

FINCHLEY AND GOLDERS GREEN AREA PLANNING COMMITTEE

5th February 2015

ADDENDUM TO ASSISTANT DIRECTOR OF DEVELOPMENT MANAGEMENT AND BUILDING CONTROL'S REPORT

Page 15-34

Ref: F/05593/13

Site:290-294 Golders Green Road

Unilateral Undertaking

The applicant has provided a Unilateral Undertaking.

This provides a contribution of £1,000,000 towards affordable housing with a further capped 'claw-back' contribution of £500,000.

This is not considered acceptable by officers.

The Supplementary Planning Document on Affordable Housing states that:

'There may be exceptional circumstances which occasionally justify a reduction in the level of affordable housing provision. A developer should, however, take affordable housing provision and other known requirements and constraints into account when negotiating the purchase of land rather than assume a discount on affordable housing provision.'

This further states that 'the council may exceptionally accept on sites which are suitable for the provision of an element of affordable housing, the provision off-site, or a commuted payment instead of such provision.'

It goes on to state that *'Commuted sums will not normally be accepted, as they provide fewer affordable units. In the limited cases where financial payments are considered appropriate, the commuted sum will be based on the difference between what a RSL would pay for the affordable homes and what the developer could sell the homes for on the open market if these were not provided as affordable housing. In the absence of a developer being able to assess this amount, the council will look at market values of comparable, new build developments in the immediate area.'*

In this case, the applicant has put forward no justification for why a contribution is provided instead of provision on site. To accept this would be contrary to policy DM10 of the Adopted Barnet Development Management Policies 2012 and the Affordable Housing SPD, or any assessment of why it is only viable to provide a contribution and one of this amount. Furthermore, the provision of a capped contribution is not considered to be justified.

Therefore, the Unilateral Undertaking does not address the reason for refusal in relation to affordable housing.

Reasons for Refusal

Amend reason for refusal 3 to read:

The proposals would have a harmful impact on the visual and residential amenities of neighbouring occupiers at no.1 Princes Park Avenue by reason of the harmful overshadowing of the rear garden. The proposals would be contrary to policies DM01 and DM02 of the Adopted Barnet Development Management Policies 2012.

Amend reason for refusal 5 to read:

The application does not make any provision towards on-site affordable housing, contrary to policies DM10, CS NPPF, CS4 and CS15 of the Barnet Local Plan Core Strategy and Development Management Policies Document (both adopted September 2012), policies 3.12 and 3.13 of the London Plan (adopted July 2011 and October 2013), the Barnet Planning Obligations (adopted April 2013) and Affordable Housing (adopted February 2007 and August 2010) Supplementary Planning Documents and the Mayoral Housing (adopted November 2012) Supplementary Planning Guidance. It has not been demonstrated that the proposed commuted sum towards affordable housing within the Unilateral Undertaking provided by the applicant is adequate provision.

Planning History

- Application ref: C00513AA/08 was approved following legal agreement

Consultation

- The item has been referred to committee at the request of Councillor Wendy Prentice due to the size of the development.
- The amendments made on 18/06/2014 reflect setting the rear wall of the building on the side nearest 1 Princes Park Avenue a distance of 10.3m from the boundary.
- The amendments received on 24/04/2014 related to providing increased separation between block 1 and no.1 Princes Park Avenue and relocating block 4 so that it is further from the rear of houses on Princes Park Avenue.
- It is clarified that Trees and Landscaping have not objected to the scheme
- It is clarified that Environmental Health officers are satisfied that conditions can address any concerns they have about air quality
- It is clarified that Highways officers withdrew their objection to the scheme following the reduction in proposed parking.

Site Description and Surroundings

- Whilst the report highlights that trees have been cut down there is no insinuation that this was done by the current applicant
- The application follows pre-application discussions with the Local Planning Authority
- Part of the building is two storeys on the side nearest Princes Park Avenue.
- It is noted that Melvin Hall is part 7 and part 8 stories.
- It is clarified that there is something of a gradient across the site from side to side this is relatively flat within the locality.

Density

- The applicant's Transport Statement suggests that the site is in an area of PTAL rating 4 rather than 3 referred to in the report. It is recognised that TfL have advised that this is a matter of methodology and they accept that the site could be interpreted as a rating of 4.
- The site is considered an urban area.

Amenity Issues

- It is acknowledged that the 'The central element linking the rear part of the site to the front blocks' would be set back so that this part of the scheme would have limited impact on neighbouring amenity.
- To clarify, the previously approved scheme was 5 stories in height.
- To clarify, the concerns relate to the overbearing appearance of the building rather than loss of outlook to a specific window.
- It is noted that the building has been articulated to provide interest to the various façades, but it is considered that the building would appear overbearing when viewed from neighbouring residential properties.
- The applicant has amended the plans to set the building back. Officers are now of the view that there would not be a material loss of privacy to neighbouring occupiers.
- To clarify, the measurement of 4.5m in relation to the rearmost block should be between 2.4m-4m.

- A hours in sun/overshadowing report has now been received. This acknowledges that there is 'Major overshadowing' to 1 Princes Park Avenue and a reduction in light to the rear garden by 25%. As such, we would still consider that the impact of the proposals in this regard is unacceptable.

Affordable Housing

- Development Plan Policy DM10 states that 'Having regard to the borough-wide target that 40% of housing provision should be affordable, the maximum reasonable amount of affordable housing will be required on site, subject to viability, from all new sites providing 10 or more units gross or covering an area of 0.4 hectares or more'. It is quite clear from this wording that the ability or otherwise of a 'site' to viably deliver affordable housing is a crucial question for Local Planning Authority when assessing an application.
- Deloitte Real Estate have independently evaluated this matter very carefully and have concluded that an alternative scheme to that proposed at the site, which addresses the relevant planning policy requirements, could viably deliver an on-site contribution to affordable housing provision.
- Deloitte Real Estate have been unable to agree your suggested Benchmark Land Value (BLV) for the site. It is considered that the figure put forward has not been adequately justified and this is not the case at present. The onus is on your advisors to adequately justify whatever figure is proposed in this regard.
- Given the above position the Officers are of the view that it is likely that the application site could viably make an on-site contribution to affordable housing provision in the borough. The information provided to date as part of the submission has not demonstrated that the site cannot make a viable contribution to affordable housing provision in the borough

Comments of the grounds of objections

- Site contains woodland, which is home to wildlife. - *The applicant has provided an ecological assessment which states that no part of this development site or any adjacent area has any statutory or none statutory conservation designation or status. The has been cleared and is considered to no special ecological significance.'*

Recommendation II

An indicative schedule of conditions in the event of approval are shown below:

- The development hereby permitted shall be carried out in accordance with the following approved plans: AD-00-00-06-01 P03 ELEVATION 01, AD-00-00-06-02 P03 ELEVATION 02, AD-00-00-06-03 P03 ELEVATION 03 (Received 18/06/2014), AD-00-00-06-04 P03 ELEVATION 04, AD-00-00-06-05 P03 ELEVATION 05, AD-00-00-06-06 P03 ELEVATION 06, AD-00-00-06-12 P03 E2 WITH OUTLINE, AD-00-00-06-16 P03 E6 WITH OUTLINE, AD-00-00-06-21 P03 SECTION 01, AD-00-00-06-22 P03 SECTION 02, AD-00-00-06-23 P03 SECTION 03 (Received 17/01/2014), AD-00-00-06-31-GGR STREET SCENE, AD-01-00-01-01 P03 1ST FLOOR PLAN, AD-02-00-01-01 P03 2ND FLOOR PLAN, AD-03-00-01-01 P03 3RD FLOOR, AD-04-00-01-01 P03 4TH FLOOR PLAN, AD-B1-00-01-01 P03 BASEMENT 01 PLAN, AD-B2-00-01-01 P03 BASEMENT 02, AD-BM-00-01-01 P03 BASEMENT MEZZANINE, AD-GF-00-01-01 P03 GROUND FLOOR PLAN, AD-LP-00-01-01 P03 LOWER PENTHOUSE FLOOR, AD-LG-00-01-01 P03 LOWER GROUND FLOOR PLAN, AD-RF-00-01-01-ROOF PLAN P03 (Received 18/06/2014), AD-RT-00-01-01 P03 ROOF TERRACE PLAN (Received 18/06/2014), AD-SP-00-01-01 P03 LOCATION PLAN, AD-ST-00-01-01 P03 SITE PLAN (Received 18/06/2014), AD-ST-00-01-02-SITE PLAN DIMENSIONED P03(Received 18/06/2014), AD-UP-00-01-01 P03 UPPER PENTHOUSE PLAN (Received 18/06/2014), AD-UP-40-01-01-PENTHOUSE (Received 18/06/2014), Air Quality Assessment, Arboricultural Assessment, Archaeology, Design and Access Statement, Ecological Assessment, Energy Statement, Flood Risk Assessment sm1, Site Investigation Report, Transport Statement, Travel Plan, Utility Statement, Ventilation Strategy, Acoustic Assessment Report, Urban Landscape Design Strategy & Visual Impact Assessment, Signed unilateral undertaking.

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).

- 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.

- Before the development hereby permitted is occupied the parking spaces/garages shown on the approved plans 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.

- 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.

- 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.

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

Reason:

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

- Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the development is occupied.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

- 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).

- 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.

- Before the development hereby permitted is commenced a scheme indicating the provision to be made for disabled people to gain access to the flats shall have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason:

To ensure adequate access levels within the development in accordance with policies DM03 of the Adopted Barnet Development Management Policies DPD (2012) and 7.2 of the London Plan 2011.

- A scheme of hard and soft landscaping, including details of existing trees to be retained, proposed planting to the boundary with properties on Princes Park Avenue, 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 in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011 and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

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

Reason:

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

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

Reason:

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

- 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.

- The level of noise emitted from the plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason:

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

- Before development commences, a report should be carried out by a competent acoustic consultant and submitted to the Local Planning Authority for approval, that assesses the likely noise impacts from the development of the ventilation/extraction plant. The report shall also clearly outline mitigation measures for the development to reduce these noise impacts to acceptable levels. It should include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the contents and recommendations. The approved measures shall be implemented in their entirety before (any of the units are occupied / the use commences).

Reason:

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

- The dwelling(s) shall achieve a Code Level 4 in accordance with the Code for Sustainable Homes Technical Guide (October 2008) (or such national measure of sustainability for house design that replaces that scheme) 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 4 has been achieved and this certificate has been submitted to and approved by the local planning authority.

Reason:

To ensure that the development is sustainable and complies with 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).

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

Reason:

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

- No development shall take place until a '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).

- Piling or any other penetrative construction method shall not be permitted other than with the express written consent of the Local Planning Authority, in liaison with the relevant utility providers and Environment Agency, which may be given where it has been demonstrated that there is no resulting unacceptable risk to below ground utility infrastructure or groundwater. The development shall be carried out in accordance with the approved details.

Reason. To ensure that the piling design is protective of below ground utility infrastructure assets and controlled waters in accordance with policy DM04 of the Adopted Barnet Development Management Policies 2012.

- Before the development is occupied, the proposals identified in the energy statement submitted shall be implemented in accordance with the details within this document and permanently retained thereafter.

Reason: To ensure that the development achieves satisfactory environmental performance in accordance with policy 5.2 of the Mayor's London Plan.

- Before the development is occupied, details of the designated amenity areas and how access to these will be provided shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details.

Reason: To ensure that residents have access to adequate amenity space in accordance with policy DM02 of the Adopted Barnet Development Management Policies 2012.

- Before the development hereby permitted is occupied cycle storage and parking shall be implemented in accordance with the approved details.

Reason: To ensure that the proposals have an acceptable impact on highway and pedestrian safety in accordance with policy DM17 of the Adopted Barnet Development Management Policies 2012.

- Before the development hereby permitted is occupied, details of electric car charging points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with these details.

Reason: To ensure that the development achieves satisfactory environmental performance in accordance with policy 5.2 of the Mayor's London Plan.

- Prior to the first occupation of the development a scheme detailing all play equipment to be installed in the communal amenity space shall be submitted to the Local Planning Authority and approved in writing. The development shall be implemented in full accordance with the details as approved prior to the first occupation of the development.

Reason:

To ensure that the development represents high quality design and to accord with policies CS7 of the Core Strategy and DM02 of the Development Management DPD and policy 3.6 of the London Plan 2011.