

**LOCATION:** Dukes House, 13 Dollis Avenue, London, N3 1UD  
**REFERENCE:** F/00610/12 **Received:** 17 February 2012  
**Accepted:** 17 February 2012  
**WARD(S):** Finchley Church End **Expiry:** 13 April 2012  
**Final Revisions:**  
**APPLICANT:** Gaiapa ltd  
**PROPOSAL:** Erection of a 4 storey block of 7 flats with associated parking and refuse storage and bicycle storage at level 1, following demolition of existing block (converted house) of 5 flats and garages.

**RECOMMENDATION: Approve Subject to Unilateral Undertaking**

**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 **Education Facilities (inc. libraries) £15,598.00**  
A contribution towards Education Facilities and Library Facilities in the borough.
- 4 **Libraries (financial) £278.00**  
A contribution towards Library Facilities and Resources in the borough
- 5 **Health £3,364.00**  
A contribution towards Health Facilities and Resources in the borough
- 6 **Monitoring of the Agreement £962.00**  
Contribution towards the Council's costs in monitoring the obligations of the agreement.

**RECOMMENDATION II:**

That upon completion of the agreement the Assistant Director of Planning and Development Management approve the planning application reference: F/00610/12 under delegated powers subject to the following conditions: -

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan - Loc01; 3296-1; 3296-2; 11/733/P01A; 11/733/P02A; 11/733/P03; 11/733/P04B; 11/733/P05C; 11/733/P06C; 11/733/P07B; 11/733/P08B; 11/733/P09A; 11/733/P10A; 11/733/P12C; 11/733/P14A; 11/733/P16; 11/733/P17B; 11/733/P18B; 11/733/P19B; 11/733/P20; TCC/1104/24/TPP Rev B.  
Reason:  
For the avoidance of doubt and in the interests of proper planning.
- 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 A 'Demolition and Construction Management Plan' must be submitted to and approved by the Local Planning Authority prior to commencing any construction

or demolition works. This document following approval must be complied with in full.

Reason:

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

- 4 A scheme of hard and soft landscaping, including details of existing trees to be retained, shall be submitted to and agreed in writing by the Local Planning Authority before the development, hereby permitted, is commenced.

Reason:

To ensure a satisfactory appearance to the development.

- 5 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.

- 6 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.

- 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 visual amenities of the locality.

- 8 No siteworks or works on this development shall be commenced before a method statement detailing precautions to minimise damage to trees with Tree Preservation Orders within the adjoining rear gardens to the application site (Reference: TPO-FI-3) and the front garden area of the application site (Reference: TPO-CA70) in accordance with Section 7 of British Standard BS5837: 2005 *Trees in relation to construction - Recommendations* is submitted to and approved in writing by the LPA and the development shall be carried out in accordance with such approval. This document should expand on the principle of the points made within the arboricultural method statement as shown on TCC/1104/24/TPP Rev B. date stamped 19 September 2011.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

- 9 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.

- 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). No dwelling shall be occupied until 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 GSD of the adopted Unitary Development Plan (adopted 2006) and the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007).

- 12 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.

- 13 Before the building hereby permitted is occupied, the proposed refuse enclosures for recycling containers and wheeled refuse bins shown on Plan 11/733 P17B shall be provided and shall be permanently retained.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area.

- 14 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.

- 15 Before the development hereby permitted is occupied the parking spaces shown on Plan 11/733/P17B 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.

- 16 Before the building hereby permitted is occupied the proposed windows in the side elevations facing Holmwood, Dollis Avenue & 15 Dollis Avenue shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties.

**INFORMATIVE(S):**

1 The reasons for this grant of planning permission or other planning related decision are as follows: -

i) The proposed development accords with strategic planning guidance and policies as set out in The Mayor's London Plan: July 2011 and the Adopted Barnet Unitary Development Plan (2006).

In particular the following policies are relevant:

National Planning Policy:

National Planning Policy Framework

London Plan (2011):

3.4, 3.5A, 3.5B, 7.4A

Adopted Barnet Unitary Development Plan (2006):

GBEnv1, GBEnv2, D1, D2, D3, D4, D5, H1, H2, H16, M11, M13, M14, CS2, CS8, CS13, IMP1 and IMP2.

Local Development Framework:

Core Strategy Policies (Submission version) 2011 – CS4, CS5.

Development Management Policies (Submission version) 2011 – DM01, DM06, DM14.

ii) The proposal is acceptable for the following reason(s): -

Having taken all material considerations into account, the proposed development would be in keeping with the character and appearance of the surrounding area and in a design which is considered to be in keeping with neighbouring dwellings. The proposed development as amended is not considered to have a detrimental impact on the residential amenities of neighbouring developments.

The proposed development includes provision for appropriate contributions in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

2 Demolition should be carried out by an approved contractor and residents notified at least seven days before commencement.

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

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

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

Further details and the application form can be downloaded from:

<http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf>

or requested from the Street Naming and Numbering Team via email: [street.naming@barnet.gov.uk](mailto:street.naming@barnet.gov.uk) or by telephoning: 0208 359 7294.

- 4 In case if any modification is proposed or required to the existing access off the public highway then it will be subject to a detailed investigation by the Crossover Team in Environment and Operations Directorate. Heavy duty access may need to be provided to cater for a heavy duty use and may involve relocation of any existing street furniture. This would need to be done by the Highway Authority at the applicant's expense. You may obtain an estimate for this and any associated work on public highway from the Crossover Team in Environment and Operations Directorate, Building 4, North London Business Park (NLBP), Oakleigh Road South, London N11 1NP.
- 5 Any details submitted in respect of the Construction Management Plan above shall control the hours, routes taken, means of access and security procedures for construction traffic to and from the site and the methods statement shall provide for the provision of on-site wheel cleaning facilities during demolition, excavation, site preparation and construction stages of the development, recycling of materials, the provision of 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.
- 6 The applicant is advised that any future applications for the creation of additional units on the site are unlikely to be considered favourably by the Council.
- 7 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 require a charge of £40,242.65.

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](http://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](mailto:cil@barnet.gov.uk).

### **RECOMMENDATION III**

That if an agreement has not been completed by 31/05/2012, that unless otherwise agreed in writing, the Acting Assistant Director of Planning & Development Management should REFUSE the application F/00610/12 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 meeting identified additional education, health and library facilities, and the associated monitoring costs which would be incurred by the community as a result of the development, contrary to Policy CS2, CS8, CS13, IMP1 and IMP2 of the adopted Unitary Development Plan and the adopted Supplementary Planning Documents "Contributions to Education", "Contributions to Health Facilities", "Contributions to Libraries" and "Planning Obligations".

#### **1. MATERIAL CONSIDERATIONS**

##### National Planning Policy Framework 2012:

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

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

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

##### The Mayor's London Plan July 2011:

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

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

Policy 3.4 of the London Plan states that development should optimise housing output for different types of location taking into account local context and character, the design principles set out in Chapter 7 of the London Plan and public transport capacity.

Policy 3.5A states that housing developments should be of the highest quality internally, externally and in relation to their context and the wider environment taking account of strategic policies to protect and enhance London's residential environment and attractiveness as a place to live.

Policy 3.5B indicates that the design of all new housing developments should enhance the quality of local places taking into account, amongst other things, physical context, local character and density. Table 3.3 sets out minimum space standards for new dwellings.

Policy 7.4A states that, development should have regard to the form, function, and structure of an area, place or street, and the scale, mass and orientation of surrounding buildings. The policy goes on to say at 7.4B that buildings should provide a high quality design response that, amongst other things, is informed by the surrounding historic environment.

The Mayor for London has introduced a Community Infrastructure Levy. This applied from 1 April 2012 to most developments in London where the application is determined by the Local Planning Authority.

Within Barnet the levy will be charged at a rate of £35 per square metre of net additional floorspace.

#### Relevant Unitary Development Plan Policies:

The statutory plan for the Borough is the Barnet UDP. This was adopted on 18 May 2006, replacing the original UDP adopted in 1991.

On 13 May 2009 the Secretary of State for Communities and Local Government issued a Direction "saving" 183 of the 234 policies within the UDP.

One overall theme that runs through the plan is 'sustainable development'. Policy GSD states that the Council will seek to ensure that development and growth within the borough is sustainable.

Relevant policies: GBEnv1, GBEnv2, D1, D2, D3, D4, D5, D11, D13, H1, H2, H16,

M11, M13, M14, CS2, CS8, CS13, IMP1 and IMP2.

In June 2005 the Council published its "Three Strands Approach", setting out a vision and direction for future development, regeneration and planning within the Borough. The approach, which is based around the three strands of Protection, Enhancement and Growth, will protect Barnet's high quality suburbs and deliver new housing and successful sustainable communities whilst protecting employment opportunities. The second strand of the approach, "Enhancement", provides strong planning policy protection for preserving the character and openness of lower density suburbs and conservation areas. The Three Strands Approach will form the "spatial vision" that will underpin the Local Development Framework.

As part of its emerging Local Development Framework the Council has adopted (October 2006), following consultation, a Supplementary Planning Document relating to Planning Obligations. This highlights the legislation and Barnet's approach in requiring contributions from new development.

On 21 February 2008, following public consultation, a Supplementary Planning Document "Contributions to Education" was adopted by the Council. The SPD, provides guidance and advice in relation to adopted planning policy to secure contributions towards education needs generated by new residential development. The contributions were increased on 1 August 2009.

On 21 February 2008 the Council also adopted following public consultation, a Supplementary Planning Document "Contributions to Library Services". The SPD covers the issues relating to the provision by the London Borough of Barnet of library and related cultural/learning facilities and the role of S106 planning obligations in achieving this. The SPD sets out the contributions that will have to be provided by developers for each proposed new unit of residential accommodation.

On 6 July 2009, following public consultation, the Council adopted a Supplementary Planning Document "Contributions to Health Facilities from Development". The SPD provides detailed guidance that supplements policies in the UDP and sets out the Council's approach to securing contributions for health facilities in order to address additional needs from new development.

The Council has also adopted (June 2007), following public consultation, an SPD "Sustainable Design and Construction". The SPD provides detailed guidance that supplements policies in the UDP, and sets out how sustainable development will be delivered in Barnet. Part 4 recognises that noise can be a significant nuisance, and can undermine quality of life. In order to meet standards for internal noise appropriate levels of insulation will be required. Paragraph 4.16 indicates that the Council requires the acoustic performance of party walls and floors between dwellings to be designed to exceed the minimum requirements set out in Part E of the Building Regulations. Part 6 of the SPD relates to generic environmental requirements to ensure that new development within Barnet meets sufficiently high environmental and design standards.

Core Strategy (Submission version) 2011:



Barnet's emerging Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Until the Local Plan is complete, 183 policies within the adopted Unitary Development Plan (UDP) remain. The replacement of these 183 policies is set out in both the Core Strategy and Development Management Policies DPD.

The Core Strategy will contribute to achieving the vision and objectives of Barnet's Sustainable Community Strategy and will help our partners and other organisations to deliver relevant parts of their programmes. It will cover the physical aspects of location and land use traditionally covered by planning. It also addresses other factors that make places attractive and distinctive as well as sustainable and successful.

Barnet's Local Plan is at an advanced stage following submission in August / September 2011. The National Planning Policy Framework (NPPF) (para 216) sets out the weight that can be given to emerging policies as a material consideration in the determination of planning applications.

Relevant Core Strategy policies to this case: CS4, CS5.

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

Barnet's Local Plan is at an advanced stage following submission in August / September 2011. Therefore weight can be given to it as a material consideration in the determination of planning applications.

Relevant Development Management policies to this case: DM01, DM06, DM14.

Relevant Planning History:

Dukes House, 13 Dollis Avenue, London, N3 1UD

<b>Application:</b>	Planning	<b>Number:</b>	F/02433/11
<b>Validated:</b>	09/06/2011	<b>Type:</b>	APF
<b>Status:</b>	DEC	<b>Date:</b>	04/11/2011
<b>Summary:</b>	APL	<b>Case Officer:</b>	Junior C. Moka
<b>Description:</b>	Erection of a 4 storey block of 7 flats with associated parking and refuse storage and bicycle storage at level 1, following demolition of existing block of 5 flats and garages.		

19 Dollis Avenue, London, N3 1DA

<b>Application:</b>	Planning	<b>Number:</b>	F/02524/11
<b>Validated:</b>	17/06/2011	<b>Type:</b>	APF
<b>Status:</b>	DEC	<b>Date:</b>	26/09/2011
<b>Summary:</b>	APC	<b>Case Officer:</b>	Junior C. Moka
<b>Description:</b>	Conversion of existing detached dwelling into 3No. self contained flats.		

14 Dollis Avenue London N3 1TX

**Application:** Planning **Number:** F/01970/11  
**Validated:** 16/05/2011 **Type:** APF  
**Status:** DEC **Date:** 13/07/2011  
**Summary:** APC **Case Officer:** David Campbell  
**Description:** Demolition of existing dwelling and erection of 2no detached dwellings with integral garages, basement accommodation, and rooms in roofspace. Erection of ancillary 2no single storey outbuildings to accommodate private swimming pools. Associated landscape alterations at front and rear garden, and amenity space.

14 Dollis Avenue London N3 1TX

**Application:** Planning **Number:** F/00793/08  
**Validated:** 08/05/2008 **Type:** APF  
**Status:** DEC **Date:** 30/07/2008  
**Summary:** APC **Case Officer:** Alissa Fawcett  
**Description:** Erection of two dwelling houses with internal garages.

14 Dollis Avenue London N3 1TX

**Application:** Planning **Number:** C/16371/A/06  
**Validated:** 04/04/2006 **Type:** APF  
**Status:** APD **Date:** 30/05/2006  
**Summary:** DIS **Case Officer:** Karina Sissman  
**Description:** Demolition of existing house, garages and ancillary buildings and construction of a three-storey building (with rooms in roofspace) to provide 7no. self-contained flats. Basement parking for 12 cars. (Amended description)

14 Dollis Avenue London N3 1TX

**Application:** Planning **Number:** C/16371/B/06  
**Validated:** 07/08/2006 **Type:** APF  
**Status:** APD **Date:** 26/09/2006  
**Summary:** W **Case Officer:** Karina Sissman  
**Description:** Demolition of existing house, garages and ancillary buildings and construction of a three-storey building (with rooms in roofspace) to provide 6No. self-contained flats. Basement parking for 12 cars.

14 Dollis Avenue London N3 1TX

**Application:** Planning **Number:** C/16371/05  
**Validated:** 26/08/2005 **Type:** APF  
**Status:** APD **Date:** 12/10/2005  
**Summary:** DIS **Case Officer:** Karina Sissman  
**Description:** Demolition of existing house, garages and ancillary buildings and construction of a 3-storey building (with rooms in roofspace) to provide 9 self-contained flats. Basement parking for 12 cars.

Consultations and Views Expressed:

Neighbours Consulted:

33

Replies: 22

\*Please note that one of the replies is a letter of support that has requested to speak at a committee and another reply represents a petition with 72 signatures objecting to this application.

The objections raised may be summarised as follows:

1. The proposed new building is out of keeping with the visual appearance of the area which is an established residential area and there is no precedent for a development of this size;
2. Overlooking resulting in a loss of our privacy;
3. The new building will overshadow the neighbouring gardens preventing the use and enjoyment of these amenity spaces;
4. Too much glazing in the rear elevation and the presents of balconies resulting in overlooking and the perception of overlooking;
5. The perception of overlooking also applies to obscure glazed windows in side elevations;
6. The change in the roof design from a multiple roofs to a large single roof will completely dominate to this side of the road;
7. The perception of overlooking has been considered in a number of appeal cases in Cardiff City, Hounslaw, Merton LB, Salisbury and Cannock. This was also considered in a court of appeal case in *Geha v SOS*. 29/11/93 where they upheld the decision of the concept of an impression of overlooking was a rational and meaningful one;
8. Unacceptable scale, bulk, massing and design;
9. The size of the proposed building is out of scale with the existing and neighbouring properties both in terms of height (four stories) and overall size;
10. The application should be rejected due to its bulk, mass and encroachment on garden areas, contrary to the UDP;
11. The increase in the number of dwellings will increase the traffic and car pollution in the area from additional residents, their visitors and tradesmen;
12. The property originally held two houses, which were subsequently converted to five flats;
13. The proposal for a further increase to the number of dwellings will adversely affect the traffic and air quality in the neighbourhood;
14. The demolition and construction process presents potential hazards in the form of building dust, noise pollution and movement of heavy machinery in a residential street, where there are many children resident;
15. Concerns that a development of this size and the construction process will cause harm to the various trees under Tree Preservation Orders, during the construction phase and on an on-going basis;
16. The design and assess statement and planning statement dated June 2011 hasn't been subject to any update from the previous application now the subject of a judicial review;
17. The proposal description of the development is misleading - as the existing building is a converted house and not a block a flats;
18. Contrary to National Planning Policy Statement PPS3 "Housing", paragraph 16 when accessing the design of quality of an application;
19. Contrary to Mayor's London Plan July 2011 (2.6, 3.5, 7.4, 7.6) & Unitary Development Plan (GBEnv1, GBEnv2, D1, D2, D3, D4, D5, H16) policies;

20. Contrary to the emerging Core Strategy & Development Management policies (CS5, DM01);
21. Contrary to the council's "Three Strands Approach";
22. The dismissed decisions at 14 Dollis Avenue must be considered in the determination of this application - where character reasons for dismissing the appeal were noted;
23. Previous refusal from a house to a block of flats at 14 Dollis Avenue and other appeal decisions at no's 40-42 (in 1989 & 1997), Hendon Avenue c/o Dollis Avenue (in 1994);
24. The front building line has been moved 9 metres closer to the road than that of the existing (from 28 metres away to 19 metres away, result in a movement of 9 metres);
25. Increase of 3 on site car parking spaces from 5 to 8;
26. Building footprint has increased by approximately 212.36 sqm (222.72 sqm to 435.08 sqm);
27. Approximately 95-100% increase in footprint;
28. Potential Damage to other properties;
29. Noise and disturbance during construction;
30. Concerns about the safety of children within the area;
31. Deep excavation is not in character with the area as this is a clay area which is unstable;
32. Inappropriate use of the area;
33. Loss of garden;
34. Lack of private amenity spaces;
35. Concerns about on street parking increasing in the area as a result of the development.

Internal /Other Consultations:

Traffic & Development -

The application is recommended for approval on highways grounds subject to conditions and informatives.

Date of Site Notice: 23 February 2012

## **2. PLANNING APPRAISAL**

Site Description and Surroundings:

Dollis Avenue is an attractive tree lined road in a well established residential area, consisting mainly of two or sometimes three storey, medium to large sized houses, the density of the frontage is offset by the depth and size of both front and rear gardens and vegetation, particularly trees, within and around them. There are four purpose built blocks of flats in the road (including Georgian Court, Laxi Court, Brunswick House and The Lintons) and converted dwellings including (no's. 23, 33, 52, recent approval at 19) with the majority of properties of a similar architectural style.

13 Dollis Avenue is a large detached converted property located within the Finchley Church End Ward. The property is set back from the common front building line of

the majority of properties on this side of Dollis Avenue. There are a number of trees with Tree Preservation Orders within the adjoining rear gardens to the application site (Reference: TPO-FI-3) and the front garden area of the application site (Reference: TPO-CA70).

The existing property is made up of 3x 3 bedroom flats and 2x 2 bedroom flats.

#### Proposal:

The proposal relates to the erection of a 4 storey block of 7 flats with associated parking and refuse storage and bicycle storage, following demolition of existing converted property (5 flats) and garages.

The application has been submitted as a result of a judicial review submitted against the previous application approved by the West Sub Committee as per the addendum and committee report dated 6 October 2011 subject to the completion of a Section 106 Legal Agreement.

This application is an identical proposal to the application previously approved. The only addition to this application from that previously approved is the inclusion of documents showing a survey of the existing building from all elevations to allow for a greater comparison when considering this proposal.

#### Planning Considerations:

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

The main issues are considered to be:

- Policy Context including NPPF (National Planning Policy Framework)
- Whether harm would be caused to the character and appearance of the area and street scene;
- The living conditions of future residents within the development having regard to the provision of amenity space;
- The living conditions of existing & future residents within neighbouring properties having regard to overlooking, privacy and outlook;
- Trees & Landscaping;
- Parking, Access and Vehicle Movements;
- Whether the proposal would result in the community incurring extra educational costs that should be met by the developer;
- Whether the proposal would increase pressures on the services provided by libraries incurring additional costs that should be met by the developer;
- Whether the proposal would increase the demand for health care facilities

incurring extra costs that should be met by the developer.

#### Policy Context:

The proposed development is considered to be compliant with national policy (NPPF), the London Plan, and local policy within the UDP. The general message of Section 6 of the NPPF 'Delivering a wide choice of high quality homes' advises that Local Planning Authorities should enable the provision of good quality new homes in suitable locations.

Paragraph 53 states that "Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area". As the site is considered to be front garden land to 13 Dollis Avenue it does not fall within the definition of previously developed land. However, in itself that does not necessarily preclude development on the site. The site is in a sustainable location and development of it would conform with the requirement in the NPPF.

The immediate surroundings are characterised by purpose-built flats and houses converted into residential units as well as properties in single family occupancy. The site has a PTAL score of 2. The proposed density of 47.3 units per hectare and 182 habitable rooms per hectare meets the London Plan density matrix value of policy 3.5 (35-65 units per hectare and 150-200 habitable rooms per hectare)

#### Proposed siting, character and appearance:

The proposed footprint would respect the character and pattern of buildings in this part of Dollis Avenue and allow for sufficient gaps in between the site and surrounding buildings. The front building line has been moved 7.6 metres forward and 4.6 metres to the rear to align with the rearward projection to the of the existing two storey wing. The ridge of the building again aligns with that of existing in the main. The only exception is over the lift shaft and stairwell areas.

In light of this increase in bulk, mass and scale, it is considered that the proposed footprint would relate well to surrounding dwellings in position and form. Overall, it is considered that the size, height, mass and appearance of the building would be harmonious with and not over dominate the surrounding scale or adversely affect the character of the locality.

The proposed design replicates elements from the existing and the neighbouring dwellings and as such respects the general proportions of the surrounding urban fabric.

#### Amenity of future occupiers:

All proposed units would provide adequate internal space and therefore comply with policies H16 of the Adopted UDP (2006) as well as the Policy 3.5 (table 3.3) of the London Plan July 2011. The stacking of flats/rooms is generally acceptable.

The proposed development also provides sufficient amounts of usable outdoor

space for the enjoyment of future occupiers. The current scheme proposes a communal garden to the rear and additional private space in the form of enclosed balconies and terraces which is in line with policy. The communal garden would provide an acceptable quality of outdoor amenity space. A detailed landscaping with details of planting types and heights are to be required by condition.

The proposed intensification of use from five units to seven is not expected to result in a detrimental loss of amenity for occupiers of this part of Dollis Avenue or future occupiers of the adjacent neighbouring dwellings.

#### Amenity of existing/future neighbouring occupiers:

One of the Council's key objectives is to improve the quality of life for people living in the Borough and therefore development that results in unacceptable harm to neighbours' amenity is unlikely to be supported. Good neighbourliness is a yardstick against which proposals can be measured.

Unitary Development Plan Policies D5 and H16 seek, amongst other things, to ensure adequate outlook for occupiers adjoining new development, and that new residential developments should provide and preserve adequate residential amenity, however the policies, and the preamble in the preceding paragraphs, do not offer any guidance for assessment. It is therefore necessary for a judgement to be made by the decision maker with regard to this issue in each case.

It is considered given the distance between the proposed building and Holmwood, Dollis Avenue & 15 Dollis Avenue, that it would not detract from the amenities of adjoining occupiers in terms of the loss of light, outlook or privacy. There are windows on both side elevations but all are to be conditions to be obscure glazes.

It is also considered that due to the nature of the design of the balconies, which are inset from the main building line, the significant natural screening in neighbouring gardens, and the distances between neighbouring properties there would not be any significant overlooking into neighbouring properties.

#### Trees & Landscaping:

The trees in this road are an important part of the character of the street and their retention is critical to any development. The trees on the street also offer a relief from the buildings and act as a screen for the buildings.

The site and surrounding sites has a number of trees that are protected by Tree Preservation Orders. The proposed scheme has to take account of the trees and be in accordance with BS5837:2005. Even if a scheme were shown on plan to not encroach onto the Root Protection Areas of the trees etc, there is a concern as to how a scheme of this nature could actually be built given the limited working space etc; without harming the trees. A Demolition and Construction Management Plan and arboricultural method statement will be required expanding on the principle of the points made within the arboricultural method statement as shown on TCC/1104/24/TPP Rev B. date stamped 19 September 2011.

### Parking, Access and Vehicle Movements:

There are 5 existing parking spaces on site. A total of 8 car parking spaces (including one disabled car parking space) are being provided. The parking provision is in accordance with the Parking Standards set out in the Unitary Development Plan 2006 and there are no highways objections.

### The Community Infrastructure Levy Regulations 2010:

The contributions listed in the above recommendation are necessary, directly relevant and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of The Community Infrastructure Levy Regulations 2010.

Government Circular 05/05 and the Council's adopted SPD for section 106 related planning obligations is applicable for this site in respect of the following areas:

The education, library services, health facilities & monitoring fee of 5% contributions have been adjusted following the previously approved application which was secured by Section 106 Agreement.

UDP Policy CS2 indicates that the Council will seek to enter into planning obligations in conjunction with new developments to secure the provision of community and religious facilities. Policy CS8 states that where a residential development creates a need for school places contributions will be secured for such purposes via planning obligations. Policy CS13 states that the Council will seek to enter into planning obligations in conjunction with new residential developments to secure the provision of health and social care facilities.

The purpose of planning obligations is to make acceptable development which would otherwise be unacceptable in planning terms. Circular 05/2005 supports the use of planning obligations to secure contributions towards community infrastructure to mitigate the impacts of new development, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

Para. B5 of the Circular sets out five policy tests that must be met by the LPA when seeking planning obligations. In addition, Regulation 122 of the Community Infrastructure Levy Regulations, which came into force on 6 April 2010, makes it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet the three tests set out in Regulation 122. These statutory tests are based upon three of the five policy tests in Circular 5/2005 at paragraph B5 (tests (ii), (iii) and (iv)).

The recovery of costs for the monitoring of planning obligations is set out in Section 8 (para's 8.3 & 8.4) of the Planning Obligations SPD.

### Education needs generated by the development:



Circular 05/2005 supports the use of planning obligations to secure contributions towards educational facilities, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

The proposal would provide an additional residential unit that it is considered would generate an increased demand for educational facilities in the area. The calculation of additional demand (SPD para's 4.6-4.14), existing facilities and capacity (SPD para's 5.5-5.12), method of calculating the required contribution (SPD para's 3.1-3.15 and 4.1-4.5), and use of the contributions (SPD para's 5.13-5.14) are set out in the Council's SPD "Contributions to Education" adopted in 2008.

It is considered that a financial contribution towards future education facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this.

To accord with UDP Policy CS8 and the SPD the proposed scheme of 7 residential units (net increase of 2x 3 bedroom units) would require a contribution of £15,598 plus a monitoring fee of 5%.

#### Contributions to library services:

The increase in population resulting from development is expected to place serious pressures on libraries, which are already required to meet all the needs of Barnet's diverse community. Developer contributions are therefore necessary to ensure service provision mitigates the impact of their development activity.

The adopted SPD "Contributions to Library Services" sets out the Council's expectations for developers contributions to the provision and delivery of a comprehensive and efficient library service, with the aim of opening up the world of learning to the whole community using all media to support peoples educational, cultural and information needs. The SPD provides the calculation of additional demand (para's 4.10-4.12), existing facilities and capacity (para's 1.1-1.4 & 2.5), method of calculation (para's 2.4 & 3.1-3.11), and use of funds (para's 5.1-5.7).

It is considered that a financial contribution towards library services is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with UDP Policy CS2 and the SPD the proposed scheme would require a contribution of £278 plus a monitoring fee of 5%.

#### Contributions to Health facilities:

The proposal would provide an additional residential unit that it is considered would generate an increased demand for health facilities in the area. The calculation of additional demand / method of calculating the required contribution (SPD para's 6.1-6.4), existing facilities and capacity (SPD para's 5.7-5.18), and use of the contributions (SPD para's 8.1-8.4) are set out in the Council's SPD "Contributions to Health" adopted in July 2009.

It is considered that a financial contribution towards future health care facilities is

justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with UDP Policy CS13 and the SPD the proposed scheme would require a contribution of £3,364 and a monitoring fee of 5%.

The education, library services, health facilities & monitoring fee of 5% contributions will be secured by Section 106 Agreement.

### **3. COMMENTS ON GROUNDS OF OBJECTIONS**

In relation to points 1, 6, 8, 9, 10, 18, 19, 20, 21, 24, 26, 27 and 34, it is considered that the proposal complies with National, London Plan and Council policies. It is accepted that the proposed building would be sited 7.6 metres forward (not 9 metres, as the objection states) but this would align with the established front building line created by neighbouring properties and sit more comfortably with the streetscene.

In relation to points 2, 3, 4, 5 and 7, it is considered that the proposal has been designed to respect the amenities of neighbouring occupiers. It is considered that, as conditioned, the proposal would have an acceptable impact on the amenity of neighbouring occupiers.

In relation to points 11, 14 and 30, the attachment of condition 3 to this recommendation is considered to safeguard this position.

In relation to points 12 and 16, this is not considered to change the way in which the application should be determined by the Local Planning Authority.

In relation to point 13, after having discussions with both the council's Highway and Environmental Health teams, it was considered there would be no additional harm to air quality level and traffic conditions in the area as a result of the development.

In relation to point 15, it is true that many of the trees have Tree Preservation Orders and detailed consideration for the protection of these trees have been of the upmost importance during the determination of this application to ensure that the trees remain of sufficient amenity value to the street and to the site itself. The attachment of conditions 4, 5, 6, 8 and 9 to this recommendation are considered to safeguard this position.

In relation to point 17, the Local Planning Authority has made a small amendment to this description of the proposed development upon receipt of this point of objection to clarify the proposal.

In relation to points 22, 23 and 32, the most recent appeal decisions relating to 14 Dollis Avenue have been considered in the determination of this application. These dismissed appeals were for proposals relating to the demolition of an existing single family dwelling house and the construction of a three-storey building with 7 & 9 self-contained flats respectively. However, this application site currently has 5 self contained flats and the principle of increasing this number to 7 self contained flats is not considered to be harmful. It is considered that proposed density would be acceptable. Different types of tenure do not necessarily make bad neighbours.

In relation to point 25, it is considered that this has been addressed in the 'Parking, Access and Vehicle Movements' section of the report.

In relation to point 28, this is a civil matter and not a material planning consideration.

In relation to point 29, the attachment of condition 14 to this recommendation is considered to safeguard this position by restricting the hours of work.

In relation to point 31, it is considered given the arrangement of the properties within Dollis Avenue, the proposed design of the lower ground floor as a result of the excavation would not be obtrusive in the street scene. This element of the proposal would not be visible from ground level of any of the surrounding dwellings.

In relation to point 33, it is considered the proposal complies with NPPF Paragraph 53 and all other relevant policies.

In relation to point 35, after having discussions with the council's Highway team, it is considered that this proposal would comply with Council policies.

#### **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 the proposed development would be in keeping with the character and appearance of the surrounding area. The proposed development is not considered to have a detrimental impact on the residential amenities of neighbouring developments and would provide good quality residential accommodation which is short supply. It is recommended that the application be **APPROVED** subject to conditions.

The proposed development includes provision for appropriate contributions in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

**SITE LOCATION PLAN: Dukes House, 13 Dollis Avenue, London, N3 1UD**

**REFERENCE: F/00610/12**



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