

Location **Cottage Garden Nursery 127 Barnet Road Barnet EN5 3JX**

Reference: **15/06152/FUL** Received: 5th October 2015
Accepted: 19th October 2015

Ward: High Barnet Expiry 14th December 2015

Applicant: Mr M Bishop

Proposal: Construction of a two storey detached house at ground and lower ground level following the demolition of the nurseries and outbuildings and a two level car park with car lift for 4 vehicles (AMENDED DESCRIPTION)

Recommendation: Refuse

- 1 The proposed dwelling, by reason of its location within the Green Belt, would represent inappropriate development within the Green Belt which is by definition harmful to the openness of the Green Belt and the purposes of including land within it. The proposal would be contrary to the NPPF, Policies CS NPPF, CS1, CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012) and Policy DM01 and DM15 of the Development Management Policies DPD (adopted September 2012).

Informative(s):

- 1 The plans accompanying this application are:
 - Proposed plans elevations - Drg No 436015
 - Proposed site section and site plan - Drg No 436015 - 2
 - Existing site plan and site section - Drg No 436015 -1
- 2 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority (LPA) 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 applicant did not seek to engage with the LPA prior to the submission of this application through the established formal pre-application advice service. In accordance with paragraph 189 of the NPPF, the applicant is encouraged to utilise this service prior to the submission of any future formal planning applications, in order to engage pro-actively with the LPA to discuss possible solutions to the reasons for refusal.

- 3 This is a reminder that should an application for appeal be allowed, then the proposed development would be deemed as 'chargeable development', defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Therefore the following information may be of interest and use to the developer and in relation to any future appeal process:

The Mayor of London adopted a Community Infrastructure Levy (CIL) charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for a £0 per sq m rate for education and health developments. This planning application was assessed as liable for a £8,785,00 payment under Mayoral CIL at this time.

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 were set at a rate of £0 per sq m. This planning application was assessed as liable for a £33,885,00 payment under Barnet CIL at this time.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL is recorded to the register of Local Land Charges as a legal charge upon a site, payable should development commence. The Mayoral CIL charge is 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.

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

The Community Infrastructure Levy becomes payable upon commencement of development. A 'Notice of Commencement' is required to be submitted to the Council's CIL Team prior to commencing on site; 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 any appeal being allowed, please contact us: 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 at 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.

Please visit www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil for further details on exemption and relief.

Officer's Assessment

1. Site Description

The application site is located on the south side of Barnet Road. The site was last used as a retail garden nursery but is currently vacant and the existing buildings are in a poor state of repair. It is occupied by two greenhouses and four wooden storage buildings spread across the site. The site adjoins residential properties and a service garage to the west. Land to the east and south is occupied by a small stable and paddock which is open farm land. Residential properties are sited on the opposite side of the Barnet Road. The site dips downwards away from Barnet Road.

The application site is positioned within the Green Belt and is also within an Agricultural Article 4.

2. Site History

Reference: N07781

Address: Adjoining John Britten Garage Barnet Road Arkley Herts

Decision: Approved subject to conditions

Decision Date: 25 October 1985

Description: Use of land as garden nursery, formation of parking area at front, and erection of greenhouse and storage shed.

Reference: N07781A

Address: The Garden Nursery Barnet Road Barnet Herts

Decision: Approved subject to conditions

Decision Date: 13 September 1989

Description: Operation of garden nursery by Neil Fletcher Garden Contracts Ltd. (removal of condition 5 of planning permission ref. N07781 dated 25th. October, 1985).

Reference: T/APP/N5090/A/90/15248/P8

Address: The Garden Nursery Barnet Road Barnet Herts

Decision: Dismissed

Decision Date: 27 November 1990

Description: Appeal against decision N07781A - Operation of garden nursery by Neil Fletcher Garden Contracts Ltd. (removal of condition 5 of planning permission ref. N07781 dated 25th. October, 1985).

3. Proposal

This application seeks approval to construct a four bedroomed split level detached house. The proposed house has a floor area of 251 m² and measures approximately 14 metres wide by 19 metres long and will be 6 metres high at its highest point. The proposed dwelling would be sited approximately 10 metres from the frontage of the site and, 1 metre from the northern boundary, 3 metres from the southern boundary and 56 metres from the eastern boundary. Supporting information received with the application described the house as being of contemporary design, incorporating large sections of glazing within a white render framework punctuated by timber infill panels. The house would have subterranean car parking in the form of a submerged scissor lift.

4. Public Consultation

Consultation letters were sent to 17 neighbouring properties. A site notice was posted on 29.10.2015. One letter of comment was received neither objecting nor supporting the application. This letter has been summarised below:

- The application site is close to sites of archaeological significance and may produce finds of relevance. Given this, the Hendon and District Archaeological Society requests to watch the site during the construction
Councils Environmental Health Department raise no objection to this application subject to the inclusion of recommended conditions and informatives.
Council's Highways Department raise no objection to this application subject to the inclusion of recommended conditions and informatives.
Cllr Wendy Prentice has requested that this application be heard at committee as due to the proximity of the green belt there could be some ambiguity and the application should be assessed by committee.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local 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 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 states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

Paragraphs 87 - 89 of the NPPF sets out that a Local Planning Authority should regard the construction of new buildings as inappropriate in the green belt. Inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances.

The Mayor's London Plan 2015

The London 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 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

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.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5 and CS7.

- Relevant Development Management Policies: DM01, DM02, DM08, DM15 and DM17.

Supplementary Planning Documents

Residential Design Guidance SPD (adopted April 2013)

This SPD sets out information for applicants to help them design developments which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation. The SPD states that large areas of Barnet are characterised by relatively low density suburban housing with an attractive mixture of

terrace, semi-detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.

The SPD states that new developments should normally be subordinate to the original house, respect the original building, should not be overly dominant, and be consistent in regard to the form, scale and architectural style of the original building.

In respect to amenity, this SPD states that developments should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

Sustainable Design and Construction SPD (adopted April 2013)

Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

1. The principle of the development and its impact on the green belt
2. Whether harm would be caused to the living conditions of neighbouring residents
3. Whether harm would be caused to the character and appearance of the street scene and the wider locality
4. Whether the proposed building would provide a suitable level of accommodation for potential occupiers

5.3 Assessment of proposals

1. Principle of the proposed development and its impact on the green belt

It is acknowledged that a number of existing buildings are located on the application site associated with its previous use as a garden nursery. The application indicates that these buildings include two greenhouses and four wooden storage buildings. These buildings are spread out across the site. The largest and most prominent of these buildings are the two greenhouses which are positioned at the rear of the site at its lowest point. The proposal would involve removing these existing buildings and replacing them with a single dwelling structure. It should be noted that Council does not have any principle objection to the removal of the existing buildings. As such, the discussion must focus on the merits of the building which will replace them.

The NPPF states that local planning authorities should regard the construction of new buildings in the Green Belt as inappropriate development. Paragraph 87 of the NPPF confirms that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations. A circumstance to be very special must be capable of being differentiated from other circumstances or situations. Case law makes it clear that circumstances must be very special and not merely special in the sense of unusual or exceptional. Paragraph 89-91 of the NPPF considers residential development within the Green Belt to be inappropriate and unacceptable. This approach is reflected within Council's Development Management Policies document. Council's Development Management Policies document outlines that appropriate development in the green belt may include limited extensions to dwellings, replacement dwellings, development for agriculture, horticulture, woodland, nature conservation, wildlife and essential facilities for outdoor sport and recreation and uses which complement and improve access to, and

which preserve openness. Policy DM15 states that, except in very special circumstances, the Council will refuse any development within the Green Belt which is not compatible with its purpose and does not maintain openness. Paragraph 89 of the NPPF states the replacement of a building within the Metropolitan Green Belt is only appropriate provided the new building is in the same use and not materially larger than those insitu.

Council acknowledges that the site is brownfield land as it has been developed previously. Although the application site is now vacant, its existing lawful use is a garden nursery. This application seeks to change the use of the site to residential and would therefore not be the same as the existing use of the site. As such, this application does not meet the first test in Paragraph 89 of the NPPF as outlined above. The applicant seeks to use the entire site as residential land.

Although the site is acknowledged as brownfield land It is considered that the use, scale and siting of the existing buildings have a limited effect on the openness of the Green Belt. This determination is made on the basis of their previous use in association with a nursery operation and on account of their appearance and siting. In particular, the existing wooden buildings are single storey in height, while the existing greenhouses are unobtrusive in the landscape on account of their materials and their position on the lowest part of the site.

The application outlines that there would be a reduction in the footprint (-4.7%) and external volume (-9.2%) of built structures on the application site as a result of the works proposed as well as a reduction in the area of hard standing (-50.6%). However, an assessment of openness does not solely relate to the quantum of floor space but also to the scale and bulk of the proposal. Whilst the development would result in a reduction of built footprint on the site it is considered that the scale, design and siting of the proposed building would be wholly out of character with the existing buildings on the application site. Although the proposed building would have the appearance of a single storey structure when viewed from its principle elevation, the lower ground floor stepped design of the building would give it the appearance of a two storey building when viewed from the rear and side elevations. Coupled with the depth of the proposed building, it is considered that the structure would appear significant in comparison with the existing buildings on the site. Further, the proposed building incorporates architectural design elements, such as the rear stone wall, which amplify the presence and bulk of the structure on the application site. Additionally, it should be noted that the proposed building would be sited on the highest land on the application site close to the site's frontage with Barnet Road. Taking into account these matters, it is considered that the proposed building would be an obvious change to the application site that would stand out and be more intrusive than the existing buildings which would result in a reduction of the sense of openness within the Green Belt.

As such, it is considered that the proposed development does not constitute any of those very special circumstances that would be considered appropriate development within the Green Belt. Therefore, it is determined that the proposed development would harm the Green Belt.

2. Whether harm would be caused to the living conditions of neighbouring residents
It is not considered that the proposed building would harm the living conditions of neighbouring residents. The land to the east and south is occupied by a small stable and paddock. Land to the west is occupied by a service garage and a dwelling which is separated from the application site by a private access road. Residential properties are sited on the opposite side of Barnet Road.

3. Whether harm would be caused to the character and appearance of the street scene and the wider locality

Council's Residential Design Guidance SPD states that character in an area may be derived from a range of attributes, including built form, architectural style, pattern, layout, space around buildings, landscaping, trees, streetscape, materials and uses/activity. The design and layout of new development should respect the character of the area in which it is situated and respond to the positive features of that character. It is considered that the open nature of the area surrounding the application site in its Green Belt setting dominates the character of the surrounding area. As described above, the proposed building would compromise the open character of the Green Belt in this area. As such, it is considered that the subject building would harm the character of the application site and wider locality in this instance.

4. Whether the proposed building would provide a suitable level of accommodation for potential occupiers

The proposed building meets those internal and outdoor amenity space standards as required under the Council's Sustainable Design and Construction SPD. As such, it is considered that the proposed building provides a suitable level of accommodation for any potential or future occupants.

6. Response to public consultation

The application site is not indicated by Council's GIS system as being located within an area which may contain items of archaeological significance. Given this, no further consideration need be given to this matter.

7. Equality and Diversity Issues

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

8. Conclusion

Having taken all material matters into account, it is considered that the proposed building is not a suitable form of development within the Green Belt and would harm the character of the application site and wider locality. This application is therefore recommended for refusal.

Location Plan

