

Location **47 Oakleigh Park South London N20 9JR**

Reference: **17/3968/FUL** Received: 21st June 2017
Accepted: 22nd June 2017

Ward: Oakleigh Expiry 17th August 2017

Applicant: Mrs Glazer

Proposal: Use of existing outbuilding as skin clinic (sui generis) (RETROSPECTIVE APPLICATION).

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

P1 - Site Location Plan (1:1250, received 11th August 2017), P2 - Existing and Proposed Elevations Oakleigh Avenue, P3 Site Plan, P4 Building Layout, P5 Building Visualisation, P6 - Existing and Proposed Elevations, Planning Design and Access Statement.

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 CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 The outbuilding as shown on the approved drawings shall be used for incidental uses connected to the main house at 47 Oakleigh Park South and / or a Skin clinic (sui generis) only and for no other use.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 3 The use of the outbuilding as a Skin Clinic shall be carried out by the resident of 47 Oakleigh Park South, Mrs Donna Glazer, only and by no other independent person or operation.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 4 The use of the outbuilding as a Skin Clinic shall be undertaken between the following times only and at no other times: 8.30am to 5.30pm Monday to Saturday; at no times on Sundays or Bank Holidays.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 5 Only one member of staff, Mrs Donna Glazer, may work in the Skin clinic.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 6 A maximum of 9 no. (nine) appointments may be conducted in any one day (8.30am - 5.30pm).

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 7 No appointments associated with the Skin clinic shall be carried out within the main house 47 Oakleigh Park South.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 8 Training classes may be attended by a maximum of two clients at any one time, with training being conducted by only one trainer; that being Mrs Donna Glazer.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of

Classes A and B of Part 1 of Schedule 2 of that Order shall be carried out to the outbuilding.

Reason: To safeguard the amenities of neighbouring occupiers, the health of adjacent TPO trees and the general locality in accordance with policies DM01 of the Development Management Policies DPD (adopted September 2012).

- 10 The level of noise emitted from any plant used in connection with the Skin Clinic 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 Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2015.

Informative(s):

- 1 In accordance with paragraphs 186 and 187 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

Officer's Assessment

1. Site Description

47 Oakleigh Park South is a large detached property situated on a generous corner plot south of the junction of Oakleigh Park South and Oakleigh Avenue.

The surrounding area is characterised by large detached residential dwellings.

An outbuilding was constructed within the garden of the property in 2016.

The outbuilding is sectioned off from the main garden area of the dwelling and is accessed separately by a gate on Oakleigh Avenue.

The outbuilding is currently used for skin and beauty treatments undertaken by the owner of the property and a number of staff who are employed and based at the site throughout the day. The business typically operates 6 days a week (Monday to Saturday) from 9:30am to 6:00pm.

The unauthorised use of the outbuilding is subject to enforcement investigation. An appeal has been lodged against the Enforcement Notice.

2. Site History

None.

3. Proposal

Use of existing outbuilding as skin clinic (Sui Generis) (RETROSPECTIVE APPLICATION)

4. Public Consultation

The application was called in to the Chipping Barnet Area Planning Committee by Councillor Sowerby who is concerned that the proposed skin clinic use is an inappropriate commercial activity in a quiet residential area.

An objection to the proposal was received from Teresa Villiers MP on the basis that the use of the outbuilding is not ancillary to the main house and concerns relating to noise and nuisance arising from the use.

Consultation letters were sent to 22 neighbouring properties.

An amended Site Location Plan showing the red line defining the application site extended to cover the whole of the 47 Oakleigh Park South site (Drawing P1) was received on 11th August 2017. The same 22 neighbouring properties were then re-consulted for 21 days from 21st August to 11th September.

The reason for extending the red line was to ensure that, in the event that planning permission is granted, planning conditions can be attached requiring the use of the outbuilding to remain linked to the main dwellinghouse.

79 objections were received. Comments can be summarised as follows:

- The proposed use is more akin to an A1 use / beauty salon
- Entrance to the clinic is via a gate from Oakleigh Avenue marked '56 Oakleigh Avenue' not the main entrance to 47 Oakleigh Park South
- The address 54 Oakleigh Avenue was being used by the applicant's website as the SatNav address
- The outbuilding is separated from the main house and the entrance is from Oakleigh Avenue
- The outbuilding contains three treatment rooms and three staff are employed in addition to the owner.
- The proposal would add to on street parking pressures
- Allowing the business to operate in this residential area would set a precedent
- The associated comings and goings associated with the use would be unacceptable for a residential area.

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 2016

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 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, CS9.

- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM08, DM17.

Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)
Sustainable Design and Construction SPD (adopted October 2016)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether the principle of the proposed use is acceptable
- 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;
- Highways and parking provision.
- Environmental Health considerations

5.3 Assessment of proposals

Background

An outbuilding was constructed within the garden of the property in 2016. Whilst no Certificate of Lawfulness exists (or has been applied for), the outbuilding was assessed by Officers and found to be within the physical limitations of permitted development and therefore lawful if used in a way that is considered to be incidental to the use of the main dwellinghouse.

It subsequently became apparent that the use of the outbuilding meant that it could not be considered incidental to the use of the main dwellinghouse.

The outbuilding is sectioned off from the main garden area of the dwelling and is accessed separately by a gate on Oakleigh Avenue. The outbuilding is used for skin and beauty treatments undertaken by the owner of the property and a number of staff who are employed and based at the site throughout the day. The business typically operates 6 days a week (Monday to Saturday) from 9:30am to 6:00pm.

Amended drawings

An amended Site Location Plan showing the red line defining the application site extended to cover the whole of the 47 Oakleigh Park South site (Drawing P1) was received on 11th August 2017 and the same 22 properties were re-consulted for 21 days from 21st August to 11th September.

The reason for extending the red line was to ensure that, in the event that planning permission is granted, planning conditions can be attached requiring the use of the outbuilding to remain linked to the main dwellinghouse.

The proposed use

The submitted Planning Statement states that the applicant is a skin therapist and educator, providing specialist training classes and treatments for dermatological conditions.

The training courses are for other therapists who may be beauty therapists, diagnostic technicians or aesthetic nurses.

The applicant's agent considers that the clinic either falls within Use Class D1 or, if this is not accepted, is sui generis.

The applicant's business premises were previously located in Highgate. The business was sold in October 2016 and clinics and training classes began operating from the outbuilding at 47 Oakleigh Park South.

The outbuilding is L-shaped and includes three rooms large enough to be used as treatment rooms along with a toilet room, a small storage room and a large central reception area.

The Planning Statement states that, whilst the use has been described as being a 'beauty salon', it is in fact a skin clinic, specialising in treating a number of conditions and providing training courses and that it differs from the applicants previous business operation for the following reasons:

- The annex includes no external advertising, directional signs or business name plates;
- The clinic is advertised via a website and specialist listings;
- The majority of clients are existing clients or are introduced through word of mouth;
- No drop-in appointments are provided. All appointments are on a strict pre-booked arrangement, agreed subject to the availability of Mrs Glazer and her clients;
- To ensure convenient times can be arranged, bookings may be agreed Monday through to Saturdays, with start times from 9.30am to 5.30pm;
- Appointments for treatments and classes are 1 hour or longer.
- On the three days that the applicant works alone, this theoretically means a maximum of 9 appointments each day. This is never the case however given the client list and will never be the case given lunch times and hand-over times are built into bookings.
- On the three days that the applicant is helped by a colleague, two clients may be seen at the same time. This means a theoretical maximum of x18 clients can be seen during each of these days. Again this is never the case and again could not be given break times.
- Client bookings do vary day by day but given the limits set by the working arrangements, the number of clients visiting on a single day may vary from zero up to 6 on the days that the applicant is working alone and typically 9 to 12 clients on the days that she is being assisted.
- There are also times that the applicant and / or her colleague are unable to work or are on holiday (for instance during summer holidays and over the Christmas holidays). Client visits will reduce or stop completely during these times.

Due to the mixed nature of the skin and beauty services provided, Officers consider the use to be sui generis.

There is no in principle planning objection to residents working from home. However, when assessing whether a particular proposal is acceptable the nature and scale of the use will be considered, in terms of impacts on the character of an area, the amenities of neighbouring residents and any highway impacts.

Impact on the character and appearance of the site, streetscene and wider locality

Barnet policy DM01 expects that development proposals should be based on an understanding of local characteristics and should respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

It has previously been determined by the Local Planning Authority that the patterns of activity associated with the use of the outbuilding for skin and beauty treatments introduces an incongruous use into a primarily residential area resulting in a development that is out of keeping with the established character of the area, contrary to policy DM01 of Barnet's Local Plan Development Management Policies DPD 2012.

Therefore, in order for the proposed use to be considered acceptable in character and appearance terms it will be necessary to impose suitable planning conditions to control the intensity of the operation.

It is considered that, subject to the proposed use operating in accordance with the proposed planning conditions, the scale of the use would not be so great as to cause harm to the character of the area and would therefore be acceptable.

The use of the gate onto Oakleigh Avenue is considered to be acceptable, subject to the proposed use being operated in accordance with the proposed conditions.

Whether harm would be caused to the living conditions of neighbouring residents

It has previously been determined by the Local Planning Authority that, in the absence of suitable methods of control of the times and types of activity, it is a realistic possibility that the use of the outbuilding will lead to significant noise and disturbance to neighbours of the property, contrary to policy DM04 of Barnet's Local Plan Development Management Policies DPD 2012.

Therefore, in order for the proposed use to be considered acceptable in character and appearance terms it will be necessary to impose suitable planning conditions to control the intensity of the operation.

It is considered that, subject to the proposed use operating in accordance with the proposed planning conditions, it would not cause significant noise and disturbance to neighbouring residents and would therefore be acceptable.

Highways and parking provision

No off street car parking is proposed.

The submitted Planning Statement states:

"Some clients do walk to the clinic or travel by train or the underground. The majority do travel by car and park on Oakleigh Avenue. This may mean no cars; one car or two cars are parked nearby at any one time connected with the clinic; with clients arriving at a rate of zero to 1 or 2 per hour maximum, but typically with breaks in between. No clients visit on Sundays or Bank Holidays.

- Given the level of traffic on the adjoining streets and the extent of on-street parking in the wider area including on Oakleigh Avenue, the number of cars arriving, parking and departing connected with the clinic is very limited and cannot be distinguished from other car movements. The impact of the clinic in traffic and parking terms is thereby negligible."

Policy CS9 of the Barnet Core Strategy identifies that the Council will seek to ensure more efficient use of the local road network and more environmentally friendly transport

networks, require that development is matched to capacity and promote the delivery of appropriate transport infrastructure. Policy DM17 of the Barnet Development Management Plan document sets out the parking standards that the Council will apply when assessing new developments.

Highways were consulted on the proposed development and responded to say that there is no objection to the proposal on Highways Grounds.

Environmental Health considerations

The submitted Planning Statement states:

"The clinic does use small scale specialist equipment but this does not result in any noise, light, vibration or odour emissions.

Waste disposal is no different to that expected from a private residence and requires no specialist storage or handling. The bin storage and collection arrangements are exactly the same as for the main house. Some cardboard packing may be taken to the local recycling centre, but this is no different to any residential situation."

Environmental Health were consulted and responded to say:

"There are no comments to be made on the above, however if they have any plant in or outside the outbuilding then this would need to be assessed."

The outbuilding is served by air conditioning units which are of domestic scale and are well screened. Given the location of the air conditioning units, which are at ground level, well screened and do not adjoin any neighbouring properties, it is considered that these will not have any unacceptable noise impact on any neighbouring properties. A planning condition is proposed in respect of noise output .

5.4 Response to Public Consultation

Addressed throughout this report and by the proposed conditions.

6. Equality and Diversity Issues

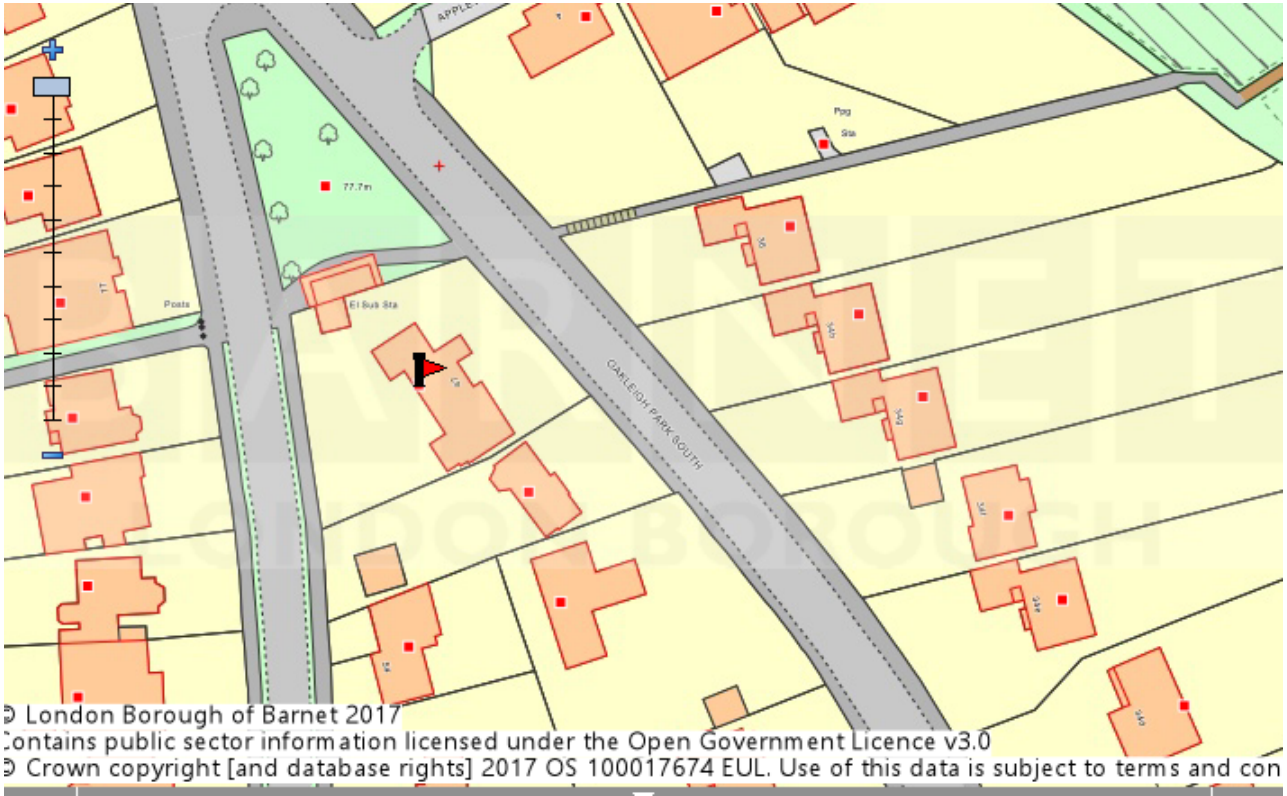
The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and support the Council in meeting its statutory equality responsibilities.

7. Conclusion

Although the use as currently in operation is considered to be unacceptable, the principle of use of the outbuilding for such a use of an appropriate scale is considered acceptable.

Officers consider the imposition of conditions to ensure that only the applicant operates the clinic and to restrict the number of appointments per day and the hours of use would ensure that the use could be operated without unduly harming the amenities of neighbouring residents through undue noise and disturbance.

It is further considered that the small scale of the use proposed as controlled by the imposed conditions would not adversely affect the character of the area.



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