i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The 'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The London Plan is recognised in the NPPF as part of the development plan.

The NPPF states that "good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

NPPF retains presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

The Mayor's London Plan July 2011:

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Relevant Local Plan (2012) Policies:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11th September 2012

Relevant Core Strategy DPD (2012) Policies: CS NPPF, CS1, CS5.

Relevant Development Management DPD (2012) Policies: DM01, DM02.

Supplementary Planning Documents and Guidance

Residential Design Guidance SPD
Sustainable Design & Construction SPD

Relevant Planning History:

Site history for current landparcel:

46522 - Flat 4, 13 Fortis Green, London, N2 9JN

Case Reference: **F/00428/14**

Application:	Planning	Number:	F/03122/12
Validated:	28/08/2012	Type:	APF
Status:	WDN	Date:	24/10/2012
Summary:	WIT	Case Officer:	David Campbell
Description:	Creation of roof space above first floor with a pitched roof and 3no. rooflights.		

Consultations and Views Expressed:

Neighbours Consulted: 28 Replies: 5
Neighbours Wishing To Speak 0

The objections raised may be summarised as follows:

- The Juliet balconies will overlook the rear gardens of the neighbouring properties.
- The proposed windows will be out of character with the existing rear elevation
- Concerned that the building works will cause disturbance to residents

Date of Site Notice: 20 February 2014

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site is a first floor flat of number 13 Fortis Green which is located on the side of Fortis Green.

Proposal:

The application seeks permission for an extension to roof including new gable roof and dormer windows to both sides to facilitate a loft conversion as well as amendments to rear elevation. The application has been amended since first being submitted. The amendments included changes to the rear fenestration.

Planning Considerations:

The main issue in this case are considered to be covered under two main areas:

- The living conditions of neighbouring residents;
- Whether harm would be caused to the character and appearance of the area and street scene, having regard to the size and siting of the proposal.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity.

Policy DM01 of the Development Management Policies (Adopted) 2012 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers.

Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and that development makes a positive contribution to the borough. The development standards set out in Policy DM02: Development Standards are regarded as key for Barnet to deliver the highest standards of urban design.

The Council's SPD 'Residential Design Guidance' states that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant.

Character and Appearance

The Council's SPD Residential Design Guidance states that the following points should be considered for dormer roof extensions:

- *Design* - should reflect style and proportion of windows on the existing house. Dormers may have flat, gabled, hipped or curved roofs and subject to the criteria on position, should normally align with the windows below. *Position* - Dormer roof extensions should not overlap or wrap around the hips or rise above the ridge. Adequate roof slope above and below the dormer is required on semi-detached and terraced properties, the dormer extension should be set in at least 1 metre from the party wall, flank wall or chimney stack. In smaller terraced houses where due to internal physical constraints dormers that are set in less than 1 metre will be taken into account providing such constraints and any minimum Building Regulation or fire regulation requirements are clearly and robustly demonstrated.
- *Scale* - Dormer roof extensions should normally be subordinate features on the roof and should not occupy more than half the width or half the depth of the roof slope.

Dormers which wrap around the hips will not normally be considered acceptable.

- *Proportion* - To retain the balance of the house, the dormer roof extension should not normally be wider than the window below it and the dormer cheeks kept as narrow as possible. For smaller enclosed houses, such as terraces consideration and allowance will be given to internal workable space and Building Regulation requirements for wider roof extensions. On side dormer extensions, where there is a requirement to provide adequate headroom for stairs, the extension should still be set away from the ridge and clear of the hips.
- *Overlooking* - Care should be taken in the design and location of new dormers, including side dormers to minimize overlooking
- *Materials* - The window materials and design should be in keeping with those on the rest of the house. The dormer cheeks should be finished with lead, tiles, slates or

other traditional materials, and the top of flat roofed dormers should be finished with lead or zinc. The use of roofing felt for the roof, cheeks or face of the dormer should be avoided.

The application proposes a roof extension including a new pitched roof and dormer windows to both sides of the new roof. The neighbouring properties on this part of Fortis Green are characterised with pitched roofs and it is therefore considered that the proposed extension to the roof would be in keeping with the character and appearance of the area and would not be detrimental to street scene.

Concerns have been raised by objectors that the windows in the side gables would overlook the rear gardens of neighbouring properties, however the application has been amended to include obscure glass in the gable windows and the proposal is now considered to be acceptable. A condition is recommended to ensure that the gable windows are obscure glazed.

Living Conditions

The proposal also includes changes to existing windows including Juliet balconies. The proposed windows are considered to be acceptable and would be similar in size to the existing windows on the ground floor of the neighbouring flat. This is considered to be acceptable and would not be detrimental to the residential amenities of the neighbouring properties.

Concerns have been raised by objectors in relation to the balcony, however the balcony at first floor level has been replaced with a Juliet balcony. The Juliet balconies will be obscure glazed up to waist level and whilst residents have expressed concerns that the Juliet balcony would overlook the rear garden of the neighbouring properties; the proposed Juliet balcony will replace existing windows and it is therefore considered that the proposed Juliet balcony would not significantly affect the amenities of the neighbouring occupiers.

The proposals would comply with the aforementioned policies and Council design guidance and would be a proportionate addition to the dwellinghouse. It would have an acceptable impact on the character and appearance of the streetscene, site property, general locality and the residential amenity of neighbouring occupiers.

3. COMMENTS ON GROUNDS OF OBJECTIONS

Addressed in planning considerations

4. EQUALITIES AND DIVERSITY ISSUES

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, this proposal complies with the Adopted Barnet Local Plan policies and guidance and would be in keeping with the character and appearance of the surrounding area. It is not considered to have a detrimental impact on the residential amenities of neighbouring occupiers. This application is therefore recommended for **APPROVAL**.

SITE LOCATION PLAN: Flat 4, 13 Fortis Green, London, N2 9JN

REFERENCE: F/00428/14



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LOCATION: 36 Alexandra Grove, London, N12 8HG

AGENDA ITEM 10

REFERENCE: F/00475/14

Received: 29 January 2014

Accepted: 24 February 2014

WARD(S): West Finchley

Expiry: 21 April 2014

Final Revisions:

APPLICANT: Alexandra freehold Company ltd

PROPOSAL: Extension to roof including 1no. rear, 1no side dormer and 5no. front rooflights, 2no. rear rooflights and 1no. side rooflight to create 1no. self contained flat.

RECOMMENDATION: Approve Subject to Conditions

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

0353_00_001 - site plan
0353_00_003ab - proposed ground and first floors
0353_00_005a - proposed second /loft floor
0353_00_007 - proposed roof plan
0353_00_101a - proposed front elevation
0353_00_102a - proposed rear / proposed section AA
0353_00_103a - proposed side elevation
0353_00_010 - location plan
0353_00_011 - site layout plan
0353_98_103 - existing roof plan
0353_98_201 - existing front and rear elevations
0353_98_203 - existing side elevation

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

2 This development must be begun within three years from the date of this permission.

Reason:

To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.

3 The materials to be used in the external surfaces of the building(s) shall match those used in the existing building(s).

Reason:

To safeguard the visual amenities of the building and surrounding area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 4 Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the development is occupied.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

- 5 Before the development hereby permitted is occupied, details of the subdivision of the amenity area(s) shall be submitted to and approved in writing by the Local Planning Authority, implemented and retained as such on site thereafter.

Reason:

To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Adopted Barnet Development Management Policies DPD (2012).

- 6 The property shall be used as self-contained units as shown on the hereby approved drawings under Class C3 (a) and no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

- 7 Prior to the occupation of the unit, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).

Reason:

To protect the amenities of future and neighbouring residential occupiers in

accordance with policy DM02 and DM04 of the Adopted Barnet Development Management Policies DPD (2012).

INFORMATIVE(S):

- 1 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. Your planning application has been assessed at this time as liable for a £2,065.00 payment under Mayoral CIL.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge. Your planning application has therefore been assessed at this time as liable for a £7,965.00 payment under Barnet CIL.

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

If affordable housing or charitable relief applies to your development then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

You will be sent a 'Liability Notice' that provides full details of the charge and to whom it has been apportioned for payment. If you wish to identify named

parties other than the applicant for this permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice, which is also available from the Planning Portal website.

The Community Infrastructure Levy becomes payable upon commencement of development. You are required to submit a 'Notice of Commencement' to the Council's CIL Team prior to commencing on site, and failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please email us: cil@barnet.gov.uk.

- 3 Any development or conversion which necessitates the removal, changing, or creation of an address or addresses must be officially registered by the Council through the formal 'Street Naming and Numbering' process.

The Council of the London Borough of Barnet is the Street Naming and Numbering Authority and is the only organisation that can create or change addresses within its boundaries. Applications are the responsibility of the developer or householder who wish to have an address created or amended.

Occupiers of properties which have not been formally registered can face a multitude of issues such as problems with deliveries, rejection of banking / insurance applications, problems accessing key council services and most importantly delays in an emergency situation.

Further details and the application form can be downloaded from: <http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf> or requested from the Street Naming and Numbering Team via email: street.naming@barnet.gov.uk or by telephoning: 0208 359 7294.

- 4 Waste Comments

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing

sewerage system.

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Veolia Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

Supplementary Comments

In reviewing the Councils' weekly list for planning applications, Thames Water has identified this application as one of interest to us. Whilst we recognise that there is no statutory requirement for you to consult us, we would respectfully ask to be pro-actively consulted on all similar applications in future, so that the adequate provision of water industry infrastructure can be assessed and considered as part of the decision process.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework (2012):

The determination of planning applications is made mindful of Central Government advice and the Development Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The basic question is whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Government's reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.

The Mayor's London Plan: July 2011

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Core Strategy DPD (Adopted) 2012

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5, CS9, CS15.

Relevant Development Management Policies (Adopted) 2012: DM01, DM02, DM04, DM08, DM17

Other Material Considerations:

- Residential Design Guidance (April 2013)
- Sustainable Design and Construction (April 2013)
- Planning Obligations SPD (April 2013)

The basic principles the Local Authority has adopted in respect to different types developments are that they should not unduly reduce light or outlook from neighbouring windows to habitable rooms, overshadow or create an unacceptable sense of enclosure to neighbouring gardens. They should not look out of place, overbearing or bulky from surrounding areas.

The Sustainable Design SPD provides detailed guidance and sets out how sustainable development will be delivered in Barnet. Section 2 of the SPD relates to generic environmental requirements to ensure that new development within Barnet meets sufficiently high environmental and design standards.

Chapter 15 of the Council's Guide 'Residential Design' seeks to revise and upgrade Design Guidance Note 7 which deals with Residential Conversions. This leaflet in the form of a supplementary planning guidance (SPG) sets out information for applicants to help them design conversions which would receive favourable consideration by the Local Planning Authority and sets out how the council considers applications for the conversion of single family homes into two or more self-contained units.

Included advice specifies that when conversions seek new exterior alterations, such as replacement windows, doors or porches, these should reflect the prevailing local character and enhance, not disrupt, the streetscape. Conversions in appropriate locations should not have any detrimental effect; they should not raise privacy issues, parking problems or have adverse effects on residential amenity. The council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.

The Planning Obligations SPD sets the requirements for different scales of development and obtaining Planning Obligations for open spaces, transport, community facilities and environmental requirements. It has been adopted alongside the Barnet's CIL Charging Schedule in May 2013, which replaces the previous obligations towards Education, Libraries and Health, and is a flat rate charge for all development as specified in the CIL Charging Schedule.

Relevant Planning History:

Site Address: 36 Alexandra Grove N12
Application Number: C02545B
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 21/05/1986
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: Conversion to five self-contained flats, first floor rear extension & provision of four car parking spaces.

Consultations and Views Expressed:

Neighbours Consulted: 93 Replies: 10
Neighbours Wishing To Speak: 0

Date of Site Notice: 6 March 2014

The following matters were raised in the submissions:

- Out of character with the area
- Loss of light
- Overlooking
- Loss of privacy
- Lack of parking
- Amenity space
- Soundproofing / noise and disturbance
- Against dormer windows on the front elevation of No. 36

Consultation with Highways

Highways do not raise a concern with the proposal.

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site contains a two storey semi-detached residential flat building, containing 5 self-contained flats (currently including 3 x two bedroom flats and 2 x one bedroom flats). The property is located on the north-eastern side of Alexandra Grove in the ward of West Finchley.

Proposal:

Initially the proposal included a larger side dormer and a larger single bedroom self-contained flat. Amended plans were received, reducing the size of the side dormer and reducing the size of the flat. The amended plans are the subject of this report.

The application seeks permission for the following works:

- Extensions to the roof including one (1) rear dormer window measuring 4.3 metres wide and with a variable height of between 1.5 and 2.2 metres, and one (1) side dormer window measuring 1.6 metres wide and 1.4 metres high;
- The installation of five (5) front rooflights, one (1) side rooflight and two (2) rear facing rooflights; and
Use of the converted loft space for a one bedroom self-contained flat measuring 58sqm in area.

Planning Considerations:

The main issue in this case are considered to be covered under the two main areas:

- Whether the principle of residential units is appropriate for the area;
- Whether the proposal will provide suitable accommodation for future occupiers;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether harm would be caused to the character and appearance of the area and street scene, having regard to the size and siting of the proposal.

Principle of self-contained units

The Borough has an attractive and high quality environment that the Council wishes to protect and enhance. It is therefore considered necessary to carefully assess both the design and form of new development to ensure that it is compatible with the established character of an area that is defined by the type and size of dwellings, the layout, intensity, and relationship with one another and their surroundings. Proposals involving the redevelopment of sites in residential localities are required to reflect the particular character of the street in which the site is located and the scale and proportion of the houses.

The Council recognises that flat developments can make an important contribution to housing provision, in particular smaller units and that they can make more efficient use of urban land, however they normally involve an intensification of use creating more activity and can adversely affect the appearance of a street through, for example, the provision of car parking and refuse facilities, that can have an unacceptable impact on the established character of an area.

The existing building was converted into flats in the 1980s and there is evidence that there are a significant proportion of converted residential properties in the locality. Therefore the proposed self-contained flat is not considered to detract from the mixed character of the area, which accommodates both converted properties and single family dwelling houses.

Living conditions of future occupiers

Policy DM01 states that development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local

character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

This policy also explains that 'Development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users'.

The extensions to provide for the new self-contained flat are designed to allow for adequate daylight to the proposed unit. The proposal is consistent with the Council's Sustainable Design and Construction SPD (2013) in relation to gross internal area, layout, privacy and access to daylight and the external manifestation of the building respects the constraints of the site and does not detract from the residential amenity of character of the area

Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and that development makes a positive contribution to the borough. The development standards set out in Policy DM02: Development Standards are regarded as key for Barnet to deliver the highest standards of urban design.

In line with Table 2.1 within the Sustainable Design and Construction SPD (and the London Plan Standards), the proposed flat meets the required Gross Internal Area standard (the bedroom is measured to be 12.3sqm and the living room/kitchen measures 25.34sqm), and in accordance with policy within Council's Development Management Policies, the external manifestation of the building respects the constraints of the site.

The proposed habitable room windows in the building are in line with Table 2.4 of the Council's Sustainable Design and Construction SPD which advocates that there should be a minimum distance of 21 metres between properties with facing windows to habitable rooms and 10.5 metres to neighbouring gardens.

In accordance with the Table 2.4 of the Council's Sustainable Design and Construction SPD, all habitable rooms proposed will have a reasonable outlook and be sufficiently large enough for light and ventilation to serve the varying room sizes. It is considered that the habitable rooms will provide a suitable level of amenity for future residents in accordance with Policy DM02 of Council's Development Management Policies.

The proposal accords with the outdoor amenity space Table 2.3 within the Sustainable Design and Construction SPD, which indicates that 15sqm amenity space for the new flat should be provided. Amenity space is provided at the rear of the site in a communal area that is approximately 80sqm in area. This area is suitable to accommodate the amenity space for flats 3, 4, 5 and 6 adequately.

In terms of meeting the requirements for waste from the site, a planning condition has been included require an appropriate supply of and accessibility to refuse bins at the site.

Noise Transmission

Noise can be a significant nuisance in urban areas. Sound insulation between units should be incorporated into the scheme which should be in compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in

force at the time of implementation of the permission). This is due to its relationship both horizontally and vertically to neighbouring residential properties. The applicant should achieve the required sound insulation levels and this will be enforced by an appropriate condition attached to the decision. This issue will also be addressed at the building regulations stage.

The proposal is not considered to be out of character within its context and would not result in harm to the surrounding area.

DM17 states that parking should be provided in accordance with the London Plan standards, except in the case of residential development, where a maximum of 1 space per unit for development consisting of one bedroom flats may be acceptable. The development site indicates space for approximately 4 off street parking spaces and there is no capacity to increase off street parking at the front of the site.

The development site has a Public Transport Accessibility Level (PTAL) of 3, the site has direct access to local bus routes that run along Alexander Grove, is in walking distance to West Finchley Tube Station and the North Finchley Town Centre. In addition, the site has access to walking and cycling routes. It is considered that the proposal will not unreasonably impact the parking demand in the local area.

Whether harm would be caused to the living conditions of neighbouring residents

The proposal would not result in a loss of privacy for neighbouring properties. The new side elevation dormer window (located on the north-western side of the building) is positioned approximately in line with or slightly above the roofline of the adjoining residential flat building. Therefore occupants of the proposed unit will only have views across the roofline of the adjoining building. It is noted in addition, that windows located on the flank wall of the adjoining residential flat building are obscured glazed and so visual privacy into neighbouring units will not be compromised by the side dormer. Furthermore, the proposal will not result in loss of sunlight or outlook for adjoining properties.

Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality

The proposed modifications to the building are considered to be modest in scale and subordinate to the original building. The side and rear dormers are not inconsistent with the design guidelines provided in Council's Residential Design Guidance SPD (2013) and the extensions respect the overall character of the street.

Community Infrastructure Levy

The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sqm. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £36.04 per sqm on all forms of development in Barnet except for education and health developments which are exempt from this charge.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sqm on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge.

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

3. COMMENTS ON GROUNDS OF OBJECTIONS

These matters have been addressed in the main body of the report.

4. EQUALITIES AND DIVERSITY ISSUES

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

The proposal is in accordance with the guidance and policies contained in the Barnet Local Plan and so is recommended for **APPROVAL**.

**SITE LOCATION PLAN:
REFERENCE:**

**36 Alexandra Grove, London, N12 8HG
F/00475/14**



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LOCATION: 50 Finchley Park, London N12 9JL

REFERENCE: TPO/00040/14/B **Received:** 03 January 2014
WARD: Woodhouse Ward **Expiry:** 28 February 2014

CONSERVATION AREA

APPLICANT: OCA UK Ltd

PROPOSAL: 2 x Deodar Cedar (App Ref T3 and T4) – Group G1 of Tree Preservation Order.

RECOMMENDATION:

That Members of the Planning Sub-Committee determine the appropriate action in respect of the proposed felling of 2 x Deodar Cedar (Applicant's Ref T3 and T4) – Group G1 of Tree Preservation Order, either:

SPLIT DECISION

APPROVE the felling of 1 x Deodar Cedar (Applicant's Ref T3) SUBJECT TO CONDITIONS

1. The species, size and siting of the replacement tree shall be agreed in writing with the Local Planning Authority and the tree shall be planted within 6 months (or as otherwise agreed in writing) of the commencement of the approved treatment (either wholly or in part). The replacement tree(s) shall be maintained and / or replaced as necessary until 1 new tree is established in growth.

Reason: To maintain the visual amenities of the area.

2. Within 3 months of the commencement of the approved treatment (either wholly or in part) the applicant shall inform the Local Planning Authority in writing that the work has / is being undertaken.

Reason: To maintain the visual amenities of the area.

AND

REFUSE CONSENT for the felling of 1 x Deodar Cedar (Applicant's Ref T4) for the following reason:

The loss of the tree of special amenity value is not justified as a remedy for the alleged subsidence damage on the basis of the information provided.

Or:

APPROVE SUBJECT TO CONDITIONS

1. The species, size and siting of the replacement tree(s) shall be agreed in writing with the Local Planning Authority and the tree(s) shall be planted within 6 months (or as otherwise agreed in writing) of the commencement of the approved treatment (either wholly or in part). The replacement tree(s) shall be

maintained and / or replaced as necessary until 2 new tree(s) are established in growth.

Reason: To maintain the visual amenities of the area.

2. Within 3 months of the commencement of the approved treatment (either wholly or in part) the applicant shall inform the Local Planning Authority in writing that the work has / is being undertaken.

Reason: To maintain the visual amenities of the area.

Consultations

Date of Press and Site Notices: 23rd January 2014

Consultees:

Neighbours consulted: 16

Replies: 33 0 support 33 objections (including 2 Ward Members)

The grounds of objection can be summarised as:

- Cedars have an important position selected and planted to flank an entrance of an historical estate [now North Middlesex Golf Club]
- Trees are 140 - 150 years old and are a massive part of the character of the street
- Cedars are an important and integral part of street scene
- Cedars part of the beauty of the road and the reason many drawn to live in area
- These beautiful trees are part of the beauty of our road and greatly add to the general loveliness of the street and green feel
- Many of the houses on the north side of Finchley Park were built in the 19th century and the road still retains a rural and attractive look which will be lost if trees felled
- Cedars are important historic feature also Finchley Park has some very old and individual cottages – these last remaining links to its past landscape are unique in North Finchley and offers a rare glimpse of the pre-war era
- Pleasant and striking view of Cedars from High Road and their magnificence and imposing nature evident as travel down Finchley Park
- Cedars dominate the skyline and are aesthetically very powerful
- Cedars provide a foil for the bland 1970s block of flats adjacent
- Important to character and appearance of Finchley Park
- Removal of Cedars would turn the road into another featureless, nondescript, thoroughfare
- Loss of haven for wildlife
- Trees help sustain a tremendous amount of biodiversity
- Environmental benefits in terms of improving air quality, reducing pollution, reducing windspeed, abating noise, moderating climate change
- Cedars contribute to privacy and screening between properties
- Removal of Cedars affect property values
- Any replacement planting would take many years to reach any significant height
- Silver Birch inappropriate replacement

- Cedars pre-date Golfers View (and would not have been significantly smaller than current size), so developers should have taken them into account during construction
- Removal of Cedars could destabilise neighbouring properties
- Risk of heave
- Action not appropriate if driven by insurance
- Felling is just the cheapest way that the insurers can be seen to be doing something. However that action may not actually solve the problem and could even make it worse.
- Hope other options explored and that a viable alternative found rather than destroying these iconic landmarks
- Cannot see any disturbance in soil, concrete drive or cracks in the neighbouring buildings
- Application submissions are incomplete - do not include a substantial tree blown over in high winds in December 2013; nor consider trees' historical, aesthetic or financial relevance to area; nor reassure as to future stability of neighbouring properties
- Application submissions fail to explore alternatives
- Felling of both trees is rather extreme, especially since it is just possible that they are not the cause of the damage, since although the drive way is badly cracked the kerb stones remain unaffected
- It would be a more acceptable solution to fell the tree nearest to the flats, which is in by far the poorest condition, and then monitor the situation carefully to see if there is any further deterioration in the building
- May be an argument for reducing height of eastern tree given previous pruning due to storm damage but retaining lower trunk to avoid disharmony

A number of respondents were concerned that the consultation had been limited - it was undertaken in accordance with adopted Council procedures, which exceed statutory requirements.

MATERIAL CONSIDERATIONS

Relevant Recent Planning History:

N10592A/00/TRE – 2 Cedar - Remove 2 lowest branches and lift, standing in group G1 of TPO.

- Refused 6th April 2000 and appeal dismissed 29th January 2001

N10592B/01/TRE – Cedar - remove 3 sub branches; cedar - lift to 5m, shorten branches growing towards the house by up to 2m, remove 2 branches, both standing in group G1 of TPO.

- Approved 18th June 2001

N10592C/04/TRE – Deodar - Remove storm damaged limbs and deadwood. Cut back to clear house by 3m. Remove 1 limb as specified. Reduce back by 4m. Standing in Group G1 of TPO

- Refused 22nd April 2004

N10592D/04/TRE – Deodar - Remove deadwood & broken limbs. Both standing in group G1 of TPO.

- Conditional approval 22nd April 2004

N10592E/04/TRE – 1 x Deodar - Remove Storm Damaged Limbs and Deadwood. Cut back to Clear House by 2-3m. Reduce 1 x Limb by 4m as Specified. Standing in Group G1 of TPO

- Conditional approval 11th June 2004

N10592F/07/TRE – 1 x Cedar - Remove 2 Dead Branches and Reduce 2 Overlong Side Branches by 2m as Specified. Standing in Group G1 of Tree Preservation Order

- Conditional approval 4th January 2008

TPO/00325/09/B – 2 x Cedar - Remove Major Deadwood Only. G1 of Tree Preservation Order

- Exemption Notice 6th July 2009

TPO/00393/09/B – 2 x Cedar - Remove split limbs as indicated. Standing in group G1 of TPO.

- Exemption Notice 5th August 2009

TPO/00724/11/B – 1 x Cedar (Unsafe/Hazardous) - Remove (On Right Side of Drive as Face Property). Standing in Group G1 of Tree Preservation Order

- Exemption Notice 28th November 2011

PLANNING APPRAISAL

1. Introduction

An application form proposing felling of two Cedar trees (applicant's ref. T3 and T4) in the front garden of 50 Finchley Park Road in connection with alleged property damage at Golfers View, 54 Finchley Park Road was submitted via the Planning Portal in September 2013, however, there were shortcomings in the information – clarification was thus requested. Further information was submitted, allowing registration of the application on 3rd January 2014.

50 Finchley Park is the end property of one of the early terraced houses (part of 'The Croft') built in the 19th century. According to Building Control records, 50 Finchley Park was partially underpinned in 1997 and Golfers View, a three storey block of flats, was constructed in 1976.

2. Appraisal

Trees and Amenity Value

The Cedars stand either side of the drive in the front garden of 50 Finchley Road, relatively close to the roadside frontage. They are both mature trees, some 140 – 150 years in age, which have grown in such close proximity for so long that they appear as a single canopy, rather than two individual specimens, albeit with two separate trunks. The canopy extends over the public footpath, road, and Golfers View driveway, as well as 50 Finchley Park.

As attested by the numerous consultation respondents, the trees form a very prominent feature in the streetscape – being very clearly visible along the length of Finchley Park, as well as from the junctions with High Street and Lynton Avenue – and are a significant part of the character and appearance of the area, with obvious historic importance.

When inspected more closely, the Cedar closer to the house at 50 Finchley Park (applicant's ref. T4) is approximately 15m in height, somewhat one-sided given its proximity to the other tree and some relatively minor storm damage, but in apparently reasonable condition with healthy foliage. However, the tree closest to Golfers View (applicant's ref. T3), referred to the 'eastern' tree in some consultation responses, and 'on Right Side of Drive as Face Property' in TPO/00724/11/B has been extensively reduced following significant storm damage in 2011, it is some 10 metres in height, and has minimal branches. In November 2011, the tree suffered significant storm damage with a large and structural scaffold branch breaking out creating a large cavity in the main stem beneath the over-extended upper sections of the crown; the fallen section also fractured a large horizontal branch in the process. The condition of the tree was considered so unsafe and hazardous by the tree surgeon, who advised their client that the tree was in a very dangerous condition and needed to be felled urgently (particularly in the light of its location), that an Exemption Notice was issued (TPO/00724/11/B) for the removal of the tree – although the owner hoped that complete felling of the tree might be avoided by drastic pruning. As is now apparent, although the trunk now remains, there is little else – the amenity value of this tree in its own right must therefore be questioned as the prominent canopy so visible in the streetscene is not due to the Cedar closer to Golfers View (applicant's ref. T3) but is almost wholly the canopy of the western Cedar (applicant's ref. T4).

The application

The application submitted by OCA UK Ltd was registered on 3rd January 2014. The reasons for the proposed removal of the two Cedar trees (applicant's reference T3 and T4) cited on the application form are:

- 1. The above tree works are proposed as a remedy to the differential foundation movement at [Golfers View] and to ensure the long-term stability of the building.*
- 2. The above tree works are proposed to limit the extent and need for extent and need for expensive and disruptive engineering repair works at the insured property. In this instance the estimated repair costs are likely to vary between £10,000 and £40,000 depending upon whether the trees can be removed or have to remain.*
- 3. The above tree works are proposed to limit the duration of any claim period and therefore allow the landowner their right to peaceful enjoyment of their property.*
- 4. It is the case that an alternative to felling such as pruning or significant 'pollarding' of the tree would not provide a reliable or sustainable remedy to the subsidence in this case. We do not consider that any other potential means of mitigation, including root barriers, would be effective or appropriate in the circumstances.*
- 5. I consider that in this specific instance the planting of a container grown Silver Birch tree, 10 – 12cm stem diameter at a location in the front garden of the above at a distance of no closer than 9m to any property, would be a suitable replacement.*

The supporting documentation comprised:

- OCA Arboricultural Assessment Report dated 13 September 2013 based on survey dated 05 July 2015 [sic] including Cunningham Lindsey Engineering Appraisal Report dated 22 February 2013 and CET Safehouse Ltd 'Factual Report of Investigation' dated 13 September 2012, CET Safehouse Ltd 'Drainage Report' dated 06 March 2012 and level monitoring 21/03/12 - 02/08/13
- Updated level monitoring to 28/11/13.
- A heave calculation

The Council's Structural Engineer having assessed the information and inspected the site, noted:

Trees

*The OCA report shows the locations trees. Their report shows; the Cedar tree T3 at a distance of 13m from the building and 14m high, the Cedar tree T4 at a distance of 18m from the building and 17m high. Both are located in the garden of 50 Finchley Park
The cedar tree T3 has been heavily pollarded, I understand this was carried out in December 2011 following storm damage.*

The Cedar trees are noted as being significantly older than the building.

There was a small street tree opposite Golfers View, not shown on the OCA plan, which was blown down in December 2013.

Damage

The damage is to the front left hand side corner of Golfers View, 54 Finchley Park. The damage was first reported in Jun 2010 and the damage worsened in September 2011.

The property was inspected on the 19/2/14, during the inspection there was access to ground floor flat 1. The damage consists of internal cracks to flat 1 up to 4mm wide and external cracks up to 1mm, resident advised the external cracks were larger and have closed up recently.

The cracking is consistent with subsidence of the foundations to the front left corner of the block.

There was no access to the first floor flat 4, however we were advised the internal cracking has been repaired in this flat.

Damage is classified as category 2 in accordance with BRE Digest 251.

Subsoil investigations

CET carried out subsoil investigations on 5/3/12 and 13/9/12. This consisted of a trial pit and borehole to the left hand side of the property in each visit.

Results of the investigation were as follows;

1. *The foundations are 1200mm deep.*
2. *Stiff brown Clay was encountered for the full depth of the borehole.*
3. *Roots extend to 3.8m depth.*
4. *Cedar tree roots identified to 3.8m depth.*

Soil Testing

The soil analysis results indicate the clay soil to have a medium to high shrink potential and indicate desiccation at 2m depth.

A ground heave prediction has been undertaken indicating a ground heave potential of 11mm.

Monitoring

Level monitoring has been carried out from 21/3/12 to 22/11/13. An independent stable datum has not been used, instead location 1 on the front right hand corner has been relied upon to compare

movement in the rest of the building. Location 1 is unlikely to be fully stable as the check datum monitoring point exhibits 2mm of movement.

The level monitoring results for 2012 show relatively small movements; this is most likely due to the unusually wet summer. However the level monitoring results for 2013 are consistent with enhanced seasonal movement with a maximum movement of 6mm at the front left corner.

During the site inspection it was noted there are crack monitoring points located externally, results of the crack monitoring have not been provided.

Drainage

The drains appear to be in a poor condition and the drain survey could not be completed.

However the trial pits and boreholes were dry and the cyclical pattern of movement demonstrated by the monitoring indicates the underground drainage was not implicated in the damage; water leaking from drainage usually causes progressive widening of the cracks.

Conclusion

The site investigation results indicate the front left corner of Golfers View has suffered a minor episode of subsidence damage and the most likely cause is root action from the Cedar trees.

The damage was first reported in June 2010 and worsened in September 2011. Subsequent to this the nearest Cedar tree was pollarded in December 2011 due to storm damage. The pollarding of T3 will have significantly reduced the effect of the tree on the soil beneath the foundations of Golfers View.

A ground heave assessment should be undertaken on all the properties within the influence zone of cedar T4 before its removal is considered.

The results of the crack monitoring should be requested considering the lack of a stable datum for the level monitoring.

The applicant was asked to provide information to address these last two points and responded:

1. Attached for your reference is the heave calculation for our insured's property. We are unable to offer any indemnity against damage occurring to the other properties in the area, as results of removal the Atlas Cedar trees T3 & T4. This is because, in order to carry out a heave calculation, the soils beneath the foundations of each of the properties would need to be tested. As we have not carried out these necessary soil tests at the other properties in the area, we are unable to provide you with a heave assessment or calculation.
2. Our client has confirmed that no crack monitoring has been instructed on this matter.

To which the Council's Structural Engineer has commented:

1. *Partial underpinning was carried out to no. 50 and therefore this property should be resistant to the effects of ground heave if the trees were removed. However, no. 48 appears to be a similar distance from the trees as Golfers View (where ground heave was assessed) and therefore would potentially be at risk from the effects of ground heave. To quantify the risk it would be necessary to carry out a site investigation at no. 48.*
2. *Someone has taken the trouble to fix monitoring studs across the external cracks at Golfers View therefore I am surprised no readings have been taken.*

The cracks are described as being within BRE Category 2 - BRE Digest 251 *Assessment of damage in low-rise buildings* includes a 'Classification of visible damage to walls with particular reference to ease of repair of plaster and brickwork or masonry'. It describes category 2 damage as "*Cracks easily filled. Recurrent cracks can be masked by suitable linings. Cracks not necessarily visible externally; some external repointing may be required to ensure weather-tightness. Doors and windows may stick and require easing and adjusting. Typical crack widths up to 5mm.*" The BRE Digest concludes "Category 2 defines the stage above which repair work requires the services of a builder. For domestic dwellings, which constitute the majority of cases, damage at or below Category 2 does not normally justify remedial work other than restoration of the appearance of the building. For the cause of damage at this level to be accurately identified it may be necessary to conduct detailed examinations of the structure, its materials, the foundations and the local clear ground conditions. Consequently, unless there are clear indications that damage is progressing to a higher level it may be expensive and inappropriate to carry out extensive work for what amounts to aesthetic damage."

It is understood that there are currently two affected flats – one of which has already been internally repaired by the resident.

It is to be noted that the damage was first reported in June 2010 and worsened in September 2011 – predating the storm damage to the Cedar – and it is understood that external cracks have recently closed up. But it is unclear to what extent this may have been influenced by the drastic pruning undertaken to the closer Cedar (applicant's ref T3), what may be attributable to weather, or to a combination of factors. It should, however, be noted that level monitoring carried out after the extensive treeworks is consistent with enhanced seasonal movement.

The level monitoring has not been undertaken from a stable datum, and although monitoring studs were evident, the applicant confirmed that no crack monitoring had been instructed.

The heave potential for Golfers View has been calculated as 11mm. Partial underpinning was carried out to no. 50 and therefore this property should be resistant to the effects of ground heave if the trees were removed. However, no. 48 appears to be a similar distance from the trees as Golfers View and therefore would potentially be at risk from the effects of ground heave. The applicant confirmed that soil testing had not been undertaken at other properties hence they were unable to provide a heave assessment / calculation or to offer any indemnity against damage occurring to the other properties in the area.

The drains appear to be in poor condition, but the trial pits and boreholes were dry and the cyclical pattern of movement indicates that underground drainage is not implicated in the damage.

However, irrespective of potential implication in property damage, an Exemption Notice has previously been issued for the removal of the Cedar closer to Golfers View / the eastern tree / applicant's ref T3 because of storm damage. Although the trunk is currently retained, the vast majority of the canopy has been removed and, in isolation, the public amenity value of this tree is considered minimal. In these circumstances, it would not be reasonable to refuse consent for the removal of this Cedar – subject to replacement planting (which would also have been required had the tree been removed following the storm in 2011).

The applicant's supporting documentation does not attempt to differentiate between the alleged involvements of either of the Cedars separately – the proposal is the removal of both Cedars. The applicant has made no analysis of the potential to remove the closer Cedar to the damaged area of Golfers View whilst leaving the second Cedar in situ, or proposing lesser works, then monitoring and assessing the impact of such action.

Given the importance of the Cedar canopy in the streetscene, it may be considered appropriate to remove the Cedar closer to Golfers View (subject of Exemption Notice TPO/00724/11/B) then monitor the impact of the action prior to assessing whether further action such as pruning or felling the other Cedar (closer to the building at 50 Finchley Park / the western tree / applicant's ref T4) would be justifiable / necessary.

Given that the damage is assessed as BRE Category 2, there is some suggestion that the cracking is stable / closing, the potential unreliability of the level monitoring, and the potential heave implications, it may be questioned whether the proposed removal of both of the TPO Cedars at this juncture is excessive / premature.

3. Legislative background

Government guidance advises that when determining the application the Council should (1) assess the amenity value of the tree and the likely impact of the proposal on the amenity of the area, and (2) in the light of that assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it. It should also consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provide that compensation is payable for loss or damage in consequence of refusal of consent or grant subject to conditions. The provisions include that compensation shall be payable to a person for loss or damage which, having regard to the application and the documents and particulars accompanying it, was reasonably foreseeable when consent was refused or was granted subject to conditions. In accordance with the 2012 Regulations, it is not possible to issue an Article 5 Certificate confirming that the tree is considered to have 'outstanding' or 'special' amenity value which would remove the Council's liability under the Order to pay compensation for loss or damage incurred as a result of its decision.

In this case the applicant has indicated that "the estimated repair costs are likely to vary between £10,000 and £40,000 depending upon whether the trees can be removed or have to remain." It is unclear whether these figures take account of the internal repairs already undertaken at one flat. There has been no assessment of the variation between estimated repair costs if one Cedar is removed and the other retained.

The Court has held that the proper test in claims for alleged tree-related property damage was whether the tree roots were the 'effective and substantial' cause of the damage or alternatively whether they 'materially contributed to the damage'. The standard is 'on the balance of probabilities' rather than the criminal test of 'beyond all reasonable doubt'.

In accordance with the Tree Preservation legislation, the Council must either approve or refuse the application i.e. proposed felling. The Council as Local Planning Authority has no powers to require lesser works or a programme of cyclical pruning management that may

reduce the risk of alleged tree-related property damage. If it is considered that the amenity value of the tree is so high that the proposed felling is not justified on the basis of the reason put forward together with the supporting documentary evidence, such that TPO consent is refused, there may be liability to pay compensation. It is to be noted that the Council's Structural Engineer has noted "*The site investigation results indicate the front left corner of Golfers View has suffered a minor episode of subsidence damage and the most likely cause is root action from the Cedar trees.*" albeit that "*The pollarding of T3 will have significantly reduced the effect of the tree on the soil beneath the foundations of Golfers View.*"

The compensation liability arises for loss or damage in consequence of a refusal of consent or grant subject to conditions - a direct causal link has to be established between the decision giving rise to the claim and the loss or damage claimed for (having regard to the application and the documents and particulars accompanying it). Thus the cost of rectifying any damage that occurs before the date of the decision would not be subject of a compensation payment.

If it is concluded that the felling of the Cedar tree subject of the previous Exemption Notice would address the problem regardless of the proposed removal of the other Cedar, or if the damage was attributable to other causes; it may be argued that loss or damage would not be in consequence of a refusal of TPO consent to fell.

However, if it is concluded on the balance of probabilities that both of the Cedar's roots are the 'effective and substantial' cause of the damage or alternatively whether they 'materially contributed to the damage' and that the damage would be addressed by both of the trees' removal, there is likely to be a compensation liability (the applicant indicates repair works would be an extra £30,000 if the trees are retained) if consent for the proposed felling is refused.

COMMENTS ON THE GROUNDS OF OBJECTION

Matters addressed in the body of the report.

EQUALITIES AND DIVERSITY ISSUES

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies requires the Council to have due regard to the need to eliminate discrimination and promote equality in relation to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

The Council have considered the Act but do not believe that the application would have a significant impact on any of the groups as noted in the Act.

CONCLUSION

The applicant, OCA UK Ltd, arboricultural consultant on behalf of the building insurers of Golfers View, proposes to fell two Cedar trees standing in the front garden of 50 Finchley Park because of their alleged implication in subsidence damage to Golfers View.

The proposed felling of both of the Cedars would be significantly detrimental to the streetscene, however, an Exemption Notice has previously been issued for the removal of one of the Cedars following storm damage in November 2011.

The Council's Structural Engineer has assessed the supporting documentary evidence and has noted "*The site investigation results indicate the front left corner of Golfers View has suffered a minor episode of subsidence damage and the most likely cause is root action from the Cedar trees.*" albeit that "*The pollarding of T3 will have significantly reduced the effect of the tree on the soil beneath the foundations of Golfers View.*"

Bearing in mind the potential implications for the public purse, as well as the public amenity value of the tree(s) and the importance to the character and appearance of Finchley Park, it is necessary to consider whether or not the proposed felling is justified as a remedy for the alleged subsidence damage on the basis of the information provided, particularly in the light of the Structural Engineer's concerns.

If it is concluded on the balance of probabilities that both the Cedar's roots are the 'effective and substantial' cause of the damage or alternatively whether they 'materially contributed to the damage' and that the damage would be addressed by both the trees' removal, there is likely to be a compensation liability (the applicant indicates repair works would be an extra £30,000 if the trees are retained) if consent for the proposed felling is refused – however, this figure makes no allowance for a potential split decision.

However, particularly given the amenity value of the tree canopy, if it is concluded that the felling of the eastern Cedar tree (applicant's ref. T3, subject of Exemption Notice TPO/00724/11/B) would address the problem regardless of the proposed removal of the other Cedar, or if the damage was attributable to other causes; it may be argued that loss or damage would not be in consequence of a refusal of TPO consent to fell, and that it would be justifiable to refuse the application to fell the western Cedar (applicant's ref. T4).



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