

LOCATION: Cherry Tree Park Pavillion, Cherry Tree Wood, Summerlee Avenue, London N2
REFERENCE: F/02410/13
WARD(S): East Finchley

Received: 12 June 2013
Accepted: 12 August 2013
Expiry: 07 October 2013

Final Revisions:

APPLICANT: Mr Sarfaraz Dostezad

PROPOSAL: Change of use from existing Pavilion to A3 (Cafe), including new glazed windows and doors and incorporation of landscaped area for tables and chairs. (AMENDED PLAN)

RECOMMENDATION: Approve Subject to Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 391811 (Amended); Site Location Plan; Bat Roost Assessment and Dusk Emergency Survey by Clive Herbert (2013); email from applicant confirming conversion of landscaped seating area to a grass lawn.

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 Before the development hereby permitted commences on site, details of all extraction and ventilation equipment shall be submitted to and approved by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced.

Reason:

To ensure that the proposed development does not prejudice the enjoyment or amenities of occupiers of adjoining residential properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 4 No site works or works on this development shall be commenced before temporary tree protection has been erected around existing tree(s) in accordance with details to be submitted and approved in writing by the Local Planning Authority. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 5 Before this development is commenced details of the location, extent and depth of all excavations for drainage and other services in relation to trees on the site shall be submitted and approved in writing by the Local Planning Authority and the development carried out in accordance with such approval.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 6 Before the cafe opens the proposed landscaped seating area shall be converted to a grass lawn and shall be reatiened as such thereafter and not covered with any form of hardstanding.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 7 No music shall be played at any time from the cafe or from any associated seating areas.

Reason:

To ensure that the proposed development does not prejudice the enjoyment or amenities of occupiers of residential properties in the vicinity in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012)

- 8 The use hereby permitted shall not be open to customers before 9 am or after 6pm.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

- 9 No deliveries shall be taken at or dispatched from the site on any Sunday, Bank or Public Holiday or before 8 am or after 7 pm on any other day.

Reason:

To prevent the use causing an undue disturbance to occupiers of adjoining residential properties at unsocial hours of the day.

- 10 No site works or works on this development shall be commenced before temporary tree protection has been erected around existing tree(s) in accordance with details to be submitted and approved in writing by the Local Planning Authority. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 11 Before this development is commenced details of the location, extent and depth of all excavations for drainage and other services in relation to trees on the site shall be submitted and approved in writing by the Local Planning Authority and the development carried out in accordance with such approval.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 12 Before the development hereby permitted commences on site, details of all extraction and ventilation equipment shall be submitted to and approved by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced.

Reason:

To ensure that the proposed development does not prejudice the enjoyment or amenities of occupiers of adjoining residential properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 13 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).

- 14 The materials to be used in the external surfaces of the building works shall match those used in the existing building.

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).

- 15 The premises shall be used for a cafe and no other purpose (including any other purpose in Class A3 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.

INFORMATIVE(S):

- 1 The applicant is advised that Brompton Grove is a private road and the council has no jurisdiction over this road.
- 2 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.
- ii) In this case, formal pre-application advice was sought prior to submission of the application.

3

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 £5,521.82 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 £20,169 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.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The Mayor's London Plan: July 2011

Core Strategy DPD (Adopted) 2012: CS NPPF; CS 5, CS 7

Development Management Policies DPD (Adopted) 2012: DM01; DM02; DM04; DM15; DM16; DM17

Sustainable Design and Construction SPD (Adopted) 2013

Residential Design Guidance SPD (Adopted) 2013

Relevant Planning History:

Planning applications picked up in spatial search

Site Address: Cherry Tree Woods Cherry Tree Road LONDON N2
Application Number: C06775A
Application Type:
Decision: Approve with conditions
Decision Date: 12/04/1994
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Erection of free standing canopy adjacent to existing cafeteria.**
Case Officer:

Site Address: Cherry Tree Park Pavillion, Cherry Tree Wood, Summerlee Avenue, London N2
Application Number: F/02410/13
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: **Change of use from existing Pavilion to A3 (Cafe), including new glazed windows and doors and incorporation of landscaped area for tables and chairs. (AMENDED PLAN)**
Case Officer: James Stone

Consultations and Views Expressed:

Neighbours Consulted: 67
against (3 speakers who are against)
Neighbours Wishing To Speak 3

Replies: 4 letters of support and 24

The objections raised may be summarised as follows:

- inappropriate use; the building would not be suitable as a cafe and the applicant would have to diversify into other areas; the scheme would lead to further development in the future
- proposal would be an eyesore; roller shutter doors would be unattractive
- inappropriate use close to a children's playground
- scale of the proposal is too large
- would exacerbate vermin problems in the area
- cafe would affect the tranquility of the park
- traffic generation
- opening hours
- no need for a cafe in this location because of other cafes in the area including along the High St and in the park (which could result in another building in the park becoming empty)
- impact on amenity including noise disturbance and air quality; too close to housing
- potential for increase in crime
- impact on woods, especially by the landscaped area
- impact on Metropolitan Open Land (MOL); not in accordance with Barnet's policy on reusing buildings in MOL
- proposed paving is inappropriate
- will be a future requirement for ventilation/flues
- the building proposed for conversion is not iconic
- congestion on roads
- the design and access/planning statement is not accurate because it states that the landscaping area would be 5m² whilst the plans shown a larger area
- proposed hard landscaping would affect the character of the park
- the proposed cafe should be built on the concrete footprint of the old cafe to allow the application site to regenerate
- the nearby toilets should be incorporated in the scheme
- the council allowed the building to fall into disrepair so that it could be passed onto private developers
- conditions would be needed to control:
 - 1) deliveries of building materials to ensure it is through the Summerlee Avenue entrance
 - 2) delivery hours
 - 3) ensure no machinery stationed in Brompton Grove during the works
 - 4) providing foul water sewage without harming trees
 - 5) protection of tree
 - 6) protection of wildlife
 - 7) removal and disposal of asbestos
 - 8) no sale of alcohol or takeaways
 - 9) no music
 - 10) no external lighting
 - 11) cafe to operate within normal park opening hours

- 12) no separate entrance to be constructed
- 13) no parking or motor vehicles in the wood
- 14) veranda area to be kept open
- 15) no hard landscaping / decking in adjacent woodland
- 16) development should not go beyond footprint of original building
- 17) any work carried out should be sympathetic to the existing building
- 18) no encroachment on the public footpath
- 19) waste shouldn't be stored on site
- 20) goods should be delivered by trolley or carried along the footpath
- 21) control parking of lorries by the gates at the end of Summerlee Avenue and a limitation on the size of the lorry
- 22) waste needs to be securely stored

The letters of support may be summarised as follows:

- sensible scheme to ensure that the building is restored
- vacant building leads to unsociable behaviour

Internal /Other Consultations:

- Environmental Health - No objection
- Traffic & Development - No objection
- Trees - No objection providing no decking is constructed close to the existing tree in the seating area

Date of Site Notice: 22 August 2013

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site is owned by Barnet Council and is located within Cherry Tree Wood Recreation Ground which is Metropolitan Open Land. (MOL) The existing building is accessed via a footpath at the southern end of Summerlee Avenue. At present the site contains a vacant single storey building that is falling into disrepair and is surrounded by undergrowth. The site is separated from a road called 'Brompton Grove' to the north by mature vegetation whilst to the south, east and west of the site is the Cherry Tree Wood Recreation Ground.

Proposal:

The application seeks permission to convert the existing building to a Cafe (A3). The conversion of the building would not include any extension works but there will be changes to the existing fenestration of the building including new doors and windows. The existing covered veranda will be used as a seating area. Further seating will be provided on a landscaped seating area to the south and east of the building. It should be noted that the landscaped seating area will not include any hardstanding or decking and will be converted to a grassy lawn. The plans were

amended to ensure that the area set aside for landscaped seating correlates between the site location plan and the floor plan. Neighbours were reconsulted on the amended plan.

Planning Considerations:

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

Policy DM15 states that 'Except in very special circumstances, the council will refuse any development in the Green Belt or MOL which is not compatible with their purposes and objectives and does not maintain their openness'. This policy also explains that 'The replacement or re-use of buildings will not be permitted where they would have an adverse impact on the openness of the area or the purposes of including land in Green Belt or MOL'.

Policy CS 7 of the Core Strategy makes particular reference to open spaces and explains that

'We will create a greener Barnet by:

- protecting open spaces, including Green Belt and Metropolitan Open Land
- enhancing open spaces, ensuring positive management of Green Belt and Metropolitan Open Land to provide improvements in overall quality and accessibility'.

Policy 7.17 of The London Plan states that 'Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL'. The supporting text to this policy explains that 'Appropriate development should be limited to small scale structures to support outdoor open space uses and minimise any adverse impact on the openness of the MOL'.

The scheme would help to restore a vacant building that is falling into disrepair and would therefore enhance the appearance of this part of the MOL. The proposal does not include any extension works and only includes relatively minor fenestration alterations and so is considered to be sympathetic to the appearance of the existing building. The applicant has agreed to turn the outside landscaped area into a grass lawn. Given that a lot of the proposed outside landscaped area is currently hardstanding a conversion to a grassy lawn would be an improvement to the area and would maintain the openness of the MOL. Additionally, existing undergrowth would have to be removed next to the pavillion and this would open up this part of the MOL. All building works for the conversion will be in materials to match those used on the existing building. Finally, the use of the building as a cafe is considered compatible with the use of the MOL park, especially when it is taken into account that there are cafes in numerous parks in Barnet.

By restricting the landscaped seating area to a grass lawn the scheme will ensure the protection of mature trees in and around the site. A planning condition will ensure the provision of tree protection fencing during construction and that services do not affect any root protection areas. There are no trees covered by a Tree Protection Order (TPO) close to the site.

With regard to amenity Policy DM01 explains that 'Development proposal should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.' The proposed conversion will all be at ground floor level and there will be no extensions and so overlooking and loss of sunlight/daylight will not be an issue. Policy DM04 adds that 'Proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted'. The cafe and associated seating areas would not be located in close proximity to any residential dwellings given that there are no properties on the southern side of Brompton Grove. Planning conditions will ensure that music is not played from the cafe and will restrict opening hours to daytime hours. Hours of delivery will also be restricted to reduce the possibility of any disturbance to neighbours. Furthermore, a planning condition controls the installation of any flues or ventilation equipment at the site. The council's environmental health officer has no objection to the proposal.

In terms of development standards and Policy DM02 the proposal will include on site toilets, including a toilet for disabled users.

Policy DM16 states that 'When considering development proposals the council will seek the retention and enhancement, or the creation of biodiversity'.

A bat survey has been carried out on the site and did not record any bats leaving a roost site in the building. The bat survey concluded that there are no active roosts present and that further consideration of bats is not required. The report also concluded that no other species, other than bats had any potential to occur on site.

Policy DM17 of the adopted Local Plan refers to highway safety and parking provision. The highways consultant acting on behalf of the council has no objection in principle to the change of use of the building to a cafe. All of the roads to the north of Cherry Tree Wood are within an All Day Controlled Parking Zone (CPZ) which is in place from Monday to Saturday (10 am to 6.30pm). There are also waiting restrictions in place at the entrance to the park from Brompton Grove from Monday to Saturday (8am to 6.30pm) and so it is unlikely that there would be any significant impact on the roads in the vicinity of the site.

3. COMMENTS ON GROUNDS OF OBJECTIONS

- if the owner needs to diversify in future this will be assessed by further planning applications
- the proposal would restore a vacant, derelict building that is currently an eyesore
- a cafe is not considered an incompatible use with a children's playground
- the proposal would not extend the existing building and so is not considered excessive in scale
- a planning condition will ensure adequate refuse provision
- no music will be allowed at the cafe to ensure that it does not harm tranquility
- the highways consultant does not object with regard to traffic generation and it is expected that many people will walk to the cafe
- opening hours will be restricted by condition
- market forces will determine whether or not there is a need for the cafe, it is not upto the planning system to determine this
- the environmental health consultant has not objected to the proposal
- it is not considered that the change of use of the building to a cafe would result in

an increase in crime, especially as the building will not be opening after 6pm in the evening

- the proposal would not result in the loss of any mature trees and the landscaped area will not be hard surfaced in order to protect trees
- the proposal would open up an area of the park and so would enhance the MOL
- the applicant has agreed in writing to have no paving
- a planning condition will control ventilation/flues
- whilst the building does not have statutory protection it is considered that it would make a positive addition to the park if restored
- the highways officer has stated that existing CPZ controls will ensure that there is no issue with congestion
- the landscaping area would have to be constructed in accordance with the approved plans
- there would be no hard landscaping at the site
- the erection of a new building on a concrete footprint would impact upon the park more than the restoration of an existing building
- the plans show that toilets will be provided within the building
- the conversion of the building to a cafe will provide the necessary funds for restoration
- it is considered that the conditions outlined to be attached to any approval would control all necessary matters outlined by objectors

4. EQUALITIES AND DIVERSITY ISSUES

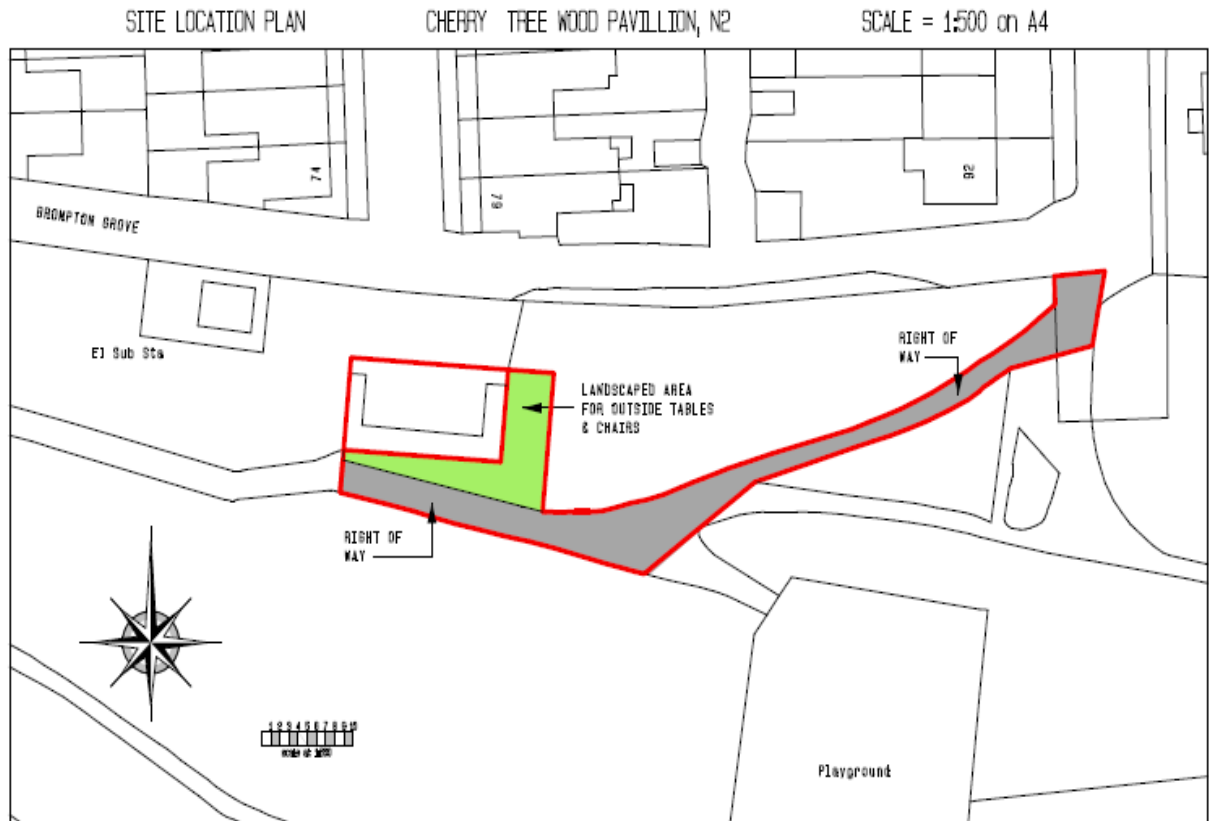
The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

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 and would not detract from the Metropolitan Open Land. This application is therefore recommended for APPROVAL.

SITE LOCATION PLAN: Cherry Tree Park Pavillion, Cherry Tree Wood, Summerlee Avenue, London N2

REFERENCE: F/02410/13



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