

Location **592 Finchley Road London NW11 7RX**

Reference: **17/7949/FUL** Received: 18th December 2017
Accepted: 18th December 2017

Ward: Childs Hill Expiry 12th February 2018

Applicant: Mr Sunil Kapoor

Proposal: Erection of a single storey detached building for use as a physiotherapy and pilates studio ancillary to main building

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:

1712-005
1712-010
1712-011
1712-020
1712-100B
1712-101B
1712-200B
1712-201B
1712-300B
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 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2015.

- 4 No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm pm on other days.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policy DM04 of the Development Management Policies DPD (adopted September 2012).

- 5 a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.

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

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

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 7.21 of the London Plan 2015.

- 6 The outbuilding hereby approved shall only be used for purposes ancillary to the existing physiotherapy centre. Access to the main building from the outbuilding shall be maintained and free from obstruction.

Reason:

To ensure that the amenities of the occupiers of adjoining properties are not prejudiced.

- 7 The hereby approved planning permission shall allow the premises to operate from 8 am to 6 pm Monday to Friday, 8 am to 1 pm on Saturdays and remain closed on Sundays, Bank or Public Holidays.

Reason:

To safeguard the amenities of occupiers of surrounding residential properties.

- 8 The hereby approved planning permission together with the main premises at 592 Finchley Road shall be occupied by a maximum of five employees only.

Reason:

To safeguard the amenities of occupiers of surrounding residential properties.

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 For any proposal new crossovers or modification to the existing crossovers, a separate crossover application must be submitted for approval to the Highways Authority. Details of the construction and location of the new crossover are required to be agreed with the highway authority. Any street furniture, road markings or parking bays affected by the proposed works following site investigation would be relocated at the applicant's expense.

In the case where a highway tree is present in the vicinity of the proposed access road or a crossover for the development the final approval would be subject to the detailed assessment carried out by the Highways Crossover Team in conjunction with the highway tree section as part of the crossover application. The outcome of this assessment cannot be prejudged.

Please Note: A maximum width of a crossover allowed from a public highway is 4.8 meters.

Information on application for a crossover could be obtained from London Borough of Barnet, Crossover Team, Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ.

Works on public highway shall be carried out by the Council's contractors. An estimate for this work could be obtained from London Borough of Barnet, Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ.

- 3 Refuse storage has been identified within the application. The refuse storage needs to be within 10m of walking distance from public highway otherwise the refuse bins will be required to be brought at the back of the footway on the collection day.
- 4 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge.

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 are exempt from this charge.

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

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are 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, London's highest infrastructure priority.

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

The CIL becomes payable upon commencement of development. You are required to submit a 'Notice of Commencement' to the Council's CIL Team prior to commencing on site, and 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 this grant of planning permission, please email us at: 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 Extensions: 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 <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 is a three storey semi-detached property located on the eastern side of Finchley Road. The ground floor floor is used as a Pilates centre and the upper floors are in residential use. The property was converted from a residential property to a physiotherapy centre in 1999.

The character of the area comprises a mix of residential, commercial and retail uses and the character of surrounding properties is varied in terms of design. No 594 adjoins the semi-detached property of the application site and benefits from a large garden and rear conservatory sited along the boundary with the application site. No 590 is detached from the application site, and is located to the south of the site.

The rear wall of the site forms part of the boundary wall that enclose Sainsbury's car park, a strip of land approximately 10m wide, which forms a buffer between the store and the rear gardens of residents to the west of the store. Neighbouring properties have been extended, no 590 to the south of the site has ground floor rear extensions and an outhouse at the rear boundary. No 594 has a single storey rear conservatory adjacent to the shared boundary with the application site.

The application site is not located within a conservation area and nor does it contain a listed building.

2. Site History

Site Address: 592 Finchley Road LONDON NW11

Application Number: F/03977/12

Application Type: Full Application

Decision: Approve with conditions

Decision Date: 07.01.2013

Proposal: Single storey building to rear of garden for use as a physiotherapy/fitness building in conjunction with the main building of 592 Finchley Road.

Site Address: 592 Finchley Road LONDON NW11

Application Number: C13830

Application Type: Full Application

Decision: Approve with conditions

Decision Date: 22/11/1999

Appeal Decision: No Appeal Decision Applies

Appeal Decision Date: No Appeal Decision Date exists

Proposal: Change of use from a dwellinghouse to a physiotherapy health centre with ancillary offices and consultation room, and a self-contained one bedroom flat at second floor level. Parking provision for three.

Site Address: 592 Finchley Road London NW117RX

Application Number: C13830D/04

Application Type: Full Application

Decision: Refuse

Decision Date: 28/01/2005

Appeal Decision: Dismissed

Appeal Decision Date: 28/01/2005

Proposal: Variation of Condition 5 of Planning Permission C13830 to allow only 4 consultants to practice at the premises at any one time and Condition 6 "No work shall be carried out on the premises at any time on Sundays or Public Holidays and before 8:00am or after 8:00pm on Monday to Friday and 8:00am to 1:00pm Saturdays". Addition of two off-street car parking spaces.

Site Address:592 Finchley Road London NW117RX

Application Number: C13830F/07

Application Type: Advertisement

Decision: Approve with conditions

Decision Date: 16/03/2007

Proposal: Erection of advertisement boards and installation of ground lights in front forecourt.

Site Address:592 Finchley Road, London, NW11 7RX

Application Number: F/00785/09

Application Type: Full Application

Decision: Approve with conditions

Decision Date: 21/04/2009

Proposal: Single storey building to rear of garden for use as a physiotherapy/fitness building in conjunction with the main building of 592 Finchley Road.

Site Address:592 Finchley Road, London, NW11 7RX

Application Number: F/03318/09

Application Type: Full Application

Decision: Refuse

Decision Date: 30/10/2009

Proposal: Single storey building to rear of garden for use as a physiotherapy/fitness building in conjunction with the main building of 592 Finchley Road.

Site Address:592 Finchley Road, London, NW11 7RX

Application Number: F/02118/10

Application Type: Full Application

Decision: Withdrawn

Decision Date: 05/07/2010

Proposal: Single storey building to rear of garden for use as a physiotherapy/ Pilates building in conjunction with the main building of 592 Finchley Road, including associated alterations to garden and new access ramp.

Site Address:592 Finchley Road, London, NW11 7RX

Application Number: F/02971/10

Application Type: Full Application

Decision: Approve with conditions

Decision Date: 20/09/2010

3. Proposal

Background

This item follows a previous scheme approved by the Planning Committee in 2013. It is similar in nature to this scheme.

The original scheme had proposed larger dimensions 10.65m wide x 5.5m deep x 3.5m to ridge height with a mon-pitched roof. The outbuilding had occupied the width of the site at

the bottom of the garden. Also, the side wall abut the boundary fence with no 590, set in 1m from the rear boundary wall and 1m from the boundary fence to no 594. The case officer had advised the agent to reduce the scheme from the original submission. The applicant has reduced the scheme in size and scale following discussions with officers. This resulted in the following proposed dimensions for the outbuilding which would measure 4.6m deep x 9.8m wide x 2.5m to eaves x 3m high from existing ground level with a gentle sloping roof.

Proposal

The erection of a single storey detached building for use as a physiotherapy and pilates studio ancillary to main building.

The proposed single storey outbuilding would be 4.6m deep x 9.8m wide x 2.5m to eaves x 3m high with a gentle sloping roof. The proposed outbuilding is located approximately 7.5m from the rear building line of the host property. It would be set in 0.8m from the rear boundary of the site that enclose Sainsbury's car park and set in 1m from the shared boundary with no 594 to the north and 590A to the south.

The main house is accessed via stepped access to the main entrance although it is not accessible for wheelchair users. The proposal results in a new access along the southern boundary of the site via a ramp, railings and facing low level masonry wall enclosing pavers which provides direct access for wheelchairs and users of the site into the building. In addition there is adequate turning around space and sufficient ability to maneuver inside the building. The building will accommodate a disabled toilet, store and pilates studio and the footprint of the building will occupy approximately 45qm and an internal footprint of approximately 35sqm. There will be four rooflights above providing light into the pilates studio.

The principal elevation of the building will include four large powder coated aluminium framed window set and one glazed door. The timber cladding will be present on each elevation up to eave and verge heights with a green roof covering the principal north facing roof slope. There would be landscaping and proposed planting within the existing garden and near to the front elevation of the building and along the northern boundary of the site, on the shared boundary with no 594 Finchley Road.

4. Public Consultation

124 consultation letters were sent to neighbouring properties.

A site notice was erected on 28/12/2017

7 objections received and summarised as follows:

- Noise, parking, congestion more traffic, reduce green space as the rear garden is paved, impact on wildlife the building is too 12ft and too high, it will reduce the value of my house, no justification for a new building here.
- Green issues, health and environmental consequences, noise and pollution
- Overshadowing, overlooking and security threat, the 12ft building will block the sun from coming into our garden.
- No of visitors and employees using the site adding to nuisance to the enjoyment of resident's rear gardens.
- Until last year the first floor was used as a pilates studio and has been converted into part of an additional flat. Why would they downsize if they have enough clients?

Highways Officers: No Objection

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 MALP

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, CS5, CS7, CS9, CS11, CS14, CS15

- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM13, DM17.

Residential Design Guide October 2016

Supplementary Planning Documents

Residential Design Guidance (October 2016)

- Sets out information for applicants to help them design an extension to their property 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.

- States that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building which can be achieved through respecting the proportions of the existing house and using an appropriate roof form.

- In respect of amenity, states that extensions 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 October 2016)

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

5.3 Assessment of proposals

The main issues for consideration in this case are:

Whether harm would be caused to the character and appearance of the area and street scene, having regard to the size and siting of the proposal

The living conditions of neighbouring residents

5.3 Assessment of proposals

The Principle of the development

The existing property is already in use as a physiotherapy and pilates studio. The principle of a studio for these purposes has previously been approved on the site in 2013 and has lapsed. It is not considered that there have been any changes in policy or circumstance on the site which would warrant taking a different view today.

Whether harm would be caused to the character and appearance of the area and street scene, having regard to the size and siting of the proposal

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 of the Development Management Policies (Adopted) 2012 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 that development makes a positive contribution to the borough. The development standards set out in Policy DM02: Development Standards are regarded as key for Barnet to deliver the highest standards of urban design.

The council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene. Developments both individually and cumulatively can have a profound effect on the appearance of neighbourhoods and of the street scene and on the amenities enjoyed by the occupiers of adjoining properties.

All developments should reflect the design of the original building, have regard to the character of the area and amenity enjoyed by your neighbours. This means making sure the development does not disrupt the neighbours' enjoyment of their own home, garden or neighbourhood.

The proposed outbuilding has been reduced in size since the initial submission. The outbuilding would be 4.4m deep, 9.2m wide and 3m high to the top of the ridge. It must be acknowledged that the Committee had previously approved a similar sized scheme in January 2013 planning reference F/03977/12. The dimensions for the proposed outbuilding which the Committee had approved were 9.6m wide x 4.2m deep x 2.5m high with a flat roof and are marginally smaller than the current proposed dimensions for the current planning application.

In this way, the proposals would be of comparable size to the scheme previously approved.

Taking the above into consideration it is not considered that the proposals would harm the character and appearance of the general locality.

The impact on the living conditions of neighbouring occupiers

The site is located on Finchley Road which is a busy arterial road. Both neighbouring properties are in residential use as converted flats. To the rear of the site is Sainsbury's car park.

The size, location and design would not cause undue over shadowing to gardens of neighbouring properties. Outbuilding are common feature within the immediate locality and this outbuilding would not appear alien. The outbuilding will be visible from the supermarket car park to the rear of the site, however the impact will be minimal and not significant enough to warrant refusal. The building has been moved off the rear and side boundaries to address the concerns of officers.

The proposals would seek to introduce an outbuilding to the rear of the site as a pilates/physiotherapy studio to compliment the existing use. Such a use, by its nature is likely to generate a degree of activity. The size of the outbuilding is limited and comparable to previous applications approved on the site. It would also be a comparable distance from the main building, being 8m from the rearmost part of the main building as opposed to 7.6m previously approved.

It is considered that the outbuilding and use if mitigated appropriately will not have significant impact on the residential amenity of neighbouring properties. It is considered that the use would not result in noise and disturbance harmful to the amenities of neighbouring occupiers. In addition, opening hours, numbers of employees, would be conditioned to mitigate noise and disturbance to the detriment of the amenities of neighbouring occupiers. The application describes the use of building as a supplementary facility to the existing health and fitness centre. The application will be conditioned to ensure this use is maintained. This includes limiting the number of employees to no more than 5, and to limit hours of opening.

Taking the above into consideration it is not considered that the proposals would cause harm to neighbouring living conditions.

The impact on Highway and Pedestrian Safety

The proposal is for the construction of a single storey outbuilding to the rear of the site for use as a physiotherapy and pilates studio. No changes to car parking provision (6 spaces) as well as vehicular access are being proposed. Proposed staff numbers are to be 2x full-time staff and 1x part-time staff.

The site lies within a PTAL 6a site which means that there is excellent public transport accessibility to and from the site.

Due to the site where the proposal is located, a Construction Management Plan will be required in order to ensure minimum disruption to local residents and to maintain the free flow of traffic in the area.

Cycle parking and cycle storage facilities should be provided in accordance with the London Borough of Barnet's Local Plan, in the interests of promoting cycling as a mode of transport.

The proposal is acceptable on highways grounds, subject to the following condition and informatives.

5.4 Response to Public Consultation

The principle of the development has been agreed on the previously approved applications and it is considered that there have not been any changes to policy or circumstance that warrant taking a different view.

In regards to the objections made about the alleged environmentally sensitive location, officers have visited the site and there is no evidence of any protected species. The site is not located within an area of ecological designation. The LPA have considered the matter but do not feel there is evidence to support a refusal on ecological grounds.

There is no need for the outbuilding - *There is not a policy that requires medical facilities to demonstrate a need*

Until last year the first floor was used as a pilates studio and has been converted into part of an additional flat. Why would they downsize if they have enough clients? - *The loss of the first floor was addressed in application reference 16/6992/FUL which is quoted below:*

'The first floor of the property on the application site is currently occupied by a Pilates Centre and a beauty salon. The applicant confirmed that the Pilates Centre would continue to operate on the application site, but it would be downsized and it would operate just on the ground floor. The beauty salon would cease to operate on the application site. A beauty salon is a Sui Generis use and Barnet's Development Management Policies (2012) contains no policy specifically relating to the protection of Sui Generis uses. The beauty salon is not considered to be a community facility so it is not protected under policy DM13. For these reasons it is considered that on balance the benefits of the gaining of 2 no. flats on the application site outweigh the loss of the beauty salon and the downsizing of the Pilates Centre.'

The room does not need to be this high - *The height of the building is acceptable in its own right*

A smaller building was refused under reference F/03318/09. - *As amended the proposals would be significantly smaller than the 2009 scheme*

Building will be let as a flat - *As a matter of fact, planning permission has not been sought for a flat. Therefore this cannot be considered. Specific planning permission would be needed for a flat*

Noise Issues - *Assessed in main report. It is considered that any harmful impact can be satisfactorily mitigated by planning conditions*

Lack of Parking - *Assessed in main report*

Loss of light - *The outbuilding has been reduced in size and height. It is now considered acceptable in terms of the impact on neighbouring light*

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

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, this proposal complies with the Adopted Barnet Local Plan policies and guidance and would be in keeping with the character and appearance of the surrounding area. It is not considered to have a detrimental impact on the residential amenities of neighbouring occupiers. This application is therefore recommended for APPROVAL.

