

LOCATION: The Castle, 452 Finchley Road, London, NW11 8DG

REFERENCE: F/03607/14 **Received:** 04 July 2014
Accepted: 09 July 2014

WARD: Childs Hill **Expiry:** 03 September 2014

Final Revisions:

APPLICANT: Elpo Ltd

PROPOSAL: Demolition of the existing building and erection of a four storey building plus basement comprising of 9no. self-contained flats with B1(a) (Office space) at ground floor level. 13 car parking spaces, secure cycle parking and refuse stores at basement level. Alterations to increase width of access road.

Approve Subject to S106

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 **Special Site-Specific Obligation** **£65,536.00**
A contribution towards the cost of felling and replacement tree planting to enable the removal of the protected mature Horse Chestnut tree T6 and Sycamore T1.
- 4 **Special Site-Specific Obligation** **£6,000.00**
A contribution towards the reduction and on-going maintenance of the large Mature Horse Chestnut T4.
- 5 **Open Spaces (specific site or purpose)** **£13,500.00**
A contribution towards the provision of open space improvements to Elm Park.
- 6 **Monitoring of the Agreement** **£4,252.00**
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 Development Management & Building Control approve the planning application reference: F/03607/14 under delegated powers subject to the following conditions: -

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 1213-A-001,1213-A-003,1213-A-130B, 1213-A-131C, 1213-A-132C, 1213-A-133C, 1213-A-134C, 1213-A-210C, 1213-A-211B, 1213-A-212B, 1213-A-213B, 1213-A-310A, 1213-A-311A, 1213-A-020B,1213-E-103A, 1213-E-120A, 1213-E-121A, 1213-E-122A, 1213-E-123A, 1213-E-124A,1213-E-210A, 1213-E-211A, 1213-E-212A, 1213-E-213A.

Reason:

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

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

Reason:

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

- 3 Before 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 Development shall not begin until drainage works have been carried out 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.

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

Reason:

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

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

Reason:

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

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

local planning authority.

Reason:

To ensure that the development is sustainable and complies with policy DM02 of the Adopted Barnet Development Management Policies DPD (2012), the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007) and policies 5.2 and 5.3 of the London Plan (2011).

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

Reason:

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

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

Reason:

To protect the amenities of future and neighbouring residential occupiers in accordance with policy DM02 and DM04 of the Adopted Barnet Development Management Policies DPD (2012).

- 11 The hereby approved B1 unit shall be used as an office only and no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

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

- 12 Before the development hereby permitted is occupied the parking spaces/garages shown on Plan 1213-A-130B shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

Reason:

To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with

policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

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

Reason:

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

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

Reason:

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

- 15 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.

- 16 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).

- 17 No development shall take place until a 'Demolition & Construction Method Statement' has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution. Throughout the construction period the detailed measures contained within the approved Statement shall be strictly adhered to.

Reason:

In the interests of highway safety and good air quality in accordance with Policy DM17 and DM04 of the Adopted Barnet Development Management

Policies DPD (2012) and policy 5.21 of the London Plan (2011).

- 18 Before the building hereby approved has been occupied details shall be submitted to and approved in writing by the Local Planning Authority as to where the Toll Booth plaque shall be located on the new building. Within 1 month of the details being approved the plaque shall be installed in accordance with the approved details and thereafter permanently retained.

Reason:

To maintain the historic importance of the building in accordance with policy DM06 of the adopted Local Plan.

- 19 The non-residential development is required to meet the following generic environmental standard (BREEAM) and at a level specified at Section 6.11 of the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007). 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).

- 20 The ground floor office units shall be used for B1 offices and no other purpose (including any other purpose in class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

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

INFORMATIVE(S):

- 1 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 Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional

units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. Your planning application has been assessed at this time as liable for a £31,720.50 payment under Mayoral CIL.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge. Your planning application has therefore been assessed at this time as liable for a £122,377.50 payment under Barnet CIL.

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

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

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

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

Relief or Exemption from CIL

If social housing or charitable relief applies to your development or your development falls within one of the following categories 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 can apply for relief or exemption under the following categories:

1. Charity

If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extension

You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build

Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk

Visit:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> for further details on exemption and relief.

RECOMMENDATION III:

That if an agreement has not been completed by 3rd October 2014, that unless otherwise agreed in writing, the Director of Development Management and Building Control should REFUSE the application F/03607/14 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 the costs of removal of protected trees T6 and T1 and their replacement planting would be contrary to DM01 of the Local Plan Development Management Policies (Adopted) 2012; and contrary to Policies CS NPPF and CS5 of the Local Plan Core Strategy (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 meeting the costs of enhancing open space provision in the adjoining Elm Park would result in a shortfall of amenity space provision on site contrary to current adopted Council Guidelines and policy DM01

of the Local Plan Development Management Policies (Adopted) 2012; and contrary to Policies CS NPPF and CS5 of the Local Plan Core Strategy (adopted) 2012.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The Mayor's London Plan: July 2011: 3.4, 3.5

Relevant Local Plan Core Strategy DPD (Adopted 2012) Policies:

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

CS1, CS3, CS5, CS7, CS8, CS10, CS13.

Relevant Local Plan Development Management DPD (Adopted 2012) Policies:

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.

DM01, DM02, DM04, DM10, DM13, DM14, DM15

Local Plan Supplementary Planning Document Residential Design Guidance (2013) and Local Plan Supplementary Planning Document Sustainable Design and Construction (2013)

Following adoption of the Local Plan - Core Strategy (CS) and Development Management Policies (DMP) documents in September 2012, Barnet has one of the most up to date Local Plans in the country. In order to help implement the CS and DMP the Council adopted two supplementary planning documents (SPDs) following consultation.

Both SPDs complement each other, with the first one covering design aspects of all residential developments, whilst the second SPD concentrates on the technical and construction side of all developments.

One of these is the Residential Design Guidance Supplementary Planning Document (RDG SPD) which provides a clear and consistent message on how we manage change within Barnet's suburbs. The SPD consolidates and updates the existing framework for residential design which mainly focused on improvements to the existing housing stock (Design Guidance Notes on Extensions, Conversions, Porches, and Hardstandings and Vehicular Crossovers).

The Sustainable Design and Construction Supplementary Planning Document (SD&C SPD) was first published in 2007. Since 2007, alongside Barnet's Local Plan Core Strategy and Development Management Policies documents, the London Plan has also undergone a full review and the National Planning Policy Framework has been published. The current SPD has been updated to reflect this.

Relevant Planning History:

Application: Planning **Number:** F/01393/13
Validated: 11/04/2013 **Type:** APF
Status: DEC **Date:** 11/07/2013
Summary: REF **Case Officer:** Denisse Celi
Description: Demolition of the existing building and erection of a six storey building over a basement level to provide 13 self-contained units. Including A1 (retail) and B1 (Office space) at ground floor level. New car parking spaces, cycle parking, provision of refuse stores and alterations to increase width of access road.
Planning

Application: **Number:** F/05428/13
Validated: 18/11/2013 **Type:** APF
Status: DEC **Date:** 24/06/2014
Summary: REF **Case Officer:** Jo Dowling
Description: Demolition of the existing building and erection of a six storey building over a basement level to provide 13 self-contained units. Including B1 (Office space) at ground floor level. New car parking spaces, cycle parking, provision of refuse stores and alterations to increase width of access road.

Consultations and Views Expressed:

Neighbours Consulted: 284 Replies: 12

Neighbours Wishing To Speak: 1

The objections raised may be summarised as follows:

•Overdevelopment

- The local community infrastructure – school, library, GP practice are already under pressure and this will make the situation worse.
- Inappropriate location for housing due to pollution from traffic.
- Living and dining accommodation is not stacked and there are no details of the floor/ceiling construction.
- Over reliance on obscure glass which indicates that the building is too large for the site and too close to its neighbours.
- Proposal will lead to difficulties for pedestrians crossing the road.
- Out of scale.
- Loss of light to Elm Park.
- Basement building leads to risk of damage to underground water systems.
- 13 parking spaces does not fit in with Barnet's policy of encouraging public transport and cycle use.

- Height does not fit with surrounding area.
- Noise and disturbance from construction works.
- Already many flats under construction in the local area – further flats are not needed.

Two letters of support was received.

The Hendon and District Archaeological Society (HADAS) requested that the plaque put on the wall by the former Hendon Corporation recalling that there used to be a tollgate nearby should be replaced on any new building and an archaeological condition.

CAMRA objected to the proposal as it would result in the loss of a pub which would be contrary to the NPPF.

The CLAN Residents Association objected to the proposal on the following grounds:

- The proposal should not be redeveloped as a block of flats
- Loss of a local community asset – the pub.

Internal /Other Consultations:

- Thames Water - No objection subject to a number of informatives
- Transport for London – No comments
- Traffic & Development – No objection subject to a number of conditions
- English Heritage -Listed Build - No objection

Date of Site Notice: 17 July 2014

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site consists of 452 Finchley Road (the Castle Pub) and 452a Finchley Road (previously occupied by Simportex, metal importers). The site is located on the east side of the Finchley Road on the junction with Hermitage Lane/Cricklewood Lane.

The Castle Pub is a collection of part single/part two/part three storey buildings. The current buildings appear to date from the early nineteenth century although there are historical references to a public house being in this location from the 17th Century. Following the construction of the Finchley Road in the 1820s, a tollgate was established at the site. This is commemorated with a plaque on the wall of the pub. The pub is currently vacant and surrounded by hoardings, parts of the building have been demolished.

The pub is located hard up against the back edge of the footpath on Hermitage Lane

and is set back from the Finchley Road by a tarmacked lay-by.

452a Finchley Road is a single storey building with a large pitched roof; it is located adjacent to an access road that runs between the application site and Portman Heights. The building is currently occupied by a metal importers and appears to be used as their offices although the lawful use of the building is as an estate agents.

To the rear of the site is Elm Park, a local authority owned public open space. There are a number of mature trees located within the park adjacent to the boundary with the application site.

Levels rise from front to rear and across the site by 4.2m.

The site has an area of 0.1 hectares.

The site is located within an established residential area in a tight knit suburban area. The properties on the Finchley Road are predominantly purpose built blocks of flats.

The accessibility of the site is indicated with the Public Transport Accessibility Level (PTAL). This rating measures the amount of public transport service available. The site has been assessed to have a PTAL of 4, 6 being the highest level of accessibility.

Proposal:

The application is for the demolition of the existing buildings on the site and erection of a 4 storey building plus basement level to provide 9 self-contained units. Including B1 (office space) at ground floor level. 13 car parking spaces, cycle parking, provision of refuse stores and alterations to increase the width of the access road.

Due to the changes in levels the proposed basement would appear as a full storey adjacent to the access road but would be subterranean adjacent to Hermitage Lane. Vehicular access into the basement level is taken off the access road that runs between the site and Portman Heights and provides direct access onto the Finchley Road. 13 parking spaces; cycle parking for 20 cycles and a refuse store are proposed within the basement.

On the ground floor one office unit is proposed both of which would be located on the corner of the building having frontages onto both Finchley Road and Hermitage Lane but would be accessed from Hermitage Lane. The remainder of the ground floor and the floors above would be residential accommodation. The following units are proposed:

Unit	No of beds/persons	GIA
U01	3 bed/6 person	159sqm
U02	3 bed/6 person	139sqm

U03	3 bed/6 person	147sqm
U04	3 bed/6 person	140sqm
U05	3 bed/6 person	122sqm
U06	3 bed/6 person	148sqm
U07	3 bed/6 person	192sqm
U08	3 bed/6 person	136sqm
U09	3 bed/6 person	153sqm

Planning Considerations:

Planning permission (our ref: F/05428/13) was recently refused for a similar scheme. The reasons for refusal were as follows:

3. The proposed building by reason of its height, bulk, scale, siting and design would be an overly dominant, incongruous addition relative to adjoining properties which would result in material harm to the visual amenities and character of the locality and streetscene contrary to policies CS1 and CS5 of the Core Strategy (2012), policy DM01 of the Development Management Policies DPDP (2012) and the Adopted Residential Design Guidance SPD (2013).
1. The proposal would result in the loss of protected trees in Elm Park without a formal undertaking to provide replacements to the detriment of the character of the area contrary to policies CS1 and CS5 of the Core Strategy (2012), policy DM01 of the Development Management Policies DPD (2012).
2. The proposal does not include a formal undertaking to provide Affordable Housing in accordance with the requirements of policy DM10 of the adopted Development Management Policy DPD (2012) and the Affordable Housing SPD.
3. The proposed development would generally fail to provide a sufficient amount of outdoor amenity space for all flats and the amenity areas of flats U01 and U02 (ground floor) would be of poor standard by virtue of significant tree shading detrimental to the amenity of future occupiers contrary to policy DM01 of the Development management Policies DPD (2012) and the Adopted Residential Design Guidance SPD (2013) and the Adopted Sustainable Design and Construction SPD (2013).

The starting point for this application therefore is whether the current application successfully addresses these reasons for refusal. Dealing with each of these in turn:

The proposed building by reason of its height, bulk, scale, siting and design would be an overly dominant, incongruous addition relative to adjoining properties which would result in material harm to the visual amenities and character of the locality and streetscene contrary to policies CS1 and CS5 of

the Core Strategy (2012), policy DM01 of the Development Management Policies DPDP (2012) and the Adopted Residential Design Guidance SPD (2013).

The previous application was for the erection of a six storey building over a basement to create 13 flats. Following discussions with the Council the current scheme has been reduced in size to four storey over a basement to create 9 flats.

The existing pub sits on a prominent corner junction of Finchley Road and Hermitage Lane. The main building is two storeys in height with single storey extensions and a 3 storey element to the rear. It is set back from the junction behind a small service road. The buildings in the wider vicinity of the site vary in height and bulk, although it is those on the eastern side of the road that provide the immediate context against which any new building will be seen. These include the 5-6 storey flatted block to the north (Portman Heights) and the 3-storey Victorian terrace to the south (Nos. 450 - 420 Finchley Road). Portman Heights is set back from the main road behind established planting and the most immediate neighbour, at No.450, is on the corner of Hermitage Lane and positioned at the back edge of pavement.

The overall height of the proposed building has been reduced to 4 storey at its tallest, although the upper floor is set back from both the side elevations. Due to the levels changes on the site on its northern side, facing Portman Heights it is 5 storeys and on the south side, fronting Hermitage Lane it is 6 storeys. The main bulk of the building is set back from the Finchley Road frontage behind single and two storey elements. The building is flat roofed and faced in a dark brick at the lower level and yellow/buff brick on the upper storeys with GRC weatherboarding.

The proposed development is considered to address the previous concerns about scale and dominance on this prominent corner where its closest neighbours are much more modest in scale. Whilst it is recognised that there are some buildings in the area, including Portman Heights, are relatively tall, the most immediate context is defined by the existing building and the 3-storey terrace to the south. Furthermore as the land rises from north to south at this point of the Finchley Road and also west to east from Cricklewood Lane across the junction and up Hermitage Lane any new building would be located at the highest and most visually prominent part of the crossroads.

The footprint of the proposed building is far more expansive than the existing and involves building up to the northern boundary and turning the corner into Finchley Road. This 2-storey element of the scheme is considered to have a marked visual impact in the street scene as it is positioned on the back edge of the footway and well beyond the front building line of Portman Heights.

Due to the reduction in size the proposed impact on the area of public open space at Elm Park which adjoins the site to the east is now considered acceptable.

The proposal is therefore considered to be too address concerns about the previous schemes height and bulk and the amended scheme pays due regard to the established grain of development on the eastern side of the road.

As a result it is considered that the current proposal satisfactorily addresses the previous reason for refusal and is considered to reflect and respect the design and

form of the streetscene of which it forms part. The proposal is therefore considered to accord with the requirements of the NPPF and Policies CS1 and DM01 of the adopted Local Plan.

The proposal would result in the loss of protected trees in Elm Park without a formal undertaking to provide replacements to the detriment of the character of the area contrary to policies CS1 and CS5 of the Core Strategy (2012), policy DM01 of the Development Management Policies DPD (2012).

Since the original application was considered the trees adjacent to the boundary (and one within the site) have been made the subject of a Tree Preservation Order.

Following detailed discussions with the Council's Tree and Landscaping Officer and representatives from the Greenspaces section it has been agreed that subject to funding for replacement trees that tree T6 (the tree closest to the site) can be removed.

Furthermore, work has been done by the applicant including the provision of amended plans which accurately reflect the root protection zones for the retained trees to satisfy the Council that subject to appropriate protection measures through the construction process the trees could be retained on site without any adverse impact on their health and life expectancy.

The plans have been amended so that the internal layout of flats have been reconfigured to ensure that where a trees canopy is in close proximity the windows affected are secondary windows or to bedrooms and therefore the original concerns regarding outlook for future occupiers of these units are mitigated. Further amendments to the plans have removed the balconies from the rear elevation that would have been adversely affected by trees overhanging or in close proximity. As a result the Council consider that in so far as possible the scheme has been amended to satisfactorily address concerns regarding retention of trees through construction and pressure from future residents for their removal/reduction of canopies.

It is therefore considered that subject to funding for replacement trees to offset the loss of protected tree T6 and suitable conditions to ensure the retained trees are protected through the construction process the proposal is considered to satisfactorily address this reason for refusal.

The proposal does not include a formal undertaking to provide Affordable Housing in accordance with the requirements of policy DM10 of the adopted Development Management Policy DPD (2012) and the Affordable Housing SPD.

In order to address concerns regarding bulk and scale of the building the current proposal has been reduced in height by two floors this has resulted in a reduction in the number of units proposed from 13 to 9 and as a result there is no requirement for affordable housing provision at the site. It is therefore considered that this reason for refusal is no longer applicable.

The proposed development would generally fail to provide a sufficient amount of outdoor amenity space for all flats and the amenity areas of flats U01 and U02 (ground floor) would be of poor standard by virtue of significant tree shading detrimental to the amenity of future occupiers contrary to policy DM01

of the Development management Policies DPD (2012) and the Adopted Residential Design Guidance SPD (2013) and the Adopted Sustainable Design and Construction SPD (2013).

In order to address concerns regarding the impact of the protected trees on the rear elevation of the property the balconies that were on the original scheme have been removed. Whilst this has addressed concerns regarding future pressure on the trees the current scheme therefore has less amenity provision than the previously refused scheme. In addition, the ground floor units would still retain a rear terrace which will be of a poor standard by virtue of significant tree shading detrimental to the amenity of future occupiers in addition this scheme has no balconies on the front elevation where there were concerns regarding air quality. As a result it is considered that in addition to an on-site shortfall the quality of some of the proposed amenity spaces falls short of what is required by current council guidance.

However, through an on-going dialogue between the applicant and the local planning authority it has been agreed that a pragmatic approach to this issue can be taken and given the adjacency of Elm Park the shortfall of on-site amenity provision would be acceptable subject to a financial contribution to enhance the provision at Elm Park and to address the costs of increased usage of the park that the lack of provision of on-site amenity space would not form a sustainable reason for refusal.

It is therefore considered that subject to a section 106 agreement to secure a financial contribution to enhance open space provision at Elm Park the current proposal has satisfactorily addressed the previous reason for refusal.

It is therefore considered that the proposal successfully addresses the previous reasons for refusal subject to the relevant conditions and legal agreement.

The proposed units are all in excess of the minimum floorspace requirements of the London Plan and comply with current council guidelines in terms of layout. Parking and cycle storage are provided in accordance with the requirements of Policy DM17.

3. COMMENTS ON GROUNDS OF OBJECTIONS

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

- The current proposal has been reduced from 13 to 9 units and reduced in height from 6 to 4 storeys the proposal is therefore not considered to result in an overdevelopment of the site.
- The scheme will be liable for CIL and as a result there will be contributions towards covering the costs of expanding local infrastructure to accommodate the proposed development.
- The adjoining sites are in residential use (as were the upper floors of the existing pub) it is therefore not considered to be an inappropriate location for housing.
- In the majority of the units accommodation is stacked to minimise noise transference. In the one instance where it is not stacked the bedroom is located above the living/dining room so as to minimise impact. In addition if Members are minded to approve the application a condition requiring sound insulation

between the units is recommended.

- Although there is obscure glazing in the side elevations these windows are secondary windows for the proposed new units. All habitable rooms will have clear glazed windows. The proposal is therefore not considered to result in loss of privacy or to be an overdevelopment.
 - An existing access will be used which currently leads to a car park that served the pub/office unit. There is only parking on site for 13 cars which would result in less vehicular movements than the current car park.
 - The proposal is not considered to result in loss of light to Elm Park.
 - Although a basement is proposed due to the changes in levels across the site only part of this will be underground and this is where there is an existing basement/cellar area for the pub. It is therefore not considered that the proposal will damage to underground water systems.
 - 13 parking spaces are in line with the requirements of Policy DM17 in addition 20 cycle spaces are proposed to encourage sustainable forms of transport.
 - The height has now been reduced and is considered to fit with surrounding area.
 - Noise and disturbance from construction works are not a material planning consideration. However, if Members are minded to approve the application then a condition restricting the hours of working at the site and requiring the submission of a construction management plan are recommended.
 - Barnet needs to deliver new housing to meet the needs of its expanding population. The proposal is considered to result in a sustainable use of a previously developed site in accordance with the requirements of the NPPF and adopted policy.
 - The incorporation of the Toll Bar plaque in any future building on the site is a matter that can be dealt with by condition.
 - English Heritage Archaeology has not advised of the need for an archaeological condition.
- Para.70 of the NPPF refers to shared space, community facilities as including pubs. Policy DM13 of the adopted Local Plan states that loss of a community use will only be acceptable in exceptional circumstances where:

- New community or education use of at least equivalent quality or quantity are provided on the site or at a suitable alternative location; or

There is no demand for continued community or education use and that the site has been marketed effectively for such a use.

As the proposal does not re-provide the pub, in order to comply with this policy evidence would need to be submitted to demonstrate that the pub has been effectively marketed and that there was no demand.

Effective marketing is continuous active marketing for a period of 12 months at an

appropriate level both for rent and sale which can be agreed in advance with the council with no interest expressed in its existing use or other community facility uses.

However the Adopted Core Strategy defines Community Facilities as including children's play and recreation facilities, services to young people and disabled people as well as health facilities, education facilities, libraries, community meeting places, pools, arts and exhibition spaces, places of worship and public toilets. There is no reference to pubs which fall within the retail class (Class A4) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Section 11.11 of the Core Strategy defines use Class A4 as part of the 'Evening Economy' and Policy CS6 defines such uses as 'town centre uses'. This is reinforced by the NPPF which identifies pubs as town centre uses.

In terms of the Development Management Policies the pre-amble to Policy DM13 perpetuates the Core Strategy definition of 'community uses and expands on it to include education-type uses but still omits any reference to pubs.

The reference in the NPPF under Para 70 to public houses is considered to seek to address a very specific issue where a pub may be located within a more isolated settlement or village where there is a lack of community facilities locally and whereby as a result the pub itself has become the focus of the community as a local meeting place. In this situation it is therefore considered appropriate to consider the loss of a pub as the loss of a community facility, as its loss could have a significant impact on the local community dependent upon it leading to social isolation and exclusion. However, when applied to the application site which is located within the suburban outer London context with Childs Hill Library located approx. 500m away and Golders Green town centre less than 1 mile away it is not considered applicable.

Therefore, taking into account the definition of community facilities within the Local Plan, the loss of a pub is not considered to result in the loss of a community facility and accordingly Policy DM13 is not applicable. On this basis the only issue that can be considered is the loss of a retail unit. However, Policy DM12 is not considered applicable as it only protects A1 retail units. Furthermore, under the current proposal a replacement retail unit (Class A1) is proposed.

On this basis it is therefore considered that there is no in principle objection to the loss of the pub.

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 new application satisfactorily addresses the previous reasons for refusal and is therefore considered subject to the recommended conditions and Section 106 agreement to comply with the Adopted Barnet Local Plan, London Plan and National Planning Policy Framework policies. This application is therefore recommended for approval.

SITE LOCATION PLAN: The Castle, 452 Finchley Road, London, NW11 8DG

REFERENCE: F/03607/14



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