

LOCATION: 258-260 Nether Street, London, N3 1HT
REFERENCE: F/00943/13 **Received:** 05 March 2013
Accepted: 18 March 2013
WARD(S): West Finchley **Expiry:** 17 June 2013
Final Revisions:
APPLICANT: Regional Superior on behalf of Xaverian Missionary
PROPOSAL: Erection of a 4 storey building with a lower ground floor comprising of Missionary and HMO occupation, following demolition of existing semi detached dwellings.

RECOMMENDATION: Approve Subject to Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 1022-01; 1022-16; 1022-17; 1022-18; 1022-19; 1022-10 A; 1022-11 C (Amended); 1022-12 C (Amended); 1022-14 C (Amended); 1022-15 C (Amended); Design and Access Statement dated 4 March 2013; Transport Statement dated 15 November 2010; 1022-20 (Amended).

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 No site works or works on this development including demolition or construction work shall commence until a Demolition, Construction and Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. All works must be carried out in full accordance with the approved details unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 4 No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policy DM04 of the Adopted Barnet Development Management Policies DPD (2012).

- 5 Before the development hereby permitted is occupied the parking spaces shown on Plan 1022-11 C (amended) shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

Reason:

To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

- 6 Prior to the commencement of development a scheme for cycle parking provision shall be submitted to the Local Planning Authority. The approved scheme shall be implemented in its entirety prior to the first occupation of the building.

Reason:

To ensure adequate cycle parking provision at the site in accordance with policy DM17 of the Adopted Barnet Development Management Policies DPD (2012).

- 7 Before the development hereby permitted commences, details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason:

To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed 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) and 1.1, 7.4, 7.5 and 7.6 of the London Plan 2011.

- 8 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).

- 9 Before this development is commenced, details of the levels of the building(s), road(s) and footpath(s) in relation to adjoining land and highway(s) and any other changes proposed in the levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason:

To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation in accordance with policies DM01 and DM04 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF, CS1, CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.4, 7.5, 7.6 and 7.21 of the London Plan 2011.

- 10 Provisions shall be made within the site to ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway.

Reason:

To ensure that the development does not cause danger and inconvenience to users of the adjoining pavement and highway.

- 11 The dwelling(s) shall achieve a Code Level 3 in accordance with the Code for Sustainable Homes Technical Guide (October 2008) (or such national measure of sustainability for house design that replaces that scheme) and achieve full Lifetime Homes credits. No dwelling shall be occupied until evidence that the Lifetime Homes credits have been achieved and a Final Code Certificate has been issued certifying that Code Level 3 has been achieved and this certificate has been submitted to and approved by the local planning authority.

Reason:

To ensure that the development is sustainable and complies with policy DM02 of the Adopted Barnet Development Management Policies DPD (2012), the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007) and policies 5.2 and 5.3 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 The level of noise emitted from any plant, should any be required for the development hereby approved, shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason:

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

- 14 Before development commences, a report should be carried out by a competent acoustic consultant and submitted to the Local Planning Authority for approval, that assesses the likely noise impacts from the development of the ventilation/extraction plant. The report shall also clearly outline mitigation measures for the development to reduce these noise impacts to acceptable levels.

It should include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the contents and recommendations. The approved measures shall be implemented in their entirety before (any of the units are occupied / the use commences).

Reason:

To ensure that the amenities of neighbouring premises are protected from noise from the development in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 15 A scheme for acoustic fencing shall be submitted in writing and approved by the Local Planning Authority prior to development. This scheme shall be fully implemented before the development hereby permitted is brought into use.

Reason:

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

- 16 The development shall be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration. This sound insulation shall ensure that the levels of noise generated from the (specified use) as measured within habitable rooms of the development shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am.

A scheme for mitigation measures shall be submitted to and approved by the Local Planning Authority prior to development. The approved mitigation scheme shall be implemented in its entirety before (any of the units are occupied / the use commences).

Reason:

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

- 17 Before development commences, a scheme of proposed air pollution mitigation measures shall be submitted to and approved by the Local Planning Authority. The approved mitigation scheme shall be implemented in its entirety before (any of the units are occupied / the use commences).

Reason:

To ensure that the amenities of occupiers are protected from the poor air quality in the vicinity in accordance with policy DM04 of the Adopted Barnet Development Management Policies DPD (2012) and policy 5.3 of the London Plan 2011.

- 18 Before development commences, a scheme of proposed noise mitigation measures shall be submitted to and approved by the Local Planning Authority. The approved mitigation scheme shall be implemented in its entirety before (any of the units are occupied / the use commences).

Reason: To ensure that the amenities of occupiers are not prejudiced by rail and / or road traffic and / or mixed use noise in the immediate surroundings in accordance with policy DM04 of the Adopted Barnet Development Management Policies DPD (2012).

- 19 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the floor layout plans hereby approved must not be changed without the prior written permission of the local planning

authority.

Reason: To safeguard the amenities of neighbouring occupiers and the general locality in accordance with policies DM01 and DM04 of the Adopted Barnet Development Management Policies DPD (2012)

- 20 Before the building hereby permitted is occupied the proposed window(s) in the side elevations facing 256 and 262 Nether Street 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, unless otherwise agreed in writing by the Local Planning Authority.

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 Any details submitted in respect of the Demolition Construction and Traffic Management Plan above shall control the hours, routes taken, means of access and security procedures for construction traffic to and from the site and for the provision of on-site wheel cleaning facilities during demolition, excavation, site preparation and construction stages of the development, recycling of materials, the provision of on-site car parking facilities for contractors during all stages of development (Excavation, site preparation and construction) and the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials and a community liaison contact and precautions to minimise damage to trees on or adjacent to the site.
- 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 £36.04 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 £13,767.28 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 £51,570 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
- 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.

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; CS 10;

Development Management Policies DPD (Adopted) 2012: DM01; DM02; DM04; DM09; DM13; DM16; DM17

Sustainable Design and Construction SPD (Adopted) 2013

Residential Design Guidance SPD (Adopted) 2013

Relevant Planning History:

Application: Planning
Validated: 18/03/2013
Status: PDE
Summary: APC
Description: Erection of a 4 storey building with a lower ground floor comprising of Missionary and HMO occupation, following demolition of existing semi detached dwellings.

Number: F/00943/13
Type: APF
Date:
Case Officer: James Stone

Application: Planning
Validated: 28/06/2011
Status: APD
Summary: DIS
Description: Erection of a 4 storey building with lower ground floor comprising Missionary and HMO occupation, following demolition of existing semi detached dwellings.

Number: F/02735/11
Type: APF
Date: 06/03/2012
Case Officer: David Campbell

Application: Planning
Validated: 14/09/2009
Status: REG
Summary: DEL
Description: Demolition of existing building and erection of new building to form eight self contained flats and missionary.

Number: F/03303/09
Type: ENQ
Date:
Case Officer: David Campbell

Application: Planning
Validated: 17/12/2010
Status: DEC
Summary: REF
Description: Erection of a 4 storey building with lower ground floor comprising Missionary and HMO occupation.

Number: F/04902/10
Type: APF
Date: 18/03/2011
Case Officer: David Campbell

Consultations and Views Expressed:

HMO Officer - No objection

Neighbours Consulted: 208 Replies: 6 objections
Neighbours Wishing To Speak 0

The objections raised may be summarised as follows:

- a) excessive traffic and parking issues
- b) lorries turning, waiting and loading: would be huge disturbance during construction including from noise and dust
- c) pavement used by parents and children in the morning and afternoon
- d) noise, dust and disturbance
- e) visual impact including appearance and scale; harmful to character of the area
- f) impact on amenity including occupancy, loss of sunlight, loss of privacy, traffic and parking
- g) loss of attractive buildings
- h) proposed occupancy is higher than previous applications at the site and would represent overdevelopment
- i) questions remain about s106 contributions and why they are required if the proposal will reduce occupancy at the site
- j) The application form suggests 24 cycle parking spaces will be provided whereas the Design and Access Statement states that 18 new cycle spaces will be created. The proposed drawing does not make it clear how many cycle spaces will be provided

- k) The Design and Access Statement claims '4 parking bays designated for visitors and disabled people have been provided' whilst later on this document claims that '....1 car space for Missionary and 3 visitor spaces..' which is a contradiction
- l) Parking arrangements will make unhindered access to the room referenced as 'HMO1' impossible
- m) Discrepancies between Drawings no's LPP-1022-11 and LPP-1022-20 as the space referenced on 'HM01' on the former is shown as 'Bin Store' on the latter
- n) Inadequate accommodation for an HMO
- o) Not a suitable location for HMO accommodation

Date of Site Notice: 28 March 2013

2. PLANNING APPRAISAL

Site Description and Surroundings:

The existing property forms a pair with the adjacent dwellings, Nos. 256 & 254 Nether Street, particularly in terms of its design, materials and footprint. More recently constructed blocks of flats exist to the opposite side of the road and surround the application site more generally. Two storey suburban-style semi-detached dwellings are located to the rear of the site on Elm Park Road. There is little group coherence between the application site and its immediate neighbours, although links with Nos. 256 & 254 are clearly visible. The height of the property and its location in the street scene result in the existing property being viewed as a fairly dominant feature. The existing building which operates as a missionary has 17 bedrooms and the benefit of parking spaces to the front of the property.

Proposal:

The application, as amended, seeks full planning permission for the erection of a four storey building following demolition of the existing building on site. The existing building consists of semi-detached dwellings solely owned by the Xaverian Missionary. The existing buildings have 17 shared bedrooms accommodating 34 people. The proposed building would contain two main elements.

The first element would be a house for multiple occupancy for 15 people (HMO). The HMO accommodation would be located from the ground floor up to the third floor and would be situated at the front of the building. The rooms, which would all include ensembles, would be for students who would share kitchens.

The lower ground level and the space at rear of the building from ground floor to third floor level would be occupied by the Xaverian missionary. This second element would include nine bedrooms (each with its own ensuite) and communal facilities and a conference centre for the missionaries.

Amendments have been made to the internal arrangements of the scheme to ensure it meets the council's HMO standards. The proposed scheme would provide sleeping accommodation for a total of 24 people.

The scheme would also involve the provision of four parking spaces (including one disabled space) at the front of the site. Cycle parking provision would also be

provided at the front.

Planning Considerations:

Planning permission was refused under ref: F/02735/11 for a building that is identical in scale and design to the current proposal. The refused application also included nine bedrooms related to the missionary and 15 HMO bedrooms along with four parking spaces at the front of the site. At appeal the inspector deemed that there were three main issues that needed assessing (Appeal ref APP/N5090/A/11/2165087 can be found in Appendix 1 of this report):

i) Whether the proposal would appear out of place and obtrusive because of its design, bulk and mass causing significant harm to the visual amenities of the area and living environment for adjoining residents?

It was accepted that due to the slight extension of the new building into the rear garden area that there would be some effect upon the residential use of the adjoining rear extension at no. 262. However, the inspector deemed that due to the location of the new development the scheme would not cause significant loss of light or harm to visual amenity to warrant a refusal.

The inspector also stated that the new development would not appear incongruous nor out of keeping in relation to the locality and adjacent buildings and would not cause harm to the amenity enjoyed by neighbouring residents. It was even felt by the inspector that the proposal would be an improvement when compared to many other forms of housing in the area.

With regard to overlooking the inspector felt that the proposal would not result in a significantly different level of overlooking when compared to the impact of the existing buildings. The side windows of the previous application, as is also the case with this application, could be obscurely glazed because they serve stairwells, non-habitable rooms or form secondary windows for bedrooms.

ii) Would the proposed car parking provision be adequate bearing in mind the likely occupancy of the development and the locality of the site?

The scheme refused under ref: F/02735/11 included the same number of parking spaces as the current proposal. The inspector deemed that in terms of residential occupation there would be a significant reduction in the numbers of persons living in the proposed building compared to the existing building. The inspector also concluded that it is likely that students in the HMO would use bicycles for which there is provision or public transport. It should also be noted that there is vehicular parking provision on the opposite side of Nether Street. Given these circumstances the inspector felt that the council's car parking requirements could be relaxed and the proposed number of spaces could be considered reasonable for the intended uses.

iii) Would the lack of a signed legal agreement prevent the granting of permission?

Given the adoption of Barnet CIL in 2013 s106 contributions are no longer applicable to this scheme.

Other Issues considered by the inspector:

Overdevelopment of the site?

The inspector concluded that the proposal would not amount to overdevelopment of the site. This conclusion was reached because there would be fewer persons accommodated within the new building than currently exists and because within urban areas one should make the best possible use of land commensurate with the compatibility of the scheme.

Standard of accommodation for HMO use?

The inspector deemed that whilst the standard of HMO accommodation provided by ref: F/02735/11 was unsuitable it could easily be amended.

The current scheme has been amended internally to meet the requirements of the council's HMO officer, namely the provision of bedrooms with a floor space of at least 10.2m² (not including the en-suite). All of the HMO bedrooms meet the standard requirements apart from bedroom 4 on the second floor. However, the HMO officer has stated that since only one bedroom will fall below the 10.2m² requirement they would still grant an HMO licence providing that this bedroom has a floor area of at least 8.5m². The floor area of bedroom 4 exceeds 8.5m² and so the council's HMO officer has stated that the scheme is acceptable for HMO accommodation. Furthermore, all of the kitchens meet the 6m² requirement for HMOs.

Demolition of existing building

It is deemed that there is little coherence between the existing building and its immediate neighbours and given that the existing building has little architectural merit there is no opposition to its demolition.

Noise Disturbance

The inspector felt that given the standard of building construction likely and the rules under which the occupants would have to abide there is unlikely to be a significant noise problem either within the building or to adjacent residents.

3. COMMENTS ON GROUNDS OF OBJECTIONS

- a) Covered in report
- b) Conditions would control hours of construction and there would be a Demolition, Construction and Traffic Management Plan condition to reduce disturbance from lorries etc
- c) Pedestrian safety issues were not raised by the inspector as an obstacle to development under ref: F/02735/11
- d) Covered in report and in part (b) of this section
- e) Design issues covered in report
- f) Amenity covered in report
- g) Loss of existing building covered in report
- h) Overdevelopment covered in report
- i) S106 contributions not required because of adoption of Barnet CIL
- j) A planning condition will ensure adequate cycle parking provision is provided at the site

- k) The car parking provision of 4 spaces, including one disabled space, was assessed by the Planning Inspectorate to be adequate for the scheme. A planning condition will ensure the 4 spaces are provided before the occupation of the building and retained thereafter
- l) Access to HMO 1 is from a side door which means the proposed parking bays will not impact upon access to this room.
- m) The internal arrangements shown on the site plan have been amended to correlate with the proposed ground floor plan
- n) Covered in report
- o) The building is for residential uses and would be located in an area defined by residential development. Furthermore, the Planning Inspectorate did not raise the principle of development as an obstacle to the scheme

4. EQUALITIES AND DIVERSITY ISSUES

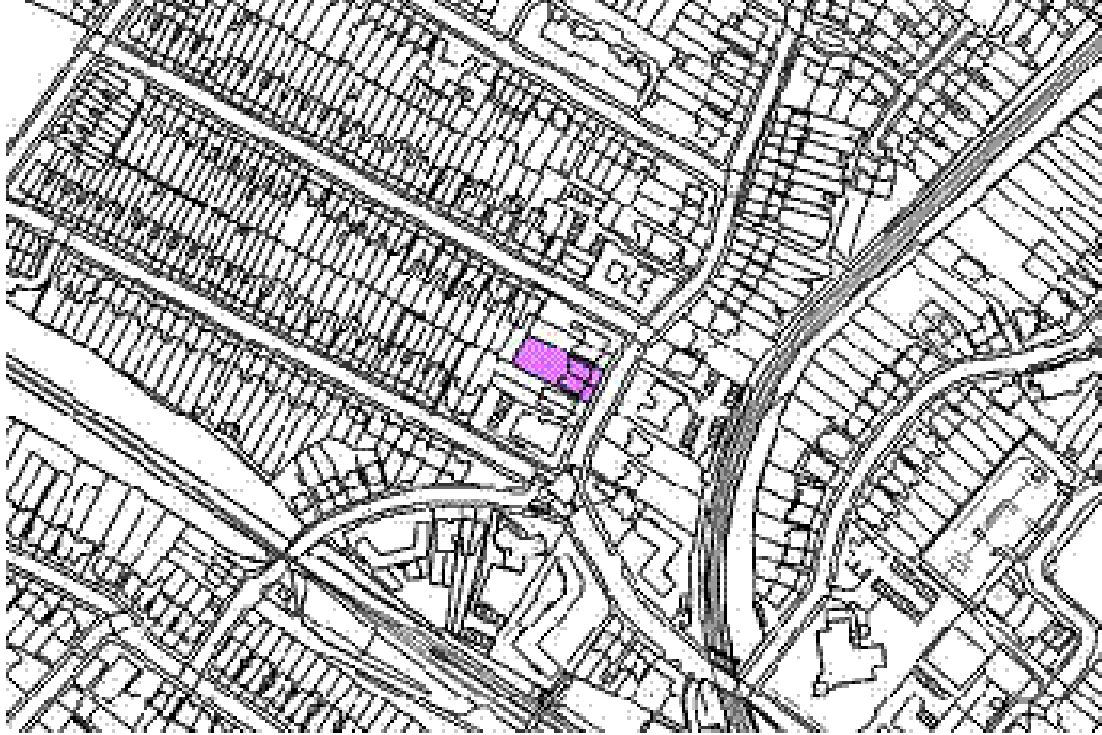
The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

The proposed scheme accords with the policies and guidance of the adopted Barnet Local Plan and is therefore recommended for **APPROVAL**.

SITE LOCATION PLAN: 258-260 Nether Street, London, N3 1HT

REFERENCE: F/00943/13



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