

LOCATION: 713 Finchley Road, London, NW11 8AT
REFERENCE: F/06021/13 **Received:** 20 December 2013
WARD: Childs Hill **Accepted:** 20 December 2013
APPLICANT: Origin Housing **Expiry:** 21 March 2014
PROPOSAL: Variation of condition 23 (Opening hours) pursuant to planning permission F/03415/12 dated 21/03/13
Final Revisions:

Approve Subject to a deed of variation to amend the S106 for F/03415/12 dated 21/03/13

Subject to a Section 106 Agreement

RECOMMENDATION I:

That the applicant and any other person having a requisite interest be invited to enter by way of an agreement into a planning obligation under Section 106 of the Town and Country Planning Act 1990 and any other legislation which is considered necessary for the purposes seeking to secure the following:

- 1 Paying the council's legal and professional costs of preparing the Agreement and any other enabling agreements;
- 2 All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority;
- 3 **Affordable Housing (units) £0.00**
 Provision of 11 affordable housing units on the site, split up into the following types:
 - i) Social Rented Accommodation:
 - 1 x 1 bedroom (2 person)
 - 1 x 2 bedroom (3 person)
 - 3 x 3 bedroom (5 person)
 - ii) Shared Ownership Accommodation:
 - 1 x 1 bedroom (2 person)
 - 2 x 2 bedroom (3 person)
 - 3 x 2 bedroom (4 person)
- 4 **Education Facilities (excl. libraries) £76,663.00**
 A contribution towards the provision of Education Facilities in the borough.
- 5 **Health £24,654.00**
 A contribution towards Health Facilities and Resources in the borough
- 6 **Requirement to submit Travel Plan £5,000.00**
 Requirement to submit a Travel Plan for approval by the Council prior to first occupation of the development and the obligation to provide a contribution towards the Council's costs of monitoring the implementation of a Travel Plan.
- 7 **Libraries (financial) £3,898.50**
 A contribution towards Library Facilities and Resources in the borough
- 8 **Highways (traffic order) £2,000.00**
 A contribution towards the cost of required changes to an existing traffic order or creation of a new order related to the development.
- 9 **Town Centres Programme £10,000.00**
 A contribution towards the preparation of the Council's 'Suburban Town Centre Strategy', related documents, consultations and/or publicity; in order

to meet the demand for increased and more intensified usage of such facilities as a result of occupation of the development. Any remaining unspent part of this contribution to be allocated to public realm improvements in town centres identified in these documents.

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| 10 | Open Spaces (specific site or purpose)
A contribution towards the improvement and enhancement of recreational public amenity parks and open spaces (including Premier Parks and those with green flag awards) located within the London Borough of Barnet as identified by the Parks and Open Spaces Officer. | £0.00 |
| 11 | Monitoring of the Agreement
Contribution towards the Council's costs in monitoring the obligations of the agreement. | £5,016.46 |
| 12 | Mayoral Community Infrastructure Levy
A rate of £35 per sqm on the net additional floor space of chargeable development | £140,140.00 |
| 13 | CIL - Social Housing Relief
Relief granted to affordable / social housing provided it is maintenance for this correct use for at least 7 years from the date of completion.
Alternatively that the full income relating to any process that removed CIL relief eligibility is used for an equivalent CIL eligible social housing purpose. | -£33,950.00 |

RECOMMENDATION II:

That upon completion of the agreement the Acting Assistant Director of Planning and Development Management approve the planning application reference: F/06021/13 under delegated powers subject to the following conditions: -

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

Drawings:

Site Plan, Location Plan, 1150_PL_100, 1150_PL_101, 1150_PL_102 A, 1150_PL_103, 1150_PL_104, 1150_PL_105, 1150_PL_106, 1150_PL_107, 1150_PL_108, 1150_PL_200, 1150_PL_201, 1150_PL_202 and 1150_PL_203, 1150_PL_250.

Documents:

Design and Access Statement
Planning Statement
Transport Assessment
Energy Statement (RUND reference 80058/1)
Noise and Vibration Assessment (WSP)
Air Quality Assessment (WSP)
Affordable Housing Viability Report (Simon Corp dated 23rd August 2012)
Affordable Housing Statement (Origin Housing)
Daylight/Sunlight Report (Anstey Horne reference MH/SFT/ROL6728)
Contaminated Land Remediation Strategy
Code for Sustainable Homes Pre-Assessment (RUND reference 80055/01)
BREEAM Pre-Assesment Estimator

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 21/03/13.

Reason:

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

3 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.

4 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.

5 Notwithstanding the details on the plans hereby approved, prior to the commencement of works above basement level within the approved development, details of the following shall be submitted to and approved in writing by the Local Planning Authority:

(i) balconies and balustrades

(ii) depth of window reveals

(iii) roof parapets and overhangs

(iv) 1:10 scale details of the articulated recesses on the northern facade

The development shall be implemented in accordance with such details as approved.

Reason:

To ensure a satisfactory appearance to the development and safeguard the visual amenities of the locality in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS5 of the Adopted Barnet Core Strategy DPD (2012) and policies 7.4 and 7.6 of the Mayor's London Plan (2011).

- 6 Before the development hereby permitted is brought into use or occupied the site shall be enclosed except at the permitted points of access in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with policies DM01, DM03, DM17 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 7 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).

8 Part 1

Before development commences other than for investigative work:

- a. A desktop study shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.
- b. If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:-
- a risk assessment to be undertaken,
 - refinement of the Conceptual Model, and
 - the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

- c. If the risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using

the information obtained from the site investigation, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.

Part 2

Where remediation of contamination on the site is required completion of the remediation detailed in the method statement shall be carried out and a report that provides verification that the required works have been carried out, shall be submitted to, and approved in writing by the Local Planning Authority before the development is occupied.

Reason:

To ensure the development can be implemented and occupied with adequate regard for environmental and public safety in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012) and 5.21 of the London Plan 2011.

- 9 A noise assessment, by an approved acoustic consultant, shall be carried out that assesses the likely impacts of external noise on the development. This report and any measures to be implemented by the developer to address its findings shall be submitted in writing for the approval of the Local Planning Authority Prior to commencement of works above basement car park level within the approved development. 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 occupiers are not prejudiced by road traffic and/or mixed use noise in the immediate surroundings in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 10 Prior to commencement of works above basement car park level within the approved development, details of all extraction and ventilation equipment, communal boilers and any other plant associated with the retail unit shall be submitted to and approved by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced or the units are occupied.

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.

- 11 Before development commences above basement car park level within the approved development, 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.

- 12 The level of noise emitted from any ventilation/ extraction plant 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.

- 13 Prior to commencement of works above basement car park level within the approved development, an air quality assessment report, written in accordance with the relevant current guidance, for the existing site and proposed development shall be submitted to and approved by the Local Planning Authority. It should also have regard to the air quality predictions and monitoring results from the Stage Four of the Authority's Review and Assessment, the London Air Quality Network and London Atmospheric Emissions Inventory. A scheme for air pollution mitigation measures based on the findings of the report shall be submitted to and approved by the Local Planning Authority prior to commencement of works above basement car park level. The approved mitigation scheme shall be implemented in its entirety before any of the units are occupied and 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.

- 14 The development shall be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally and externally generated noise and vibration. This sound insulation shall ensure that the levels of noise generated from the residential use and A1 retail unit 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 commencement of works above basement car park level. The approved mitigation scheme shall be implemented in its entirety before any of the units are occupied and 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.

- 15 Before the development hereby permitted is occupied the parking spaces and the traffic signal mechanism for control of the accesses as indicated on Drawing Nos. 1150_PL_100 to 101 shall be provided and the parking spaces shall not be used for any purpose other than 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.

- 16 Notwithstanding the details on the plans submitted, before development commences, details of the layout, gradient and design of the access ramp for the basement car parking area including vertical clearances along the ramp and within the parking area shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out nor shall it be subsequently operated otherwise than in accordance with the approved details.

Reason: In the interests of 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.

- 17 No development shall take place until details of a construction management plan have been submitted to and approved in writing by the local planning authority.

Reason:

To safeguard residential amenity in accordance with policy DM17 of the Adopted Barnet Development Management Policies DPD (2012).

- 18 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).

- 19 Prior to commencement of works above basement car park level within the approved development, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The landscaping details shall include:

- i) A Landscape Strategy for the communal garden;
- ii) Location and size of proposed tree/ shrub planting including details of individual species and any planting pits proposed;
- iii) Method statement for planting and on-going maintenance of any proposed tree and shrub planting;

- iv) proposed finished levels or contours;
- v) means of enclosure and boundary treatments;
- vi) hard surfacing materials; and
- vii) minor artefact's and structures.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011 and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

- 20 All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

Reason:

To ensure a satisfactory appearance to the development 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

- 21 Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason:

To ensure a satisfactory appearance to the development 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.

- 22 No delivery to or collection from the site shall take place before 7.00am or after 7.00pm Mondays to Saturdays and a maximum of 4 deliveries shall take place on Sundays between the hours of 10.00am and 4.00pm.

Reason:

To prevent the use causing an undue disturbance to occupiers of neighbouring residential properties and potential future occupiers of the development at unsocial hours of the day.

- 23 The Class A1 commercial unit hereby approved shall not be open to customers before 7am or after 11.30pm Monday to Saturday or before 8am or after 11pm on Sundays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

- 24 The residential dwellings hereby approved shall achieve a Code Level 4 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). No dwelling shall be occupied until a Final Code Certificate has been issued certifying that Code Level 4 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 Strategic and Local Policies in accordance 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).

- 25 Before the development hereby permitted commences, details of the provision of 1 in 5 car parking spaces with electrical charging points (both active and passive) within the development shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter.

Reason: To encourage the uptake of electric vehicles in the interests of sustainability in accordance with London Plan Policy 6.13.

- 26 Prior to commencement of works above basement car park level within the approved development, details of the proposed communal gas fired boiler heating system shall be submitted to the local planning authority for approval in writing. The details shall include an air quality assessment report for the selected boiler system. The facilities shall be installed and become fully operational prior to the occupation of the buildings, and shall thereafter be maintained in accordance with the approved details.

Reason:

To ensure that the development is sustainable and complies with Strategic and Local Policies

- 27 The ground floor retail unit is required to meet BREEAM 'Excellent'. Before the development is first occupied the developer shall submit certification of the selected generic environmental standard.

Reason:

To ensure that the development is sustainable and complies with Strategic and Local Policies in accordance 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).

- 28 Prior to the first occupation of the development hereby approved a Parking Management Plan detailing the allocation of car parking spaces, on site parking controls and charges, and enforcement of unauthorised parking has been submitted to and approved by the local planning authority. The plan shall be implemented before the building hereby permitted is occupied and maintained thereafter.

Reason:

To ensure that on site car parking is adequately managed and controlled.

- 29 Before the development hereby permitted is occupied details of screening along the boundaries of the communal garden area 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 and maintained thereafter.

Reason:

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

- 30 The cycle parking spaces as shown on the approved plans shall be provided prior to occupation of the development and shall be kept available for the parking of cycles associated with the development at all times.

Reason:

To ensure that adequate and satisfactory provision is made for the parking of cycles.

- 31 None of the dwellings shall be occupied until drainage works to serve the development and works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason:

To ensure that the foul and/or surface water discharge from the site shall not be prejudicial to the existing sewerage system and the amenities of the area to comply with Policies 5.13 and 5.14 of the London Plan 2011.

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.
- 2 The Mayor of London introduced a Community Infrastructure Levy on 1st April 2012 setting a rate of £35 per sqm on all 'chargeable development' in Barnet. Your planning application has been assessed to be CIL liable.

This will be recorded to the register of Local Land Charges as a legal charge upon your site should you commence development. This Mayoral CIL charge will be passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

If Affordable Housing Relief 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 will provide 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, this 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 statutory requirements, such requirements will all be set out in the Liability

Notice you will receive.

If you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please contact us: cil@barnet.gov.uk.

- 3 In complying with the contaminated land condition parts 1 and 2:

Reference should be made at all stages to appropriate current guidance and codes of practice. This would include:

- 1) The Environment Agency CLR & SR Guidance documents;
- 2) Planning Policy Statement 23 (PPS 23) - England (2004);
- 3) BS10175:2001 Investigation of potentially contaminated sites - Code of Practice;
- 4) Guidance for the safe development of housing on land affected by contamination, (2008) by NHBC, the EA and CIEH.

Please note that in addition to the above, consultants should refer to the most relevant and up to date guidance and codes of practice if not already listed in the above list.

- 4 You are advised to engage a qualified acoustic consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory internal noise levels in this location.

In addition to the noise control measures and details, the scheme needs to clearly set out the target noise levels for the habitable rooms, including for bedrooms at night, and the levels that the sound insulation scheme would achieve.

The council's supplementary planning document on Sustainable Design and Construction requires that dwellings are designed and built to insulate against external noise so that the internal noise level in rooms does not exceed 30dB(A) expressed as an Leq between the hours of 11.00pm and 7.00am, nor 35dB(A) expressed as an Leq between the hours of 7.00am and 11.00pm (Guidelines for Community Noise, WHO). This needs to be considered in the context of room ventilation requirements

The details of acoustic consultants can be obtained from the following contacts:
a) Institute of Acoustics and b) Association of Noise Consultants.

The assessment and report on the noise impacts of a development should use methods of measurement, calculation, prediction and assessment of noise levels and impacts that comply with the following standards, where appropriate: 1) BS 7445 (1991) Pts 1, 2 & 3 (ISO 1996 pts 1-3) - Description and measurement of environmental noise; 2) BS 4142:1997 - Method of rating industrial noise affecting mixed residential and industrial areas; 3) BS 8223: 1999 - Sound insulation and noise reduction for buildings: code of practice; 4) Department of transport: Calculation of road traffic noise (1988); 5) Department of transport: Calculation of railway noise (1995); 6) Department of transport : Railway Noise and insulation of dwellings.

- 5 The Air Quality Stage 4 Review and Assessment for the London Borough of Barnet has highlighted that this area currently experiences or is likely to

experience exceedances of Government set health-based air quality standards. A list of possible options for mitigating poor air quality is as follows: 1) Use of passive or active air conditioning; 2) Use of acoustic ventilators; 3) Altering lay out – habitable rooms away from source of poor air quality; 4) Non residential usage of lower floors; 5) Altering footprint – setting further away from source of poor air quality.

For developments that require an Air Quality report; the report should have regard to the air quality predictions and monitoring results from the Stage Four of the Authority's Review and Assessment available from the LPA web site and the London Air Quality Network. The report should be written in accordance with the following guidance: 1) NSCA Guidance: Development Control: Planning for Air Quality and the Planning Policy Statement 23: Planning and Pollution Control; 2) Environment Act 1995 Air Quality Regulations, Planning Policy Statement 23: Planning and Pollution Control, Annex 1: Pollution Control, Air and Water Quality; 3) Local Air Quality Management Technical Guidance LAQM.TG(03); 4) London Councils Air Quality and Planning Guidance, revised version January 2007.

- 6 If the development is carried out it will be necessary for any existing redundant vehicular crossover(s) to be reinstated to footway by the Highway Authority at the applicant's expense. You may obtain an estimate for this work from the Environment, Planning and Regeneration Directorate, Building 4, North London Business Park (NLBP), Oakleigh Road South, London N11 1NP.
- 7 Any doors opening onto the vehicular or pedestrian access should open inwards.
- 8 Off site traffic management scheme involving the public highway during the works was proposed as part of the previously approved scheme on this site.

If a similar arrangement is considered during the construction of the proposed scheme then it is recommended that prior to commencement of any works affecting public highway the applicant must consult Environment, Planning and Regeneration Directorate, Building 4, North London Business Park (NLBP), Oakleigh Road South, London N11 1NP to seek approval.

RECOMMENDATION III:

That if the deed of variation is not signed by the 21st March 2014, that unless otherwise agreed in writing, the Assistant Director of Development Management and Building Control should REFUSE the application F/06021/13 under delegated powers for the following reasons:

1. The development would require a section 106 agreement and no formal undertaking is given to the Council, as a result the proposed development would, by reason of the developer not providing affordable housing be contrary to policy DM10 of the Local Plan Development Management Policies (Adopted) 2012.
2. The development would require a section 106 agreement and no formal undertaking is given to the Council, as a result the proposed development would, by reason of the developer not providing contributions towards the provision of education facilities; health facilities and libraries and life long learning be contrary to policies CS10 and CS11 of the Local Plan Core Strategy (Adopted) 2012.
3. The development would require a section 106 agreement and no formal undertaking is given to the Council, as a result the proposed development would, by reason of the developer not providing contributions for off-site highways works and Travel Plan monitoring be contrary to policy DM17 of the Local Plan

Development Management Policies (Adopted) 2012.

4. The development would require a section 106 agreement and no formal undertaking is given to the Council, as a result the proposed development would, by reason of the developer not providing contributions towards the off site enhancement of open space be contrary to policy DM15 of the Local Plan Development Management Policies (Adopted) 2012.

1. MATERIAL CONSIDERATIONS

Introduction

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals shall be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan is The London Plan published July 2011 and the Core Strategy and Development Management Policies Development Plan Documents was adopted in September 2012. These statutory development plans are the main policy basis for the consideration of this planning application.

National Planning Policy Framework

National planning policies are set out in the National Planning Policy Framework (NPPF). This 65 page document was published in March 2012 and it replaces 44 documents, including Planning Policy Guidance Notes, Planning Policy Statements and a range of other national planning guidance. The NPPF is a key part of reforms to make the planning system less complex and more accessible.

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The document includes a 'presumption in favour of sustainable development'. This is taken to mean approving applications, such as this proposal, which are considered to accord with the development plan.

The Mayor's London Plan: July 2011

The replacement London Plan was adopted on 22nd July 2011 and provides the strategic planning guidance and policies for the capital. It promotes sustainable growth and environmentally responsive development. Relevant London Plan Policies include:

Policy 2.6 - Outer London: Vision and Strategy

Policy 2.7 - Outer London: Economy

Policy 2.15 - Town Centres

Policy 3.1 - Ensuring Equal Life Chances for All

Policy 3.3 - Increasing Housing Supply

Policy 3.4 - Optimising Housing Potential

Policy 3.5 - Quality and Design of Housing Developments

Policy 3.6 - Children and Young People's Play and Informal Recreation Facilities

Policy 3.8 - Housing Choice

Policy 3.9 - Mixed and Balanced Communities

Policy 3.11 - Affordable Housing Targets

Policy 3.12 - Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes

Policy 4.7 - Retail and Town Centre Development
Policy 4.8 - Supporting a Successful and Diverse Retail Sector
Policy 5.1 - Climate Change Mitigation
Policy 5.2 - Minimising Carbon Dioxide Emissions
Policy 5.3 - Sustainable Design and Construction
Policy 5.7 - Renewable Energy
Policy 5.13 - Sustainable Drainage
Policy 5.21 - Contaminated Land
Policy 6.3 - Assessing Effects of Development on Transport Capacity
Policy 6.13 - Parking
Policy 7.2 - An Inclusive Environment
Policy 7.3 - Designing Out Crime
Policy 7.4 - Local Character
Policy 7.6 - Architecture
Policy 7.14 - Improving Air Quality
Policy 8.2 - Planning Obligations
Policy 8.3 - Community Infrastructure Levy

Core Strategy (Adopted) 2012

The Core Strategy was adopted by the Council on the 11 September 2012. Relevant policies include:

Policy CS NPPF - National Planning Policy Framework - Presumption in Favour of Sustainable Development
Policy CS1 - Barnet's Place Shaping Strategy - The Three Strands Approach
Policy CS 4 - Providing quality homes and housing choice in Barnet
Policy CS5 - Protecting and enhancing Barnet's character to create high quality places
Policy CS6 - Promoting Barnet's Town Centres

Development Management Policies (Adopted) 2012

The Development Management Policies document was adopted on the 11 September 2012 and provides the borough wide planning policies that implement the Core Strategy. These policies are used for day-to-day decision making. Relevant policies include:

DM01- Protecting Barnet's character and amenity
DM02 - Development Standards
DM03 - Accessibility and Inclusive Design
DM04 - Environmental Considerations for development
DM05 - Tall Buildings
DM08 - Ensuring a variety of sizes of new homes to meet housing need
DM10 - Affordable Housing Contributions
DM12 - Maintaining our local centres and parades
DM17 - Travel Impact and parking standards

Key relevant local and strategic supplementary planning documents

Sustainable Design and Construction SPD
Residential Design Guidance

The Community Infrastructure Levy Regulations 2010

Relevant Planning History:

Application Ref.	Address	Description of Development	Decision and Date
F/00629/09	713 Finchley Road, London NW11 8DH	Demolition of former petrol filling station forecourt shop building, and erection of a seven storey mixed use building comprising 370sqm of class A1 retail floorspace at ground floor and 31 residential units above with associated car parking at ground floor and basement levels.	Resolution to Approved following completion of S106 agreement by P&E committee 06/05/2009. Application subsequently APPROVED following completion of s106 27/05/2009.
C00896Y/08	713 Finchley Road, London NW11 8DH	Demolition of former petrol filling station fore court shop building, and erection of a seven storey mixed use building, comprising 355sqm of class A1 retail floor space at ground floor and 31 residential units above with associated car parking at ground floor and basement levels.	Resolution to Approve subject to S106 agreement by P&E committee 14th May 2008. Application subsequently WITHDRAWN
N16024/08	1412-1420 High Road, Whetstone, N20 9BH	Demolition of former petrol filling station fore court shop building, and erection of a seven storey mixed use building, comprising class A1, A2, A3 and B1 commercial floorspace at ground floor and 40 residential units on upper floors with associated car parking at basement level.	REFUSED 27th May 2008

Consultations and Views Expressed:

Neighbours Consulted: 560 Replies: 6
Neighbours Wishing To Speak 0

The objections raised may be summarised as follows:

- Increasing hours of opening will result in increased activity by cars and people from very early in the morning until late at night.

- Concern about noise and disturbance from late night deliveries.
- There are already two late night supermarkets within 50 yards of the site and therefore this is unnecessary.
- Insufficient parking space for the number of units proposed.
- Existing road network is already busy and difficult to navigate as a pedestrian this will make it worse.
- Hours will lead to anti-social behaviour - drinking.
- Increase in litter - bottles/cans/cigarettes/general litter
- Increase in crime.
- Local shops will lose their livelihoods and subsequent increase in unemployment.
- There is no parking in the vicinity of the site.
- Area is well served by existing convenience stores

Internal /Other Consultations:

- Traffic & Development - No objection
- Environmental Health - No objection

Date of Site Notice: 23 January 2014

2. PLANNING APPRAISAL

Site Description and Surroundings:

The development site comprises a former BP filling station at 713 Finchley Road on the north-west corner of the junction of Cricklewood Lane and Finchley Road in the Childs Hill ward. The site has been cleared and lies vacant.

The plot has a curved frontage stretching from Cricklewood Lane round into Finchley Road. An 11 storey block of flats (Orchard Mead House) is located adjacent to the site to the north whilst a 3 storey parade containing shops and flats above (Tudor Court) abuts the site to the west.

The Castle Pub occupies the prominent opposite corner of the junction on the east side of Finchley Road. The buildings which front Cricklewood Lane and Finchley Road to the south of the junction are generally three storeys in height. The buildings to the north of the site are residential with several blocks of flats including Portman Heights (6-storeys) and Heathway Court (5-storeys) on the east side of Finchley Road nearby.

Elm Park is a small public park to the rear of the Castle Pub within 65m of the site. In addition Childs Hill Park and Golders Hill Park are both within 500m of the site. Golders Green Underground Station is approximately 1km to the north of the site and there are good bus services along Finchley Road which stop close to the site.

The site occupies an area of approximately 840m² (0.08 hectares). Levels drop from east to west across the site, as a result the land to the rear of the site is at least 1 storey lower.

Proposal:

Planning permission was granted in March 2013 for the redevelopment of the site for the erection of a part four, part five, part seven storey building comprising 370sqm of Class A1 retail floorspace at ground floor and 31 residential units above with associated car parking at ground and basement level with access from Finchley Road (our ref: F/03415/12). Works have started to implement this permission.

Consent was granted subject to a number of conditions. Condition 23 relates to the hours of operation for the proposed ground floor retail unit. The condition restricts the hours of opening of the unit from 7.30am to 9.00pm Monday to Saturday and from 10am to 6pm on Sundays.

The current application is to vary this condition to enable the ground floor retail unit to open from 7am-11.30pm Monday to Saturday and from 8am to 11pm on a Sunday.

As background to the application when the application was originally submitted the owners did not have a tenant secured for the ground floor unit. Since granting consent for the redevelopment they have started to market the unit and have been advised by potential occupiers that the hours of opening need to be increased to meet their needs.

Planning Considerations:

The only matter for consideration is whether the increase in opening hours for the ground floor unit would adversely affect the residential amenity of the adjoining residential properties.

The proposed changes would result in the ground floor retail unit opening half an hour earlier Monday to Friday and two hours earlier on a Sunday and shutting two and a half hours later Monday to Saturday and 5 hours later on a Sunday.

A recent shop survey of the adjoining retail units show that a number of units in the surrounding parade operate similar hours to those proposed at the application site. The adjoining paint shop (Vargil Paints) opens at 7am Monday to Friday and 7.30am on a Saturday. The convenience store on Hermitage Lane is open from 7am to 11pm everyday of the week as is Express Food and Wine on the opposite side of the road.

It is therefore considered that the proposed hours of opening are similar to those that operate within the existing parade of shops and therefore are not considered to lead to an increase in activity and noise and disturbance within the area to such a level as to warrant a refusal.

The Council's Environmental Health Officers have advised that they have no objections to the proposed change in hours.

The Traffic and Transport Section have advised that they do not consider that the proposed change in hours will have implications for the free flow of traffic on the

surrounding road network of for the safety of pedestrians.

Condition 22 restricts the hours of deliveries to between 7am and 7pm Monday to Saturdays and a maximum of 4 deliveries are allowed on a Sunday between 10am and 4pm. This condition would remain unchanged.

The proposed change to the opening hours is therefore not considered to adversely affect the amenity of adjoining residential properties and is therefore considered to be in accordance with Policy DM04 of the adopted Local Plan.

3. COMMENTS ON GROUNDS OF OBJECTIONS

The majority of these have been considered in the appraisal. However, the following specific responses can be made:

- The proposed hours of use are similar to those operated by a number of neighbouring retail units within the existing parade and is not considered to result in an increase in activity to such a level as to warrant a refusal
- Condition 22 restricts the hours of delivers to before 7pm.
- Impact on existing uses is not a material planning consideration.
- This application is to vary the hours of opening. The number of parking spaces and their adequacy were considered when the original application was determined.
- The traffic and transport section do not consider that the proposal would adversely impact pedestrian and highway safety.
- The impact of a retail unit in this location was considered in full when the original application was submitted. It is not considered that the increase in opening hours would increase anti-social behaviour; litter or crime.
- The principle of a retail unit and its impact on the existing retail units was considered as part of the original 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

The proposed increase to the opening hours is considered acceptable and in accordance with the requirements of Policy DM04. Accordingly, subject to a deed of variation to amend the Section 106 agreement that is attached to the original consent to link include this application **APPROVAL** is recommended.

SITE LOCATION PLAN: 713 Finchley Road, London, NW11 8AT

REFERENCE: F/06021/13



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