

## EAST AREA PLANNING SUB-COMMITTEE

5 December 2012

### ADDENDUM TO ACTING ASSISTANT DIRECTOR OF PLANNING & DEVELOPMENT MANAGEMENT'S REPORT

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All references in the recommendations which refer to the Assistant Director of Planning and Development Management should be amended to refer to the "Acting Assistant Director of Planning and Development Management"

#### **Pages 1-10**

**B/03338/12**

**Adjacent 106 Shurland Avenue, Barnet EN4**

Recommendation III: The suggested reason for refusal should be amended to include a reference to Library contributions, as follows:

The proposed development does not include a formal undertaking to meet the costs of extra education facilities, library facilities, health facilities 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), Libraries (2008) and Monitoring (2007), and Policies CS10, CS11 and CS15 of the Local Plan Core Strategy (Adopted September 2012).

Relevant Policies: Policy DM08 to be included.

The following should be inserted into the Planning Appraisal, in respect of the financial contributions requested:

The Community Infrastructure Levy Regulations 2010:

The contributions listed in the above recommendation are necessary, directly relevant and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of The Community Infrastructure Levy Regulations 2010.

Government Circular 05/05 and the Council's adopted SPD for section 106 related planning obligations is applicable for this site in respect of the following areas:

Adopted policy indicates that the Council will seek to enter into planning obligations in conjunction with new developments to secure the provision of community and religious facilities, health and social care facilities and library facilities where a residential development creates a need for school places contributions will be secured for such purposes via planning obligations.

The purpose of planning obligations is to make acceptable development which would otherwise be unacceptable in planning terms. Circular 05/2005 supports the use of planning obligations to secure contributions towards community infrastructure to mitigate the impacts of new development, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

Para. B5 of the Circular sets out five policy tests that must be met by the LPA when seeking planning obligations. In addition, Regulation 122 of the Community Infrastructure Levy Regulations, which came into force on 6 April 2010, makes it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet the three tests set out in Regulation 122. These statutory tests are based upon three of the five policy tests in Circular 5/2005 at paragraph B5 (tests (ii), (iii) and (iv)).

The recovery of costs for the monitoring of planning obligations is set out in Section 8 (para's 8.3 & 8.4) of the Planning Obligations SPD.

#### Education needs generated by the development:

Circular 05/2005 supports the use of planning obligations to secure contributions towards educational facilities, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

The proposal would provide an additional residential unit, which would generate an increased demand for educational facilities in the area. The calculation of additional demand (SPD para's 4.6-4.14), existing facilities and capacity (SPD para's 5.5-5.12), method of calculating the required contribution (SPD para's 3.1-3.15 and 4.1-4.5), and use of the contributions (SPD para's 5.13-5.14) are set out in the Council's SPD "Contributions to Education" adopted in 2008.

It is considered that a financial contribution towards future education facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this.

To accord with policy and the SPD the proposed scheme of one residential unit would require a contribution of £7799 plus a monitoring fee of 5%.

#### Contributions to library services:

The increase in population resulting from development is expected to place serious pressures on libraries, which are already required to meet all the needs of Barnet's diverse community. Developer contributions are therefore necessary to ensure service provision mitigates the impact of their development activity.

The adopted SPD "Contributions to Library Services" sets out the Council's expectations for developers contributions to the provision and delivery of a comprehensive and efficient library service, with the aim of opening up the world of learning to the whole community using all media to support peoples educational, cultural and information needs. The SPD provides the calculation of additional demand (para's 4.10-4.12), existing facilities and capacity (para's 1.1-1.4 & 2.5), method of calculation (para's 2.4 & 3.1-3.11), and use of funds (para's 5.1-5.7).

It is considered that a financial contribution towards library services is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £244 plus a monitoring fee of 5%.

#### Contributions to Health facilities:

The proposal would provide an additional residential unit which would generate an increased demand for health facilities in the area. The calculation of additional demand / method of calculating the required contribution (SPD para's 6.1-6.4), existing facilities and capacity (SPD para's 5.7-5.18), and use of the contributions (SPD para's 8.1-8.4) are set out in the Council's SPD "Contributions to Health" adopted in July 2009.

It is considered that a financial contribution towards future health care facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £1682 and a monitoring fee of 5%.

The education, library services, health facilities and monitoring fee of 5% contributions will be secured by unilateral undertaking.

Condition 6 should be omitted, as its requirements are covered by suggested Condition 7.

The following additional conditions should be attached:

The dwelling 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 DM01 of the Development Management Policies DPD (Adopted September 2012), the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007) and the consultation draft Sustainable Design and Construction SPD (November 2012).

Prior to the commencement of development on site, details of the proposed supporting foundation slab as shown on the submitted drawings to the north eastern side of the proposed dwelling, and any associated guard rail, including their size, siting and external appearance, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details:

Reason: To ensure that the proposal is not harmful to the character and appearance of the area.

Informative No. 1 should be amended to include the following:

iii) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance. In this instance, it was necessary for amendments to be made to ensure the size of the proposed dwelling meets the minimum internal space requirements of The London Plan.

Additional Informative: In accordance with Recommendation I, a Planning Obligation under Section 106 of the Town & Country Planning Act 1990 (as amended) is required to be entered into, relating to this permission.

**Pages 11-22**  
**F/03645/12**  
**78-80 Brackenburg Road, London, N2**

Amendments and errors:

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Recommendation I relating to:

3. Education Facilities (excl. libraries) should be amended to read £15,589.00

Condition 1 relating to plan numbers should be amended as follows:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 4352 01 **rev B**, 4352 02 rev A, 4352 03 **rev B**, 4352 04, 4352 04, 4352 05 rev A, 4352 06 rev A, Design and Access Statement.

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Informative 1 should be amended as follows:

The reasons for this grant of planning permission or other planning related decision are as follows: -

i) The proposed development accords with strategic planning guidance and policies as set out in The Mayor's London Plan: July 2011 and the Adopted Barnet Core Strategy (2012) and Development Management Policies DPD (2012).

In particular the following policies are relevant:

Core Strategy (Adopted) 2012: CS1, CS3, CS5, CS7, CS8, CS10, CS13

Development Management Policies (Adopted) 2012: DM01, DM02, DM04, DM14, DM15, and DM17

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 streetscene. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. The proposal is considered to accord with adopted Council policies and guidance.

The proposed development includes provision for appropriate contributions in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

**iii) The Local Planning Authority has negotiated with the applicant/ agent where necessary to ensure that the proposed development is in accordance with the relevant adopted policies set out above. The following amendments were negotiated:**

- **Plans amended to show extensions on adjoining properties.**
- **Plans amended to correct inaccuracies/errors.**

- **Agreement that War Memorial would be sensitively relocated and this would be subject of a condition.**

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The following recommendation needs to be added:

### **RECOMMENDATION III**

That if the above agreement has not been completed or a unilateral undertaking has not been submitted by 11<sup>th</sup> January 2013, unless otherwise agreed in writing, the Acting Assistant Director of Planning and Development Management REFUSE the application ref: F/03546/12 under delegated powers for the following reasons:

The proposed development does not include a formal undertaking to meet the costs of the extra education; 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), Libraries (2008) and Monitoring (2007) and Policies CS10, CS11 and CS15 of the local Plan Core Strategy (Adopted September 2012).

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The section under section 106 contributions should be replaced with the following:

#### The Community Infrastructure Levy Regulations 2010:

The contributions listed in the above recommendation are necessary, directly relevant and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of The Community Infrastructure Levy Regulations 2010.

Government Circular 05/05 and the Council's adopted SPD for section 106 related planning obligations is applicable for this site in respect of the following areas:

Adopted policy indicates that the Council will seek to enter into planning obligations in conjunction with new developments to secure the provision of community and religious facilities, health and social care facilities and library facilities where a residential development creates a need for school places contributions will be secured for such purposes via planning obligations.

The purpose of planning obligations is to make acceptable development which would otherwise be unacceptable in planning terms. Circular 05/2005 supports the use of planning obligations to secure contributions towards community infrastructure to mitigate the impacts of new development, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

Para. B5 of the Circular sets out five policy tests that must be met by the LPA when seeking planning obligations. In addition, Regulation 122 of the Community Infrastructure Levy Regulations, which came into force on 6 April 2010, makes it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet the three tests set out in Regulation 122. These statutory tests are based upon three of the five policy tests in Circular 5/2005 at paragraph B5 (tests (ii), (iii) and (iv)).

The recovery of costs for the monitoring of planning obligations is set out in Section 8 (para's 8.3 & 8.4) of the Planning Obligations SPD.

#### Education needs generated by the development:

Circular 05/2005 supports the use of planning obligations to secure contributions towards educational facilities, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

The proposal would provide 2 additional residential units that are considered would generate an increased demand for educational facilities in the area. The calculation of additional demand (SPD para's 4.6-4.14), existing facilities and capacity (SPD para's 5.5-5.12), method of calculating the required contribution (SPD para's 3.1-3.15 and 4.1-4.5), and use of the contributions (SPD para's 5.13-5.14) are set out in the Council's SPD "Contributions to Education" adopted in 2008.

It is considered that a financial contribution towards future education facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this.

To accord with policy and the SPD the proposed scheme of 2 residential units (net increase of 2x 3 bedroom units) would require a contribution of £15,589 plus a monitoring fee of 5%.

#### Contributions to library services:

The increase in population resulting from development is expected to place serious pressures on libraries, which are already required to meet all the needs of Barnet's diverse community. Developer contributions are therefore necessary to ensure service provision mitigates the impact of their development activity.

The adopted SPD "Contributions to Library Services" sets out the Council's expectations for developers contributions to the provision and delivery of a comprehensive and efficient library service, with the aim of opening up the world of learning to the whole community using all media to support peoples educational, cultural and information needs. The SPD provides the calculation of additional demand (para's 4.10-4.12), existing facilities and capacity (para's 1.1-1.4 & 2.5), method of calculation (para's 2.4 & 3.1-3.11), and use of funds (para's 5.1-5.7).

It is considered that a financial contribution towards library services is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £488 plus a monitoring fee of 5%.

#### Contributions to Health facilities:

The proposal would provide 2 additional residential units that are considered would generate an increased demand for health facilities in the area. The calculation of additional demand / method of calculating the required contribution (SPD para's 6.1-6.4), existing facilities and capacity (SPD para's 5.7-5.18), and use of the contributions (SPD para's 8.1-8.4) are set out in the Council's SPD "Contributions to Health" adopted in July 2009.

It is considered that a financial contribution towards future health care facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking

could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £3,364 and a monitoring fee of 5%.

The education, library services, health facilities & monitoring fee of 5% contributions will be secured by unilateral undertaking.

### **Further comments received as a result from re-consultation**

The adjoining neighbour was re-consulted on the amended plans and provided the following additional comments:

- Disappointed with the response of the applicant which appears to ignore the objectors' original concerns.
- The ground floor plans on drawings 01 and 03 retain inaccuracies in relation to the adjoining property No. 82.
- The capped off chimney stack for No. 82 which is now shown on the plans is shown in the wrong location on drawing 02 but is in approximately the right location on drawing 04.
- The plans do not show the utility roof and rear wall of outside toilet store at No. 82 which abut the application site and therefore concerns remain about them surviving the demolition/redevelopment process.
- Drawing 06 shows the dormer windows on No.82.
- Overshadowing and loss of light to No.82 and concern exacerbated by proposed dormers.
- Demolition of the side wall of No.82 and re-erection 20cm+ onto the application site
- Committee report is not accurate as it states that the plans have been amended to address the inaccuracies.

Comments on the additional points raised:

- The inaccuracies relate to the omission of No.82's single storey lean to structure and outside toilet from the floor plans. New amended plan have been submitted which now show the lean to and out buildings.
- The capped off stack is shown in the same location on plan 02 rev a and 05 rev A.
- The omission of the lean to and outside toilet are dealt with in point 1. The issue of how the new boundary wall will be constructed is a matter to be dealt with under the Party Wall Act and therefore not a material planning consideration. Informative 5 highlights Party Wall matters.
- As the property is a mid terraced unit Drawing 06 rev A shows the outline of both of the adjoining properties as a result the dormers appear to project from the roof slope of No.82.

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**B/03397/12**

**Garages to the rear of Holden Heights, Holden Road**

The Environment Agency has written to advise that since the original grant of planning permission, their flood zones have changed. Based on this, they do not consider their previously suggested conditions (Conditions 18 and 19 suggested for the current application) to be relevant. As such, these conditions can be deleted.

In accordance with The Community Infrastructure Levy (Amendment) Regulations 2012 (which came into effect on 29 November 2012) the Mayoral Community Infrastructure Levy is not payable on this development. The amendments to the Regulations allow unimplemented extant planning permissions to have their time limit extended but not become CIL Liable.

The following should be inserted into the Planning Appraisal, in respect of the financial contributions requested:

The Community Infrastructure Levy Regulations 2010:

The contributions listed in the above recommendation are necessary, directly relevant and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of The Community Infrastructure Levy Regulations 2010.

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Para. B5 of the Circular sets out five policy tests that must be met by the LPA when seeking planning obligations. In addition, Regulation 122 of the Community Infrastructure Levy Regulations, which came into force on 6 April 2010, makes it unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet the three tests set out in Regulation 122. These statutory tests are based upon three of the five policy tests in Circular 5/2005 at paragraph B5 (tests (ii), (iii) and (iv)).

The recovery of costs for the monitoring of planning obligations is set out in Section 8 (para's 8.3 & 8.4) of the Planning Obligations SPD.

Education needs generated by the development:

Circular 05/2005 supports the use of planning obligations to secure contributions towards educational facilities, provided that they are directly related to the development proposal, the need for them arises from its implementation, and they are related in scale and kind.

The proposal would provide an additional residential unit, which would generate an increased demand for educational facilities in the area. The calculation of additional demand (SPD para's 4.6-4.14), existing facilities and capacity (SPD para's 5.5-5.12), method of calculating the required contribution (SPD para's 3.1-3.15 and 4.1-4.5), and use of the contributions (SPD para's 5.13-5.14) are set out in the Council's SPD "Contributions to Education" adopted in 2008.

It is considered that a financial contribution towards future education facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this.



To accord with policy and the SPD the proposed scheme of one residential unit would require a contribution of £7799 plus a monitoring fee of 5%.

#### Contributions to library services:

The increase in population resulting from development is expected to place serious pressures on libraries, which are already required to meet all the needs of Barnet's diverse community. Developer contributions are therefore necessary to ensure service provision mitigates the impact of their development activity.

The adopted SPD "Contributions to Library Services" sets out the Council's expectations for developers contributions to the provision and delivery of a comprehensive and efficient library service, with the aim of opening up the world of learning to the whole community using all media to support peoples educational, cultural and information needs. The SPD provides the calculation of additional demand (para's 4.10-4.12), existing facilities and capacity (para's 1.1-1.4 & 2.5), method of calculation (para's 2.4 & 3.1-3.11), and use of funds (para's 5.1-5.7).

It is considered that a financial contribution towards library services is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £244 plus a monitoring fee of 5%.

#### Contributions to Health facilities:

The proposal would provide an additional residential unit which would generate an increased demand for health facilities in the area. The calculation of additional demand / method of calculating the required contribution (SPD para's 6.1-6.4), existing facilities and capacity (SPD para's 5.7-5.18), and use of the contributions (SPD para's 8.1-8.4) are set out in the Council's SPD "Contributions to Health" adopted in July 2009.

It is considered that a financial contribution towards future health care facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £1682 and a monitoring fee of 5%.

The education, library services, health facilities and monitoring fee of 5% contributions will be secured by unilateral undertaking.

Informative No. 1 should be amended to include the following:

iii) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority will negotiate with applicants/agents where necessary to ensure that proposed development is in accordance with the relevant adopted policies set out above. In this instance, the application was acceptable as submitted and no further assistance was required. The application was approved without delay.

Informative No. 3 should be changed to read as follows, to correct the relevant condition number:

The applicant is advised that, with regard to Condition 16, refuse collection points should be located within 10 metres of the public highway. Alternatively, the development access should be re-designed and constructed to allow refuse vehicles to enter the site. The

applicant is advised that such a revision to the access would require separate assessment and consideration as part of a planning application. Alternatively, refuse and recycling containers should be brought to the edge of the public highway on collection days. For further information regarding refuse, please contact the Waste and Sustainability team.

Recommendation III: The suggested reason for refusal should be amended to include a reference to Library contributions, as follows:

The proposed development does not include a formal undertaking to meet the costs of extra education facilities, library facilities, health facilities 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), Libraries (2008) and Monitoring (2007), and Policies CS10, CS11 and CS15 of the Local Plan Core Strategy (Adopted September 2012).

Relevant Policies: Policy DM08 to be included.

## **Pages 53-60**

**F/03828/12**

### **9 Courthouse Gardens**

Informative 1 should be amended as follows:

The reasons for this grant of planning permission or other planning related decision are as follows: -

The reasons for this grant of planning permission or other planning related decision are as follows: -

i) The proposed development accords with strategic planning guidance and policies as set out in The Mayor's London Plan: July 2011 and the Local Plan (2012).

In particular the following policies are relevant:

#### Supplementary Design Guidance:

Barnet Design Guidance Note 5 - Extension,  
Residential Design Guidance (Draft 2012),  
Sustainable Design and Construction (Draft 2012),

#### Core Strategy (Adopted) 2012:

Relevant policies: CS NPPF, CS1, CS5,

#### Development Management Policies (Adopted) 2012:

Relevant policies: DM01, DM02.

ii) The proposal is acceptable for the following reason(s): - Having taken all material considerations into account, it is considered that subject to the compliance with the attached conditions, this proposal complies with the Adopted Core Strategy and Development Management policies 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. The application is in keeping with Council Policies and Guidelines.

**iii) The Local Planning Authority has negotiated with the applicant/ agent where necessary to ensure that the proposed development is in accordance with the relevant adopted policies set out above. The following amendments were negotiated:**

**- The original submission involved a front extension of the garage and porch which were considered to be out of character and detrimental to the streetscene due to its size. The depth was reduced to be more subordinate.**

**Page 61-68  
F/03699/12  
860 High Road**

Informative 1 should be amended as follows:

The reasons for this grant of planning permission or other planning related decision are as follows: -

i) The proposed development accords with strategic planning guidance and policies as set out in The Mayor's London Plan: July 2011, the Core Strategy (2012) and the Adopted Local Plan Policies (2012).

In particular the following policies are relevant:

Core Strategy (Adopted) 2012:

Relevant policies: CS NPPF, CS1, CS5.

Development Management Policies (Adopted) 2012:

Relevant Policies: DM01, DM02.

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

The proposal complies with Council policies that seek to preserve the character of areas and individual properties and it is considered to have an acceptable impact on the Woodhouse ward. The proposal is considered acceptable in terms of appearance and would be compatible with existing properties in the vicinity of the site. The proposal would not detract from the amenities of surrounding occupiers.

**iii) The Local Planning Authority has negotiated with the applicant/ agent where necessary to ensure that the proposed development is in accordance with the relevant adopted policies set out above. The following amendments were negotiated:**

- **Plans amended to remove the doors opening onto Ravensdale Avenue.**

Statement of Witness received to the Local Planning Authority from lease holder of the restaurant since 22<sup>nd</sup> December 2011, stating the following:

- Application site is located on a busy high road retail/business area; the closet house is 100 metres from premise.
- There is a large Sainsbury's on the right where the windows façade is facing. On the left hand side more retail units such as restaurants, bakery and therefore no-one from my close surrounding could get affected by the noise level. The high street is already situated on a busy road.

- Actual intention of fitting the windows was not to open them for an open space. Previously there had been problems with the fridges at the premise and every time it was taken for repair I would have to remove and reinstall the windows. Therefore fitting these doors was the best option, it allowed for easy access. Other than using it for access for deliveries/goods – they will be kept closed at all times.
- In addition, keep the entrance doors shut most of the time to prevent loud car noise disturbing customers.