

**Location**                      **35 Cyprus Road London N3 3SD**

**Reference:**                      **17/1557/RCU**

Received: 10th March 2017

Accepted: 10th March 2017

Ward:                              Finchley Church End

Expiry 5th May 2017

Applicant:                      Mr JASWINDER SINGH

Proposal:                      Use of the property as 2 no. self-contained flats. Proposed use of the outbuilding to be incidental to the ground floor flat, blocking up of the outbuilding's rear doorway and provision of outdoor amenity space for both flats. [AMENDED DESCRIPTION AND PLANS]

**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:

Drawing No. 1221\_P01 (Site location plan) [Received 10 March 2017]

Drawing No. 1221\_P04 Revision B (Existing floor plans) [Received 13 April 2017]

Drawing No. 1221\_P04 Revision C (Proposed floor plans) [Received 30 June 2017]

Drawing No. 1221\_P05 (Existing elevations) [Received 10 March 2017]

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 a) Before the development hereby permitted is first occupied, 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 within two months of this decision, and subsequently approved in writing by the Local Planning Authority

b) The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.

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).

3 a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be within two months of this decision, and subsequently approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) and in the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

4 The use of the outbuilding hereby permitted shall at all times be used for the purposes incidental to the enjoyment of the ground floor flat and shall not at any time be occupied as a separate unit or dwelling.

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).

#### **Informative(s):**

1 In accordance with paragraphs 186-187, 188-195 and 196-198 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.

2 The applicant is reminded that there is an extant enforcement notice relating to the use of the outbuilding as a dwelling. This should cease as soon as possible

otherwise the LPA will consider prosecution proceedings against the applicant for not complying with the extant enforcement notice.

## **Officer's Assessment**

### **1. Site Description**

The application relates to a three storey, terrace property located on the northern side of Cyprus Road.

It's current use is as two self-contained dwellings. No express permission has been sought for this conversion. There is also an outbuilding in the rear garden, which is currently used, unlawfully, as a self-contained dwellinghouse.

The property is not statutory or locally listed and not located within a designated conservation area.

### **2. Site History**

Reference: 18/1609/191

Address: 35 Cyprus Road, London, N3 3SD

Decision: Unlawful

Decision Date: 15 March 2018

Description: Use of rear garden outbuilding as dwelling

Reference: 15/06605/191

Address: 35 Cyprus Road, London, N3 3SD

Decision: Unlawful

Decision Date: 1 December 2015

Description: Retention of use of dwelling as 2no self contained flats

Reference: 16/3904/RCU

Address: 35 Cyprus Road, London, N3 3SD

Decision: Refused

Decision Date: 25 August 2016

Description: Use of property as 2no. self-contained flats (Retrospective Application)

Reference: 16/06604/191

Address: Ground floor flat rear, 35 Cyprus Road, London, N3 3SD

Decision: Unlawful

Decision date: 05 January 2016

Description: Retention of outbuilding in rear of property used as a studio flat

### **3. Proposal**

The applicant seeks consent for the use of the property as 2 no. self-contained flats.

The applicant also proposes the use of the outbuilding to be incidental to the ground floor flat, as well as blocking up the outbuilding's rear doorway and the provision of outdoor amenity space for both flats.

As a result, the application proposes to discontinue the unlawful use of the outbuilding as a self-contained residential dwelling.

### **4. Public Consultation**

A site notice was erected 23 March 2017.

Consultation letters were sent to 81 neighbouring properties.  
12 responses have been received, comprising 12 letters of objection.

The representations received can be summarised as follows:

- Properties street frontage is poorly maintained and untidy.
- Main property and outbuilding detrimentally impact character and appearance of the area.
- Comments regarding occupants' behaviour.
- Concerns with conversions including: applicant has set a precedent with this conversion in the road. Property should be reinstated to a family dwelling. Too many flats in the area and not enough family dwellings
- Outbuilding to the rear is illegally occupied. Reasonable to assume that the outbuilding will continue to be used as a separate dwelling
- Permission was refused in 2016. Cannot understand how this application differs
- First floor flat appears to be used as a House in Multiple Occupation (HMO).
- Comments about access and quality of first floor flat's proposed outdoor amenity space
- Development is not adequate for health and safety standards
- Concerns of compliance with building regulations
- Conversion leads to increased level of activity, noise and suffers lack of sufficient infrastructure (off street parking, refuse facilities and outdoor amenity space)
  
- Objection on behalf of Finchley Society: The conversion of this family dwellinghouse into flats is contrary to Policy DM01(h).

## **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.
- Relevant Development Management Policies: DM01, DM02.

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

### 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 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 harm would be caused to the living conditions of future occupiers
- Whether the development would be detrimental to highways and parking

## **5.3 Assessment of proposals**

### Preliminary matters:

A previous application (planning reference: 16/3904/RCU) which proposed the use of the property as 2 no. self-contained flats was refused on the 25 August 2016.

The reason for refusal read:

"The internal floor area of flat 2 fails to meet minimum internal floor space requirements and the proposal fails to provide adequate outdoor amenity space for the occupiers of the existing and future occupiers. As such, the proposal would fail to provide a satisfactory standard of accommodation for the existing and the future occupiers of these units, being contrary to Policies CS NPPF, CS1 and CS5 of Barnet's Adopted Core Strategy (2012), Policy DM01 and DM02 of the Adopted Development Management Policies DPD (2012),

the Adopted Sustainable Design and Construction SPD (2013) and the Adopted Residential Design Guidance SPD (2013)."

Under this application, both flats will have access to outdoor amenity space, as opposed to just the ground floor flat under the previous application. Also under this application, the first floor flat has also been amended to a 2 bedroom 3 person unit from a 3 bedroom 5 person unit.

It is noted that whilst this application has been under consideration, the applicant has submitted a Lawful Development Certificate to confirm that the use of the outbuilding as self-contained dwellinghouse is lawful (by virtue of time). This was deemed unlawful as an enforcement notice has been served and therefore the clock has stopped on the 4-year rule; in relation to immunity from enforcement action.

#### Principle of development:

The previous Officer's Report for planning reference: 16/3904/RCU (dated 25 August 2016) at the application site stated:

'Policy DM01 establishes that the principle of conversions of dwellings into flats will not be acceptable where the road is characterised by houses. In the context of this site, Cyprus Road can be characterised as an area of mixed housing with large flatted developments at the junction with Hendon lane towards the west and at the junction at Salisbury Avenue to the east. There are single family units which lie in between these two junctions. On this basis, the Planning Authority is accepting on the principle of conversion within this property and would not significantly impact the character and appearance of Cyprus Road.'

This continues to be the case under this application.

Furthermore, it is noted that Council Tax records state that the flats were paying council tax with effect from 14/04/2012. Under the enforcement reference ENF/00147/13/F the enforcement officer noted on the 29 July 2013, that the property has breached planning control and has been subdivided into flats. At the time writing this report (January 2018) the flats are deemed lawful by the passage of time and are therefore immune from enforcement action.

#### Impact on character and appearance and amenities of neighbouring residents:

The proposal does not involve any proposed external alterations to the main building and as such the existing building and street scene will remain unchanged. For this reason it is not considered that the proposal will result in any unacceptable impact on the amenities of neighbouring residents in terms of overlooking, overbearingness or loss of light.

The Council's enforcement records (reference: ENF/01274/09/F) states that the outbuilding in rear garden was constructed in compliance with The Town and Country Planning (General Permitted Development) (England) Order, then dated 2008 when the main property was occupied as dwellinghouse.

On the basis that the outbuilding was built under permitted development, the size and physical dimensions of the outbuilding are not a matter for assessment nor would they constitute a reason for refusal in this particular instance.

It is not considered that the bricking up of the rear doorway of the outbuilding and glazing of the rear window would not impact character and appearance of the surrounding area to an unacceptable level.

### Amenity for future occupiers

The application would provide 2 self-contained flats:

Ground floor flat (Flat 1) - 1 bedroom 2 person unit - 51 sqm GIA

First floor and second floor flat (Flat 2) - 2 bedroom 3 person unit - 82 sqm GIA over the first and second floor

Policy DM02 of Barnet's Development Management Document DPD (2012) states that in terms of minimum floor space the Council will apply the space standards set out in the London Plan, and in terms of outdoor amenity space, the Council will apply the standards set out in Barnet's Sustainable Design and Construction SPD.

The Mayor's Housing Standards SPG (Minor Alterations to the London Plan 2016) states that a 1 bedroom 2 person unit (1 storey) should have a minimum space standard of 50 sqm GIA. The ground floor flat would meet this.

The Mayor's Housing Standards SPG (Minor Alterations to the London Plan 2016) states that a 2 bedroom 3 person unit (2 storeys) should have a minimum space standard of 70 sqm. The first floor flat, as amended, would meet this.

Occupiers would benefit from an adequate level of privacy, light and outlook.

In regards to outdoor amenity space, Table 2.3 of Barnet's Sustainable Design and Construction SPD (updated 2016) states that for flats 5 sqm of outdoor amenity space per habitable room should be provided.

The ground floor flat would be provided with in excess of 27 sqm of outdoor amenity space and the first floor flat in excess of 35 sqm. These would meet the requirements of the SDC SPD (2016).

It is noted that some neighbour consultees have raised concerns in regards to the access and usability of the first floor flat's outdoor amenity space. Although access of amenity space from the rear is somewhat unusual, the space would provide a reasonable level of privacy and acoustic environment and thus would be considered 'usable', in accordance with the guidance set out in Barnet's Sustainable Design and Construction SPD (updated 2016). Furthermore, due to the terraced nature of the property, Planning Officers see no immediate way that the garden could be accessed by both flats through the building itself.

Therefore the garden area to the rear of the outbuilding would provide a valuable level of outdoor amenity space which wouldn't otherwise be the case, and help to protect and improve the living standards of residents.

### Highways

The site is made up of 1x1bed unit and 1x2bed unit and it lies on a PTAL 2 area, which means that it has low transport accessibility.



The parking provision required for this site as set out on Policy DM17 of Barnet's Development Management Documents DPD (2012) is 2 car parking spaces.

The provision of 2 car parking spaces is therefore in accordance with the Policy DM17 and is acceptable on highways grounds.

#### **5.4 Response to Public Consultation**

- Properties street frontage is poorly maintained and untidy.

A condition has been attached to this recommendation securing details of acceptable refuse and recycling storage.

Neighbours are advised the Council's Environmental Health team are able to investigate accumulations of waste on private land and should contact this department accordingly. It would not constitute a planning ground for refusal in this particular instance.

- Main property and outbuilding detrimentally impact character and appearance of the area.

As discussed in the main body of the report it is not considered the proposal would detrimentally impact the character and appearance of the area.

The proposal does not involve any proposed external alterations to the main building and as such the appearance of the existing building and street scene will remain unchanged. The outbuilding was erected in accordance with permitted development rights. The alterations to fenestration would not have a detrimental impact.

- Comments regarding occupants' behaviour.

These would not constitute a planning ground for refusal.

- Concerns with conversions including: applicant has set a precedent with this conversion in the road. Property should be reinstated to a family dwelling. Too many flats in the area and not enough family dwellings

The previous Officer's Report for planning reference: 16/3904/RCU (dated 25 August 2016) deemed the conversion of the dwellinghouse into flats in this particular location acceptable. It is also noted that the flats are lawful by passage of time.

- Outbuilding to the rear is illegally occupied. Reasonable to assume that the outbuilding will continue to be used as a separate dwelling.

A condition has been attached to this recommendation to ensure the outbuilding would be used for purposes incidental to the enjoyment of the ground floor flat. This is also stated on the applicant's plans, which have also been conditioned.

It is not considered reasonable to refuse the application on the potential use of the outbuilding in the future. Any change of use or breach of condition would be subject to the separate enforcement investigation by the Council's Planning Enforcement team, and they should be contacted accordingly in this event.

- Permission was refused in 2016. Cannot understand how this application differs

The differences between this application and application reference 16/3904/RCU, dated 25 August 2016, has been addressed under the section 'Preliminary matters' in the main body of the report.

- First floor flat appears to be used as a House in Multiple Occupation (HMO).

The Planning Officer has confirmed with the HMO team that there does not appear to be an HMO licence for the property.

Notwithstanding this, the application is for two residential flats and has been assessed on this basis.

Any subsequent change of use would require express planning permission.

- Comments about access and quality of first floor flat's proposed outdoor amenity space

Although access of amenity space from the rear is unusual, the space would provide a reasonable level of privacy and acoustic environment and thus would be considered 'usable', in accordance with of Barnet's Sustainable Design and Construction SPD (updated 2016). Furthermore, due to the terraced nature of the property, Planning Officers see no immediate way that the garden could be accessed by both flats through the building itself.

Therefore the garden area to the rear of the outbuilding would provide a valuable level of outdoor amenity space which wouldn't otherwise be the case, and help to protect and improve the living standards of residents.

- Development is not adequate for health and safety standards

No specific health and safety standards have been specified by neighbour consultees.

The Council's Environmental Health and Trading Standards team should be contacted in the event that residents are concerned the development does not meet health and safety standards.

- Concerns of compliance with building regulations

No specific building regulation non-compliance has been specified by neighbour consultees.

The Council's Building Control team should be contacted in the event that residents are concerned the development does not meet building regulations.

- Conversion leads to increased level of activity, noise and suffers lack of sufficient infrastructure (off street parking, refuse facilities and outdoor amenity space)

Barnet's Development Management Development DPD (2012) acknowledges that conversions can lead to an increased level of activity. It is not considered that in this particular instance the conversion of the dwelling into flats would give rise to an undue level of noise and disturbance for neighbouring residents.

As assessed, the Council's highways team have deemed the application acceptable in highways terms.

A condition has been attached to this recommendation securing details of acceptable refuse and recycling storage.

The outdoor amenity spaces provided for both flats has been found compliant with development plan policy.

- Objection on behalf of Finchley Society: The conversion of this family dwelling house into flats is contrary to Policy DM01(h).

The previous Officer's Report for planning reference: 16/3904/RCU (dated 25 August 2016) deemed the conversion of the dwelling house into flats acceptable and is not in conflict with Policy DM01. This continues to be the case under this application.

## **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 supports the Council in meeting its statutory equality responsibilities.

## **7. Conclusion**

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the street scene and street scene. It is not considered the development detrimentally impacts the amenity of future or existing occupiers. It is not considered the development has a detrimental impact on highways and parking. This application is therefore recommended for approval.

