

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. Before the dwelling hereby permitted is occupied the parking spaces shown on Drawing No. P01 received on 27 April 2012 shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved dwelling. The parking spaces shall be constructed of a porous material, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason:

To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area.

4. Before the development hereby permitted commences, details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason:

To safeguard the visual amenities of the locality.

5. Before the development hereby permitted commences, 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 to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the development is occupied.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area.

6. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows, other than those expressly authorised by this permission, shall be placed at any time in the north east or south west flank elevations of the approved dwelling.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties.

7. No site works or works on this development shall be commenced before temporary tree protection has been erected around existing trees to the

rear of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature.

8. The screen wall to the front and side of the first floor terrace to the south western side of the dwelling hereby approved shall be permanently retained as shown on the submitted plans, and shall not be reduced in height or altered in any way.

Reason:

In order to protect the privacy and amenities of the occupants of the neighbouring properties.

9. Before this development is commenced, details of the levels of the building(s), road(s) and footpath(s) in relation to adjoining land and highway(s) and any other changes proposed in the levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason:

To ensure that the work is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access and the amenities of adjoining occupiers and the health of any trees on the site.

10. Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order), the following operation(s) shall not be undertaken: Any works falling within Classes A-F of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development Order)1995,as amended.

Reason: To ensure that the development does not prejudice the character of the locality and the enjoyment by existing and/or neighbouring occupiers of their properties.

11. The dwelling hereby permitted shall achieve a Code Level 3 in accordance with the Code for Sustainable Homes Technical Guide (October 2008) (or such national measure of sustainability for house design that replaces that scheme). No dwelling shall be occupied until a Final Code Certificate has been issued certifying that Code Level 3 has been achieved and this certificate has been submitted to and approved by the local planning authority.

Reason: To ensure that the development is sustainable and complies with policy GSD of the adopted Unitary Development Plan (adopted 2006) and the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007).

INFORMATIVE(S):

1 The reasons for this grant of planning permission are as follows:

i) The proposed development accords with strategic planning guidance and policies as set out in the National Planning Policy Framework 2012, The Mayor's London Plan July 2011, and the Adopted Barnet Unitary Development Plan (2006).

In particular the following policies are relevant:

Adopted Barnet Unitary Development Plan (2006): GBEEnv1, GBEEnv2, GParking, D1, D2, D4, D5, H16, H17, H18, M14, CS2, CS8, CS13, IMP1 and IMP2.

Supplementary Planning Document - Planning Obligations, Supplementary Planning Document - Contributions to Education, Supplementary Planning Document - Contributions to Heath Facilities.

Core Strategy (Examination in Public version) 2012: CS NPPF and CS5.

Development Management Policies (Examination in Public version)2012: DM01 and DM02

ii) The proposal is acceptable for the following reason(s):

The proposed development is considered to have an acceptable impact on the character and appearance of the application site and the general street scene. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This proposal is considered to accord with Council policies and guidance.

2. The applicant is advised that this grant of permission does not infer or imply the right to enter any land outside of the applicant's ownership. The consent should be obtained from any land owner prior to any works taking place to or on their property.

3. The Mayor of London introduced a Community Infrastructure Levy on 1st April 2012 setting a rate of £35 per sqm on all 'chargeable development' in Barnet. Your planning application has been assessed to require a charge of £4,970.

This will be recorded to the register of Local Land Charges as a legal charge upon your site should you commence development. This Mayoral CIL charge will be passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

If Affordable Housing Relief or Charitable Relief applies to your development 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 will be sent a 'Liability Notice' that will provide 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, this is also available from the Planning Portal website.

The Community Infrastructure Levy 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 statutory requirements, such requirements will all be set out in the Liability Notice you will receive.

If you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please contact us: cil@barnet.gov.uk

RECOMMENDATION III

That if the above agreement has not been completed or a unilateral undertaking has not been submitted by 7 December 2012 the Acting Assistant Director of Planning and Development Management REFUSE the application ref: B/01631/12 under delegated powers for the following reasons:

The proposed development does not include a formal undertaking to meet the costs of extra education and health and associated monitoring costs arising as a result of the development, and therefore would not address the impacts of the development, contrary to Barnet supplementary Planning Documents - Contributions to Education (2008), Health (2009) and Monitoring (2007) and policies CS2, CS8, CS13, IMP1 and IMP2 of the Adopted Unitary Development Plan (2006).

THIS APPLICATION WAS DEFERRED FROM THE PLANNING COMMITTEE MEETING OF 12 JUNE 2012.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The Mayor's London Plan: July 2011

Relevant Unitary Development Plan Policies:

GBEnv1, GBEnv2, GParking, D1, D2, D4, D5, H16, H17, H18, M14, CS2, CS8, CS13, IMP1 and IMP2.

Supplementary Planning Document - Planning Obligations, Supplementary Planning Document - Contributions to Education, Supplementary Planning Document - Contributions to Heath Facilities.

Core Strategy (Examination in Public version) 2012

Barnet's emerging Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Until the Local Plan is complete, 183 policies within the adopted Unitary Development Plan (UDP) remain. The replacement of these 183 policies is set out in both the Core Strategy and Development Management Policies DPD.

Barnet's Local Plan is at an advanced stage following submission in August / September 2011. The National Planning Policy Framework (NPPF) (para 216) sets out the weight that can be given to emerging policies as a material consideration in the determination of planning applications.

Relevant Core Strategy Policies:
CS NPPF and CS5.

Development Management Policies (Examination in Public version) 2012

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

Barnet's Local Plan is at an advanced stage following submission in August / September 2011. Therefore weight can be given to it as a material consideration in the determination of planning applications.

Relevant Development Management Policies: DM01 and DM02.

Relevant Planning History:

Site Address: 39 Somerset Road Barnet Herts
Application Number: N07988A
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 30/07/1986
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Conversion of house into four flats and conversion of garage at rear to from cottage. Dormer windows at side of house.**

Case Officer:

Site Address: 39 Somerset Road New Barnet
Application Number: N07988
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 26/09/1985
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Conversion of existing double garage to ancillary residential accommodation**

Case Officer:

Consultations and Views Expressed:

Neighbours Consulted: 156 Replies: 22
Neighbours Wishing To Speak: 2

The objections raised may be summarised as follows:

- The excavation of the basement would cause subsidence to the foundations of Nos. 33-37 Somerset Road, the garages at No. 41, and would cause damage to the drainage sewer pipe running along the back gardens to properties in Somerset Road.
- Beaufort Court would be overlooked by the proposed development, especially from the proposed first floor terrace, causing a loss of privacy.
- The increased roof height would result in a loss of light to Beaufort Court, to Chiltern Court, and to the garden area at No. 41.

- The increased height and width of the proposal, and building over large areas of garden to provide terraces, and the roof terrace wall, would be unsightly and visually intrusive.
- The extra terraces, parking spaces and proximity to Beaufort Court would result in increased noise levels.
- Concern about disturbance caused by the building works.
- The existing property is not dilapidated, and is currently occupied.
- Existing dwelling is a converted garage with a small conservatory on the back. Proposed larger dwelling would be out of proportion to the current dwelling size and the size of the plot.
- Excavation may damage the roots of trees in the garden of Beaufort Court.
- Noise and disturbance would result from the increased use of the access adjacent to No. 39, both during construction and from the greater number of occupants associated with this larger house.
- The proposal would reduce existing views.
- Proposed replacement dwelling is not sustainable.
- Parking space provided is not sufficient and reduces possible green amenity space.
- Trees around the perimeter of the site will be adversely affected, and no tree survey has been submitted.
- Current building would not be permitted today.
- Concerns with regard to impact of excavation for the basement on neighbouring properties, and on sub-soil and water patterns.

One letter has also been received from The Rt Hon Theresa Villiers MP, requesting that her constituent's views are taken into account.

Internal /Other Consultations:

Thames Water no objection with regard to sewerage infrastructure.

Date of Site Notice:

10 May 2012

2. PLANNING APPRAISAL

This planning application was first presented to the planning Committee at the meeting on 12 June 2012. The application was deferred, with Members requesting further information be submitted relating to the concerns raised in representations relating to subsidence and unstable land.

Site Description and Surroundings:

The application site contains a detached single storey dwelling, with rooms in the roof space, and a single storey rear projection. The dwelling is located to the rear of No. 39 Somerset Road. The application site slopes down from south to north, such that the existing dwelling is at a lower ground level to No. 39 Somerset Road.

No. 39 is a two storey detached building containing four flats. The building to the north east of this, No. 41 Somerset Road, comprises a two storey building containing four flats. This building has garaging and an amenity area to the rear. The building to the south west of No. 39, Beaufort Court is a three storey block of flats, with a parking area and gardens to the rear. The application site is set to the rear of No. 39 and to the rear of the immediately neighbouring buildings, and is adjacent to the gardens serving the block of flats, and the gardens and garages serving No. 41.

Proposal:

This application proposes the demolition of the existing dwelling, and the construction of a replacement dwelling. The proposed dwelling would be L-shaped, and measure a maximum of 8 metres in depth by 10.6 metres in width at ground floor level, and 8 metres in depth by 9.3 metres in width at first floor level. The proposed dwelling would have a hipped roof to the front with a gable end to the rear. The proposed dwelling would have an eaves height of 4.2 metres and a ridge height of 6.4 metres when viewed from the front. However, due to the falling ground levels, it would have a ridge height of 9.3 metres when viewed from the rear. The proposed dwelling would have a lower ground floor level with a terrace area, and a first floor terrace area to the south west set approximately 1.1 metres from the common boundary to the south west. A dormer window structure would face onto this first floor terrace.

Planning Considerations:

Following the deferral, the applicant's representative has reviewed British geological Survey Maps, and has advised that there are no historic issues with land slippage or slope instability in the area. A map has been submitted which shows that in the vicinity of the application site, no landslides have been recorded. The applicant's representative has also advised that any building works would be subject to the engineering, structural and safety requirements of the building regulations. Site sampling and laboratory testing of soils would be undertaken to determine the characteristic soil properties of the existing London Clay soil in the area, in order to ascertain the allowable bearing capacity of the underlying soil. This would need to be undertaken to demonstrate compliance with Part A (structural safety) of the Building regulations. The Council's Building Control service have advised that from their records, this area of the borough is overlain with London Clay, and they are not aware of any ground instability problems in the area. They have advised that a detailed site and soil investigation will be required under the Building Regulations, to identify any site specific ground problems and assist in the choice of suitable foundation design.

Planning Policy have also advised that New Barnet is on London Clay, and British Geological Survey Maps show that Barnet and the rest of London has a very low potential for landslides.

Paragraph 120 of the National Planning Policy framework states that '@where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'.

Paragraph 121 states that planning policies and decisions should (also) ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation:
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 11A of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

In addition, the British geological Survey advise that basements can contribute to instability, and the Council should therefore be assured about ground conditions in assessing such applications for basements as ground has been removed.

The applicant has submitted evidence that there have been no recorded land slips in the area. It is considered that the site would be suitable for its new use, with no issues of land instability having been demonstrated. The objectors who have raised issues of land slippage have not submitted any evidence to justify their claims.

Therefore, it is not necessary to request any further information relating to this requirement, and this application is therefore recommended for approval, subject to the necessary conditions.

The proposed replacement dwelling would be located to the rear of No. 39 Somerset Road, replacing an existing detached dwelling. The existing dwelling has a pitched roof with front and rear gables. In comparison, the proposed dwelling has a hipped roof to the front. The proposed dwelling would have a greater ridge height than the existing property, approximately 0.8 metres higher, and would be sited further rear within the site when compared to the existing dwelling. Given its siting with its plot, and its relationship with Somerset Road, the proposed dwelling would only be visible from Somerset Road when viewed from the access drive between Nos. 39 and 41. As such, it would not appear as a prominent feature within the street scene and would not be detrimental to the character and appearance of the general locality.

The existing dwelling on the site is located approximately 11 metres rear of No. 39 Somerset Road. In comparison, the proposal is set approximately 15 metres from No. 39. Given this distance, it is not considered that the proposed dwelling would appear overbearing when viewed from the rear-facing flats and amenity area of No. 39. The proposed dwelling is set further to the rear of its plot when compared to the existing, such that its flank elevation would be adjacent to the detached garage block serving the flats at No. 41 Somerset Road. The proposed dwelling would be set away from the boundary with No. 41, and would mainly be adjacent to the garages at No. 41, and as a result is not considered to appear overbearing when viewed from the rear amenity area of No. 41. At ground floor level, the proposed dwelling would be located in close proximity to the common boundary with Beaufort Court to the south west. Whilst the ground floor element of the proposal would be visible from Beaufort Court, protruding slightly above the boundary fence, the first floor terrace area above this would be stepped away from the garden at Beaufort Court. It is acknowledged that the ground level at Beaufort Court slopes down away from the application site and toward the rear, however given the distance between the proposed dwelling and the garden area at Beaufort Court, with the proposed dwelling stepped away from the boundary, it is not considered that the proposed dwelling would appear overbearing when viewed from the rear garden area or rear-facing windows at Beaufort Court. The two storey front and side walls of the proposed dwelling would be adjacent to the rear amenity area serving No. 39, however this area does not appear to be heavily used at present, and would remain open on both sides such that the proposal would not result in a sense of enclosure or be overbearing when viewed from this amenity space. As such, it is considered that the proposal would not be detrimental to the amenities of the occupants of any neighbouring property.

Policy H17 requires a minimum distance of 21 metres between properties with facing windows to habitable rooms to avoid overlooking, and 10.5 metres to a neighbouring garden. The application dwelling has been designed with habitable room windows in the rear elevation and at first floor level in the south west flank elevation only. The window in the flank elevation would face onto the first floor terrace serving the dwelling, and the submitted plans show this to be screened by a 1.5 metre high wall. As a result, it is not considered that this first floor side window would result in any overlooking to the garden area at Beaufort Court. The neighbouring building to the north west, Chiltern Court, is at least 25 metres away from the rear boundary of the application site, and the rear facing windows in the proposed dwelling would be approximately 9.8 metres from the rear boundary of the site. The proposal would therefore meet the requirements of Policy H17 of the UDP. Windows are proposed to be inserted within the front and north east side elevations of the proposed dwelling. However, these windows would be small in size and would not serve habitable rooms. The first floor terrace area may result in some oblique views towards the neighbouring properties, however there is a considerable distance between the terrace area and the nearest neighbouring properties, and the terrace would be screened by a wall to the south east and south west sides. A low balustrade would be constructed to the north west side, however this is set away from the nearest properties to the north west. As such, it is not considered that the proposal would result in any overlooking toward the neighbouring properties, and the proposal would not be detrimental to the privacy of the occupants of any neighbouring property. It is considered both reasonable and necessary to restrict the insertion of any additional windows at first floor level or above in the flank elevation of the proposed dwelling, in order to protect the privacy and amenities of the occupants of the neighbouring properties.

Policy H18 requires at least 85 square metres of garden or amenity space to be provided for dwellings with up to seven or more habitable rooms. In this case, a lower ground level terrace is proposed to be provided, in addition to the rear garden area, a ground floor level terrace and a first floor terrace. It is considered that sufficient private garden and amenity space would be provided to comply with Policy H18.

Policy M14 requires between 1.5 and 2 parking spaces to be provided within the application site for detached houses. The existing house has space for at least two vehicles to park off-street, and the proposed dwelling would retain space for at least two vehicles to park off-street. The vehicular access to the dwelling would be the same as the existing, and no objections are raised with regard to parking provision or on highway grounds.

It is noted that the submitted plans show the location of a refuse store. However, no elevational details have been submitted relating to these. Given the distance between the proposed refuse store and the front of the site where such refuse would be collected from, and given the proximity of the proposed stores to No. 39, it is considered both reasonable and necessary to attach a condition requiring further details of the refuse stores to be submitted to and approved in writing by the Local Planning Authority, to ensure the stores are able to serve their purpose without detriment to the amenities of the occupants of either neighbouring property.

The trees in Beaufort Court are fairly small fruit trees, set away from the common boundary with the application site. Given the separation, the size of the trees, and the open nature of the remaining ground around the trees, it is not considered that

the proposal would be detrimental to these trees. In addition, the trees are not covered by a Tree Preservation Order and are not considered to be of a high quality such that additional protection could be given.

The application proposes the demolition of a three bedroom dwelling and the construction of a four bedroom dwelling. Given the creation of the additional bedroom, in accordance with Policies CS2, CS8 and CS13 a financial contribution is required to be provided to meet the extra costs for education and health arising from the proposed development. It is therefore necessary for a Legal Agreement to be entered into.

3. COMMENTS ON GROUNDS OF OBJECTIONS

- A number of comments have been submitted relating to property value, and to possible subsidence. These are not material planning considerations and objections cannot be raised with regard to these issues.
- The issues regarding the impact of the proposal on the amenities of the occupants of neighbouring properties, and with regard to the impact on the trees, are addressed in the Appraisal above

4. EQUALITIES AND DIVERSITY ISSUES

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

5. CONCLUSION

The proposed development is considered to have an acceptable impact on the character and appearance of the application site and general street scene. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. this proposal is considered to accord with Council policies and guidance.

**SITE LOCATION PLAN:
1RL**

Rear of 39 Somerset Road, Barnet, Herts, EN5

REFERENCE:

B/01631/12



Reproduced by permission of Ordnance Survey on behalf of HMSO. © Crown copyright and database right 2012. All rights reserved. Ordnance Survey Licence number LA100017674.