

**Location**                    **1 Rectory Lane Edgware HA8 7LF**

**Reference:**                **15/05487/OUT**

Received: 1st September 2015

Accepted: 21st September 2015

Ward:                        Edgware

Expiry 16th November 2015

Applicant:                 Mrs Linda Edwards

Proposal:                    Demolition of the existing structure and erection of a 4 storey building including a basement and roof garden with D1 community area of 500 m sq, 4 no open market self-contained residential units and 3 assisted living units within 1 no self-contained residential unit. Provisions for 7 no parking spaces, refuse and amenity space, associated vehicular access and hard and soft landscaping (OUTLINE APPLICATION)

**Recommendation: Refuse**

Reasons for refusal:

- 1     The proposed development by reason of the increased height and siting of the rear element would give rise to an unacceptable loss of outlook and sense of enclosure to the neighbouring residential occupiers in Old Rectory Gardens and Station Road. The proposal would be contrary to policies CS NPPF, CS1 and CS5 of the Local Plan Core Strategy (Adopted September 2012), Policy DM01 and DM02 of the Development Management Policies DPD (Adopted September 2012) and the Residential Design Guidance SPD (Adopted April 2013).

**Informative(s):**

- 1     The plans accompanying this application are:

12051-15 Rev A  
Proposed Elevations 1 x 4 Rev A  
Proposed Elevations 2 x 4 Rev A  
Proposed Elevations 3 x 4 Rev A  
Proposed Elevations 4 x 4 Rev A  
drg-01 Rev A  
drg-02 Rev A  
drg-03 Rev A  
drg-04 Rev A  
scheme-10 Rev A  
Design and access statement

- 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 £16,065 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 £55,269 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](mailto: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](http://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](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](http://legislation.gov.uk).

Please visit [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://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 comprises a single storey former industrial building located within Rectory Lane. The building is used for community purposes by the Larches Trust who care for vulnerable and disabled adults in the Borough and assist and develop them towards independent living. Another unit is in similar use on the adjoining site to the northeast. The site is surrounded by Rectory Lane on its southern and western side. Two storey semi detached dwellings are situated on the northern boundary of the site in Old Rectory Gardens. Rectory Lane running parallel to the southern elevation also functions as the service road for properties in Station Road. Properties in Station Road are retail on ground floor with residential above which would overlook the site. Centurion House, which is located at the junction of Station Road and Manor Park Crescent has seven storeys dominates the immediate setting however it reduces in height towards the rear and the application site.

### 2. Site History

Reference: 15/02839/OUT

Address: 1 Rectory Lane, Edgware, HA8 7LF

Decision: Refused

Decision Date: 29 July 2015

Description: Demolition of the existing structure and erection of basement and ground floor area for 7 parking spaces and Amenity area. First floor assisted living apartments and second floor roof garden. Five new self-contained units over five floors. (OUTLINE APPLICATION)

The application was refused for the following reasons:

- The proposed development, by reason of its design, siting, height and scale would result in an excessive, overly prominent form of development and would constitute an overdevelopment of the site. It would not preserve or enhance the character or appearance of the area and would be detrimental to the character and appearance of the streetscene and the locality.
- The proposed development by reason of its design, height and siting would give rise to an unacceptable loss of outlook and sense of enclosure as well as overlooking with subsequent loss of privacy to the neighbouring residential occupiers in Old Rectory Gardens and Station Road.
- The proposed development would, by reason of the design and layout of the ground floor parking area would compromise the functionality and effectiveness of the access, collection and storage of refuse and the access to and storage of cycles.

Reference: H/00890/13

Address: 1 Rectory Lane, Edgware, HA8 7LF

Decision: Withdrawn

Decision Date: 3 March 2014

Description: Erection of two storey building block including rooms in roof space to facilitate 6no. self contained residential units (Outline Application including appearance, layout and scale).

Reference: H/03317/10

Address: 1 Rectory Lane, Edgware, HA8 7LF

Decision: Approved subject to conditions

Decision Date: 9 November 2010

Description: Extension to the time limit for implementing planning permission W03404F/07 dated 20/09/07 for "Alterations to front of ground floor and erection of two additional floors on front part of property to form 2no residential units."

Reference: W03404E/07

Address: 1 Rectory Lane, Edgware, HA8 7LF

Decision: Refused

Decision Date: 28 February 2007

Description: Alterations to front of ground floor and erection of two additional floors on front part of property.

The application as refused for the following reasons:

- The proposal, by virtue of its size and design, would form a dominating and visually obtrusive feature to the detriment of the character and appearance of the streetscene and general locality.
- Insufficient amenity space has been provided for the future occupiers of the proposed flats.

- The proposal makes no provision for car parking within the curtilage of the site which would result in an increase of kerbside parking on the surrounding roads to the detriment of the free flow of traffic, highways safety and residential amenity.
- The proposed flats, by reason of their poor stacking would result in an unsatisfactory form of development to the detriment of the amenities of the future occupiers.

Reference: W03404F/07

Address: 1 Rectory Lane, Edgware, HA8 7LF

Decision: Approved subject to conditions

Decision Date: 20 September 2007

Description: Alterations to front of ground floor and erection of two additional floors on front part of property to form 2 No. residential units.

### 3. Proposal

Planning permission is sought for the demolition of the existing buildings on the site and the erection of a new four storey plus basement development with on-site ground floor level car parking. The proposed development would incorporate 342sq.m of floorspace for the existing charitable functions at the ground floor and basement level. The application proposes four self contained flats for the private market comprising 3 x 2 bed and 1 x 3 bed and a unit with three bedrooms for the assisted living in association with the Larches Trust. All private market units will include balcony space while there would also be provision of 80sq.m of roof garden space.

The building would be 23m long and would be 13m high at its highest point at the top of a lift shaft overrun. This lift shaft separates two built elements including a 12m frontage section overlooking Rectory Gardens at four storeys and a three storey rear section to a height of 9.5m. The building would be primarily constructed from brick with the second floor finished in render. The windows on the north elevation would be obscure glazed.

The scheme provides parking for 6 spaces comprising five for the market flats including one disabled parking space and one space for the Larches Trust. Refuse and cycle storage is provided on the ground floor.

This scheme is intended to overcome the reasons for refusal set out in the previous application following the refusal of the planning application at the Hendon Area Committee on 27 July 2015. Members endorsed officer's objections on the basis of height, design, scale, bulk and massing as well as harm to neighbour residential amenity and an unfeasible parking layout preventing appropriate access to storage for refuse and cycles.

This application proposes a reduction in height of the building by 6.0m as well as changes to external materials and alterations to the glazing to ensure that no overlooking would occur to properties in Rectory Gardens.

### 4. Public Consultation

Consultation letters were sent to 98 neighbouring properties.

4 responses have been received, comprising 4 letters of objection. One objector has requested to speak at the Committee.

The objections received can be summarised as follows:

- The scheme would result in the loss of car parking spaces in Rectory Lane currently enjoyed by traders operating within Station Road.
- The scheme would add to local congestion as a result of the 7 units of accommodation.
- The scheme would affect the daylight and sunlight conditions for adjoining properties.
- The scheme constitutes over development of the site and in the context of Century House would be overbearing.
- The development would be out of character with the streetscene, particularly that of Rectory Gardens.
- The development would be overbearing.
- The development would cause overlooking resulting in a loss of privacy.
- Poor surface drainage conditions locally would be worsened by the proposed development.
- The scheme would result in the loss of a community facility.

This application has been called in by Councillor Gordon (Hale Ward).

## 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.

#### The Mayor's London Plan 2015

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London 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, CS3, CS4, CS5, CS6, CS8, CS11, CS14
- Relevant Development Management Policies: DM01, DM02, DM03, DM08, DM09, DM11

#### Supplementary Planning Documents

##### 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:

- The community benefits of the scheme and whether these outweigh the harm that has been identified by officers.
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents.
- Whether the development would cause harm to existing highway conditions.

#### 5.3 Assessment of proposals

##### Land use

Planning permission is sought for the redevelopment of the site to form a four storey plus basement mixed use development including over 340sq.m of charity and community use floor space, four flats and three assisted living bedrooms. This application constitutes a resubmission of a previous refusal. The scheme was refused on the grounds of its height, size, scale bulk and massing. The scheme would also have had an inappropriate design, given rise to overlooking and would have a poor ground floor layout that would prevent the effective storage of waste and cycles and access to these facilities and the building. At the Area Planning Committee on 27 July, Members advised that regard should be had to the existing and proposed use of the site, however this would on balance have been undermined by the poor design combined with the excessive height and relationship with adjoining buildings and the character and appearance of the streetscene.

The revised scheme does not result in a loss of the Use Class D floorspace as a result of the reduction of the scheme. Instead there has been a decreased in the number of flats within the development. Although the scheme does not generate the same level of D class floorspace as the most recent scheme, the on-site provision is still greater than that which exists at present.

The scheme aims to deliver an enhanced service to vulnerable adults in the community. The Larches Trust which has been serving the Community for 20 years works with adults with learning disabilities, enabling them to become more independent within the community. Part of meeting this objective is to provide three independent living apartments based on supported living. The aim of the development is allow the charity to remain on the site within the immediate community that they serve, following the loss of their alternative site.

Community uses are protected and promoted through policy DM13 of the Development Management Policies DPD and as such, the principle of enlarging and enhancing the on-site facilities are supported by the Council. However, policy DM13 advises that community facilities will only be supported if they do not have a harmful impact on neighbouring residential amenity or highway safety. In this case and as discussed below, it is considered

that the proposed development would have a harmful impact on the character and appearance of the area and neighbouring residential amenity.

The principle of residential use within the development is considered to be an acceptable land use on this site. However, as with the community use, the development must not harm the character and appearance of the area and residential amenity.

### Design, character and appearance

The previous application (15/02839/OUT) proposed a substantial 6 storey plus basement development constructed from render and aluminium cladding panels. The proposed development would have been significantly taller than most buildings in its immediate context which is the residential suburban environment of Rectory Gardens and would have been visible above frontage development in Station Road. The proposed building would have loomed large over the immediately neighbouring property and would have been an incongruous addition to the streetscene.

The amended scheme hereby submitted incorporates a reduction in the height of the principal part of the development from 18.0m down to 12m. However, the rear element has increased in height from 6.95m to 9.5m (an increase of 2.5m). In addition, the materials have reverted from predominantly render and aluminium cladding to predominantly brick.

It is considered that the proposal is now in line with expectations of both officers and Members in respect of the height, bulk and massing. The proposed materials used within the development responds to local character and distinctiveness as well as the use of render.

The scheme does incorporate a material increase in the height of the rear element from 6.95m to 9.5, constructed in brick. The amenity issues will be discussed subsequently. However, it is considered that the size and scale of the proposed development would not be out of character with the general form of development within Rectory Gardens and would be subordinate to both the larger element within the scheme and also the frontage development within Station Road.

It is considered that the scheme would now overcome the first reason for refusal on the decision notice for 15/02839/OUT.

### Amenity

The previous scheme was considered to create an unduly harmful sense of enclosure for neighbouring properties to the scheme reducing outlook. In addition, the proposed development would have facilitated overlooking into gardens and dwellings thereby causing a loss of privacy.

It is considered that the proposed and revised development would overcome the overlooking and loss of privacy aspect by way of the use of obscure glazing to windows on the west elevation. This would result in one bedroom in each unit having no outlook from a habitable room. The use of obscure glazing to bedrooms would prevent overlooking to the neighbouring properties at 27 - 28 Old Rectory Gardens.

However, although the front portion of the development has dropped by 6.0m, the rear portion has increased by more than 2.5m to a total height of 9.5m. This would have a direct impact on 28 Old Rectory Gardens. Other properties within this street block



including 23 - 27 Old Rectory Gardens would not be significantly harmed by this development. The rear part of the proposed development would generate substantial harm to residential amenity given the proximity of the proposed development to the rear elevation of 28 Old Rectory Gardens. The rear boundary does not run parallel to the flank boundary of the application site and the separation distance between the rear elevation and side boundary ranges from 3.5m to around 7m plus the 1m gap beyond the boundary. In addition, the proposed development reintroduces concerns about the impact of the proposed development on the daylight that may be currently enjoyed by the neighbour at 28 Rectory Gardens. A daylight and sunlight assessment was prepared and considered in the evaluation of the previous planning application. This demonstrated that the 18m high tower and the 6.95m high rear portion would not harm daylight and sunlight exposure despite being positioned to the south of much lower residential dwellings. It is considered that the tower element would have a lesser light impact than the previous proposal. Nevertheless, the impact of the proposed development on 28 Old Rectory Gardens changes. The daylight assessment indicated that ground floor windows of the property would have a VSC in some cases of less than 27. However, this would be mitigated by the fact that no reductions would have been less than 0.8 their previous value. It is not known what implications the revised development might have on daylight amenity as a result, as no survey has been prepared to support this application. It is possible that two to three windows at 28 Old Rectory Gardens might subsequently fail.

The harm that would arise is indisputable and in arriving at an overall recommendation for this application, it will be necessary to determine whether the harm that this development would generate for the occupiers of this property is greater than or less than the benefits that the development would deliver. In this case, the development would not be feasible (financially) without the four flats. The applicant has also advised that the assisted living units are also fundamental and essential to be provided on the site and without this provision supported living care for at least three people would be absent and their lives would be at risk. Ultimately, without the flats, the scheme would not be financially viable and the trustees cannot agree to proceed with the scheme without providing the living spaces for vulnerable young adults. However, the fact that the London Borough of Barnet has been deficient in providing adequate support services in the community to the extent that people's lives are at risk is not a material planning consideration where other legislation exists to achieve the

The National Planning Policy Framework (NPPF) sets out the principles that should be adhered to in considering development. The document sets out a principle for a presumption in favour of sustainable development. Where development is deemed to be sustainable, it should, in the language of the NPPF be determined without delay. Paragraph 17 (Core planning principles) states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. However, the NPPF requires local planning authorities to take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs. The Core Strategy outlines that the Council will seek to ensure that vulnerable adults will benefit from housing choices. However a strand of sustainable development is about ensuring that development protects amenity, achieves good design but also provides for housing need.

Precedents generated from previous appeal decisions are rare and as a result it is difficult to find appropriate direction in respect of the balance between the material planning considerations. The provision of three bedrooms which could provide living spaces for up to 6 people would generate community wide benefits and the applicant has sought to

demonstrate that these benefits are more significant than the harm that would otherwise occur to the neighbour at 28 Old Rectory Gardens. There are no mitigating factors proposed by the applicant which would overcome the harm that the scheme would generate.

In conclusion, the scheme would have a significant impact on the amenity and would provide community benefits in the wider public interest. However, protecting residential amenity would also be in the wider public interest and it is considered that the benefits in this case do not outweigh the harm caused.

## Highways

The previous scheme was refused finally on the impractical layout for parking which compromised rational storage of and access to cycles and waste. It is still considered that the means by which refuse containers and cycles can be manoeuvred into the site is still impractical. However, in this instance, it is considered the use of pre-commencement conditions would be relevant in this instance to secure a more practical arrangement.

The car parking provision remains the same from the previous scheme and as a result would be acceptable.

## 5.4 Response to Public Consultation

The design of the proposed development would now be acceptable in respect of height, size, scale and design following the reduction of the building's overall height. Its appearance would now be more subordinate within the streetscene and would form a proportionate relationship to neighbouring properties. Access, highways and parking were deemed to be acceptable in the previous planning application and given the high PTAL rating, the provision of on site parking and the deterrent of CPZ parking, would not harm the effectiveness of the highway network. Construction of the proposed development would have significant implications on access and local traffic circulation, but could be secured through planning condition.

The scheme would not have an impact on the amenities of the occupiers of the flats above the Station Road retail properties given the distance between them and the reduction in the height of the building. In addition, it is considered that the scheme would not compromise the vitality or viability of the retail parade.

Nevertheless, it is considered that the proposed development would significantly affect the amenity of the occupiers of 28 Old Rectory Gardens which would have greater harm than the benefit that would arise from the community benefits for the people that the charity serves to care for. The proposed development would be contrary to the policies of the Development Plan and would not constitute sustainable development as outlined by the NPPF.

## 6. Equality and Diversity Issues

The scheme provides assisted living accommodation for vulnerable adults with learning disabilities. The DPD supports the provision, retention and enhancement of facilities for special needs groups, however, this should be balanced with achieving sustainable development that is of the best design possible and which also protects the amenity of existing communities. As a result, a recommendation to refuse this 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.

## 7. Conclusion

Having taken into account all the material considerations associated with this development, including the planning history, representations received and the site and surroundings, it is considered that the proposed development would be unacceptable. The retention and enlargement of the existing community uses as well as supported or assisted living accommodation is acceptable and are supported by policy, as is the provisions of market housing. However, the scale of the increase of the floor space on site within the rear portion would have a substantial impact on the residential amenity of the adjoining occupiers at 28 Old Rectory Gardens.

The scheme is considered to overcome the other previous reasons for refusal, however, the increase in height to the rear is a material enlargement which generates its own harm and impact which is contrary to the policies of the Development Plan.

Although the application has been made in outline (with all matters reserved), sufficient detail has been provided to allow the Council to make a detailed assessment of the proposed development. The application as submitted is unacceptable, contrary to the policies listed above and should therefore be refused.