

LOCATION: 49 - 53 Selvage Lane, London, NW7 3SS

REFERENCE: H/03578/12

Received: 21 September 2012

WARD: Hale

Accepted: 21 September 2012

Expiry: 16 November 2012

Final Revisions:

APPLICANT: Mr Rajesh Patel

PROPOSAL: Variation of Condition No.1 (Plan Numbers) pursuant to planning permission Ref: H/00041/11 dated: 8/3/2011 for "Demolition of existing dwellings and erection of one 2 storey building with rooms in the roofspace consisting of three self contained flats and one 2 storey building with rooms in roofspace and basement consisting of six self contained flats and associated car parking. Variation to include: "larger room sizes".

Approve Subject to a Section 106 Agreement

RECOMMENDATION I:

That the applicant and any other person having a requisite interest be invited to enter by way of an agreement into a planning obligation under Section 106 of the Town and Country Planning Act 1990 and any other legislation which is considered necessary for the purposes seeking to secure the following:

- 1 Paying the council's legal and professional costs of preparing the Agreement and any other enabling agreements;
- 2 All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority;
- 3 **Health** **£4,792.00**
A contribution towards Health Facilities and Resources in the borough
- 4 **Libraries (financial)** **£519.00**
A contribution towards Library Facilities and Resources in the borough
- 5 **Monitoring of the Agreement** **£265.55**
Contribution towards the Council's costs in monitoring the obligations of the agreement.

RECOMMENDATION II:

That upon completion of the agreement the Acting Assistant Director of Planning and Development Management approve the planning application reference: H/03578/12 under delegated powers subject to the following conditions: -

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 674/P/01 Rev A, 674/P/06 Rev A, 674/P/02 Rev B, 674/P/3 Rev A and 674/P/05 Rev B received by the local planning authority on 18 December 2012.

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (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 scheme of hard and soft landscaping, including details of existing trees to be retained, shall be submitted to and agreed in writing by the Local Planning Authority before the development, hereby permitted, is commenced.

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011 and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

- 4 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.

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 5 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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 6 No siteworks or works on this development shall be commenced before a dimensioned tree protection plan in accordance with Section 5.5 and a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 Trees in relation to design, demolition and construction - Recommendations are submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with such approval.

Reason:

To safeguard the health of existing trees which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

- 7 Before the development hereby permitted is occupied the parking spaces/garages shown on Plan 674/P/01 Rev A shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

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 in accordance with policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

- 8 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 development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation in accordance with policies DM01 and DM04 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF, CS1, CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.4, 7.5, 7.6 and 7.21 of the London Plan 2011.

- 9 Before the development hereby permitted is brought into use or occupied the site shall be enclosed except at the permitted points of access in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with policies DM01, DM03, DM17 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 10 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 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 Adopted Barnet Development Management Policies DPD (2012).

- 11 Before development commences, a scheme of proposed air pollution mitigation measures shall be submitted to and approved by the Local Planning Authority. The approved mitigation scheme shall be implemented in its entirety before (any of the units are occupied / the use commences).

Reason:

To ensure that the amenities of occupiers are protected from the poor air quality in the vicinity in accordance with policy DM04 of the Adopted Barnet Development Management Policies DPD (2012) and policy 5.3 of the London Plan 2011.

- 12 Prior to the demolition of the existing buildings, a 'hazardous building materials survey' should be submitted to and agreed in writing by the Local Planning Authority.

Reason:

To ensure the development can be implemented and occupied with adequate regard for environmental and public safety, in accordance with policy DM04 of the Adopted Barnet Development Management Policies DPD (2012) and policy 5.3 of the London Plan 2011.

- 13 Before the development hereby permitted commences on site, details of all extraction and ventilation equipment shall be submitted to and approved by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced.

Reason:

To ensure that the proposed development does not prejudice the enjoyment or amenities of occupiers of adjoining residential properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 14 A noise assessment, by an approved acoustic consultant, shall be carried out that assesses the likely impacts of noise on the development. This report and any measure to be implemented by the developer to address its findings shall be submitted in writing for the approval of the Local Planning Authority before the development commences. The approved measures shall be implemented in their entirety before (any of the units are occupied/ the use commences).

Reason:

To ensure that the amenities of occupiers are not prejudiced by rail and/or road traffic and/or mixed use noise in the immediate surroundings in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 15 The level of noise emitted from the lift plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 16 A scheme for acoustic fencing between the car park/refuse area and 49 Gibbs Green shall be submitted in writing and approved by the Local Planning Authority prior to development. This scheme shall be fully implemented before the development hereby permitted is brought into use.

Reason:

To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their home(s) in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 17 No development shall take place until details of a construction management plan have been submitted to and approved in writing by the local planning authority.

Reason:

To safeguard residential amenity in accordance with policy DM17 of the Adopted Barnet Development Management Policies DPD (2012).

- 18 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 character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012) and 1.1, 7.4, 7.5 and 7.6 of the London Plan 2011.

- 19 The dwelling(s) 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 DM02 of the Adopted Barnet Development Management Policies DPD (2012), the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007) and policies 5.2 and 5.3 of the London Plan (2011).

20 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 in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

21 Provisions shall be made within the site to ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway.

Reason:

To ensure that the development does not cause danger and inconvenience to users of the adjoining pavement and highway.

22 Before the building hereby permitted is occupied the proposed windows in the flank elevation of Block A, including the side of the nearest bay window at first floor level, facing number 47 Selvage Lane shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

INFORMATIVE(S):

1 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 Adopted Barnet Local Plan (2012).

In particular the following policies are relevant:

National Policy:

National Planning Policy Framework

London Plan (2011):
3.5A, 3.5B, 7.4A

Local Development Framework:
Core Strategy (Adopted) 2012 – CS NPPF, CS1, CS5.
Development Management Policies (Adopted) 2012 – DM01, DM02.

ii) The proposal is acceptable for the following reason(s): -The proposed development would have an acceptable impact on the character and appearance of the area and the amenities of the neighbouring residents.

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 applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.

- 2 Any development or conversion which necessitates the removal, changing, or creation of an address or addresses must be officially registered by the Council through the formal 'Street Naming and Numbering' process.

The Council of the London Borough of Barnet is the Street Naming and Numbering Authority and is the only organisation that can create or change addresses within its boundaries. Applications are the responsibility of the developer or householder who wish to have an address created or amended.

Occupiers of properties which have not been formally registered can face a multitude of issues such as problems with deliveries, rejection of banking / insurance applications, problems accessing key council services and most importantly delays in an emergency situation.

Further details and the application form can be downloaded from:
<http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf>
or requested from the Street Naming and Numbering Team via email:
street.naming@barnet.gov.uk or by telephoning: 0208 359 7294.

- 3 You are advised to engage a qualified acoustic consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory internal noise levels in this location.

In addition to the noise control measures and details, the scheme needs to clearly set out the target noise levels for the habitable rooms, including for bedrooms at night, and the levels that the sound insulation scheme would achieve.

The details of acoustic consultants can be obtained from the following contacts: a) Institute of Acoustics and b) Association of Noise Consultants.

The assessment and report on the noise impacts of a development should use methods of measurement, calculation, prediction and assessment of noise levels and impacts that comply with the following standards, where appropriate: 1) Department of Environment: PPG 24 (1994) Planning Policy Guidance - Planning and noise; 2) BS 7445 (1991) Pts 1, 2 & 3 (ISO 1996 pts 1-3) - Description and measurement of environmental noise; 3) BS 4142:1997 - Method of rating industrial noise affecting mixed residential and industrial areas; 4) BS 8223: 1999 - Sound insulation and noise reduction for buildings: code of practice; 5) Department of transport: Calculation of road traffic noise (1988); 6) Department of transport: Calculation of railway noise (1995); 7) Department of transport : Railway Noise and insulation of dwellings.

4 Any highway approval as part of the planning process for the alteration to the existing crossovers or new crossovers will be subject to detailed survey by the Crossover Team in Highways Group as part of the application for crossover under Highways Act 1980 and would be carried out at the applicant's expense. Please note, reinstatement of redundant crossovers, any relocation of street furniture, lighting column or amendments to parking bays affected by the proposed works would be carried out under a rechargeable works agreement by the Council's term contractor for Highway Works. An estimate for this work could be obtained from London Borough of Barnet, Highways Group, NLBP, Building 4, 2nd Floor, Oakleigh Road South, London N11 1NP.

5 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 Highways Crossover Team as part of the crossover application. This application of this assessment cannot be prejudged.

The applicant is advised that they will have to pay the valued cost of the street tree in front of the proposed disabled bay, should this be removed as part of the proposal. This would be paid as part of the crossover application along with the cost of the crossover itself.'

6 A Planning Obligation under Section 106 of the Town & Country Planning Act 1990 (as amended) relates to this permission.

RECOMMENDATION III

That if an agreement has not been completed by 09/04/2013, that unless otherwise agreed in writing, the Assistant Director of Planning and Development Management should REFUSE the application H/03578/12 under delegated powers for the following reason/s:

The development would require a Unilateral Undertaking/Section 106 Agreement and no formal undertaking has been given to the Council, as a result the proposed development would, by reason of the developer not meeting the identified additional health and library facilities, and the associated monitoring costs which would be incurred by the community as a result of the development, be contrary to Policies CS10, CS11 & CS15 of the Local Plan Core Strategy (Adopted 2012); and the adopted Supplementary Planning Documents, "Contributions to Health Facilities", "Contributions to Libraries" and "Planning Obligations".

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

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."

NPPF retains 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 July 2011:

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.

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.

Relevant policies: 3.5, 6.1, 7.4, 7.6

Core Strategy (Adoption version) 2012:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Significant weight should be given to the 16 policies in the CS in the determination of planning applications.

Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5, CS10, CS11 & CS15.

Development Management Policies (Adopted) 2012:

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies are used for day-to-day decision making. Significant weight should be given to the policies in this document in the determination of planning applications.

Relevant Development Management Policies (Adoption version) 2012: DM01, DM02 and DM08

Relevant Supplementary Planning Documents/Guidance

In terms of design and sustainability the Council are in the process of consulting on the emerging Supplementary Planning Document 'Sustainable Construction and Design' (October 2012) and 'Residential Design Standards' (October 2012). The sustainable construction SPD emphasises the importance of a sustainable approach to construction and updates the Council's amenity standards and room sizes amongst other factors when assessing applications for new development or extensions to existing buildings; the residential design SPD stresses the importance of achieving a high quality design and appearance for development. Both documents should be regarded as a material consideration in the determination of planning applications.

Relevant Planning History:

Application:	Planning	Number:	H/00041/11
Validated:	16/12/2010	Type:	APF
Status:	DEC	Date:	11/03/2011
Summary:	APC	Case Officer:	Sally Fraser
Description:	Demolition of existing dwellings and erection of one 2 storey building with rooms in the roofspace consisting of three self contained flats and one 2 storey building with rooms in roofspace and basement consisting of six self contained flats and associated car parking.		

Consultations and Views Expressed:

Neighbours Consulted: 42 Replies: 5
Neighbours Wishing To Speak 0

The proposal would result in:

- increased congestion and traffic
- an overlooking of properties along Gibbs Green

- the possible loss of trees as a result
- an increased noise and disturbance from the construction of the scheme

In addition to this:

- the site is not a corner but rather located on a busy junction between Gibbs Green Road and Selvage Lane
- the scheme would result in more traffic affecting the existing users of the basement car park nearby
- the scheme would be dangerous for members of the public and road users
- the proposal would appear prominent and out of keeping with the semi-detached nature of the properties in the area
- there would be an increase in water pressure affecting the neighbouring houses
- the scheme would result in an increase in air pollution

Date of Site Notice: 04 October 2012

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site is a roughly triangular shaped wedge and comprises three properties, numbers 49, 51 and 53 Selvage Lane, and their corresponding plots. It holds a prominent location on the corner of Gibbs Green and Selvage Lane, which is a busy thoroughfare.

Numbers 49 and 51 Selvage Lane are a pair of semi detached properties fronting onto Selvage Lane whilst number 53 is detached and occupies a prominent location on the corner of Selvage Lane and Gibbs Green.

The site is flanked to the south by a residential property at number 47 Selvage Lane. This property has 2 garages closest to the shared boundary.

The area is mixed in character. Whilst much of the immediate vicinity comprises of mature, inter-war semi detached dwellings, the site lies some 300m north of the Selvage Lane/ Hale Lane roundabout, which is the site of an approved and implemented flatted development (Merillion Court). There are further flatted developments on Gibbs Green (Ambleside House) and Sunbury Avenue (Meridian Court) and flats on Apex Corner just north of the site, which all form part of the wider character of the area.

Proposal:

The applicant requests a variation of planning permission granted under H/00041/11 dated 08/03/2011 for the "Demolition of existing dwellings and erection of one two-storey building with rooms in the roofspace consisting of 3 no. self contained flats and one two-storey building with rooms in the roofspace and basement consisting of 6no. self contained flats and associated car parking". The variation is for an increase in the size of the proposed rooms, however the overall footprint would be slightly reduced for the block of flats closest to No. 47 Selvage Lane (Block A) and would

remain the same for the other block (Block B); in any case there would not be an increase in the overall footprint of the proposal. The proposed internal changes would not materially affect the external appearance of the scheme which would remain, on the whole, as per that approved under the original consent.

Planning Considerations:

The main issues are considered to be:

- Whether the principle of the development is acceptable
- Whether the proposals would have an acceptable impact on the amenities of neighbouring and future occupiers
- Whether the proposals would have an acceptable impact on the character and appearance of the streetscene and general locality
- Whether the proposals would harm highway and pedestrian safety
- Whether the proposals make appropriate provision towards local education, libraries and health infrastructure

Policy context

Since the time of the previous approval, the most recent version of the Mayor's London Plan, as well as the Barnet Core Strategy and Development Management Policies have been adopted.

Whether the principle of the development is acceptable

The principle of the erection of 2. no blocks of flats was established under application H/00041/11 which was approved and could be implemented at any time three years from the date of the consent (08/03/2011). The adoption of new policies as mentioned would not affect the principle of the development.

Whether the proposals would have an acceptable impact on the amenities of neighbouring and future occupiers

The neighbouring property to be most affected by the proposal is No. 47 Selvage Lane to the south of the site. However given that the revised plans do not show the proposed flats to be any closer to these properties or introduce additional windows the proposal is not considered to harm the neighbour and in this regard is considered acceptable and complies with the Council's relevant policies and guidance. It is not considered that any policy changes have occurred that would warrant refusal of the application, given that the content of the relevant policies is substantially the same.

Whether the proposals would have an acceptable impact on the character and appearance of the streetscene and general locality

Council policy dictates that new development should be in keeping with the character of the area, in terms of its size, bulk and scale. The proposal would not result in any significant external changes from that approved under the original permission and in this regard the proposal is considered acceptable in terms of its character and appearance and complies with the Council's relevant policies and guidance.

Whether the proposals would harm highway and pedestrian safety

It should be noted that under the original application the amount and layout of the proposed parking was assessed by the Council's traffic and development team and met the Council standards. In terms of its impact on the highway and pedestrian safety the proposal is considered acceptable.

Whether the proposal would provide sufficient amenity for future occupiers

The amenity space proposed as part of the original scheme met the Council's relevant standards; the same level of amenity provision is proposed which would accord with the Council's most recent policies and guidance.

Planning Obligations

The London Borough of Barnet is fully committed to sustainable development envisioned within the National Planning Policy Framework (NPPF). The Council recognises the direct impact of development on the local infrastructure, specifically the statutory public services of Education, Health and Libraries. With growth in Barnet forecast to increase the local population by 30,300 over the coming half-decade, the Council aims to ensure a successful balance between delivery of homes and provision of the supporting infrastructure through continuing the use of Planning Obligations, fully compliant with the Community Infrastructure Levy Regulations (as amended) 2010, until a borough wide Community Infrastructure Levy is adopted. This specific scheme will provide residential units that have been calculated to generate an increase in demand for infrastructure facilities in the area.

Necessary to make the development acceptable in planning terms

The London Borough of Barnet has a statutory duty to offer a standard of Education, Libraries and Health provisions. There is an undeniable impact during the lifetime of this scheme on infrastructure facilities, which will render it necessary to provide a contribution towards the capital cost of enhancing the existing level of infrastructure provided, in order to make development acceptable in planning terms.

Barnet has been particularly proactive in providing a thorough and comprehensive Infrastructure Delivery Plan (IDP) in relation to Planning Obligations. The policies of the UDP adopted in 2006 were expanded upon and developed through the Supplementary Planning Documents (SPD) on *Contribution to Education (2008)*, *Contributions to Libraries (2008)* and *Contributions to Health Care (2009)* in full accordance with Circular 05/2005 (since replaced by the NPPF). More recently the Council's Local Development Framework Core Strategy and Development Management Policies Development Plan Documents have reached adoption stage, the consultation and inspection process have established clear authority and support for their guidance, and has set a solid foundation in correctly identifying objectives to meet the needs and particular demands in the borough. This information on Barnet's infrastructure requirements has been available through access to the Council's website in particular the LDF Evidence Base and Cabinet and Committee papers.

The Council has therefore operated with full transparency and openness in meeting the needs of the borough.

The most recent Cabinet report on 3 November 2011 - "*Proposed Phasing of Primary School Expansions and Investment Strategy to Meet Demand for Secondary School Places*" identified a continuing and annually increasing need for additional Primary School Places, and a rapidly reducing spare capacity of Secondary School Places. It demonstrates that there are school expansion requirements in almost every single part of the Borough through to at least 2016. This trend is again recognised in the Para 5.7 of the SPD *Contributions to Education* i.e. the pressures from new development, population growth and increased demand for education. The continuing demand for school places in London receives significant media coverage and is well known.

The rise in population and change in local diversity throughout the borough contributes to the demand placed on Library services. This need is well recognised in the Council's Cabinet Report dated 26 July 2011, it identified the significant population change and funding challenges faced. Furthermore Para 1.2 of the SPD *Contributions to Libraries*, refers to the pressures from population growth resulting from this scheme.

The North Central London Primary Care Strategy 2012-2016 identifies the need for investment in key areas due to the impacts of population growth and change, as well as committing them to plan for the most effective way to deliver the provisions of primary care services. The SPD *Contributions to Health Facilities* sets out Barnet's objectives to deliver better health in the borough through the provisions of adequate and accessible Health facilities.

The inclusion of the monitoring contribution is essential in ensuring any legal agreement is fully complied with. This is because the existence of a written commitment is usually not sufficient to secure full compliance with an agreement, this result in significant and costly monitoring and enforcement action to secure payment of the funds at the appropriate time. The monitoring role also provides an oversight of the Council's internal compliance with the terms of the agreement, ensuring the funds are spent in the right areas and for the right purposes. Without the monitoring activity it is estimated that less than 2% of contributions would ever be paid and development across the borough would be unsustainable.

The capital contributions are necessary in order to provide additional capacity for the delivery of investment in key infrastructure areas for Education, Health and Libraries. At a time when public sources of capital funding have halved and population growth and pressures on services are rising, this will ensure the quality of services provided to present and future residents in the borough are retained, it is also necessary to allow the Council to meet its statutory requirements.

Whether a planning obligation would be directly related to the development

This scheme is based in NW7 and will place direct pressure on the infrastructure in the surrounding area. The Council follows the principle from

Circular 05/2005, that “recently completed infrastructure paid for or contributed to by one developer should not excuse the need for contribution from a second developer,” although this has been replaced by the NPPF, it continues to serve a useful purpose in defining fairness and equity between developers and sustainable development in general.

Further, it is important to take into account that small developments such as this scheme have a cumulative impact on existing infrastructure. This is recognised in the Community Infrastructure Levy Regulations (as amended) 2010, and it is for this reason that Regulation 42 removes any exemption for dwellings, consequently defining it chargeable floor space where one additional dwelling is created regardless of size.

The principle from Paragraph B21 of Circular 05/2005 confirms that Planning Obligations are permitted to be pooled “in order to allow the infrastructure to be secured in a fair and equitable way.” Paragraph B22 clarified the relationship between larger and smaller developments as that where individual development has an impact that is not sufficient to justify the need for a discrete piece of infrastructure, then local planning authorities can seek contributions to specific future provision.

In relation to the monitoring contributions, in each and every case where a development requires planning obligations it necessitates monitoring of an agreement to ensure its compliance / completion. The direct relationship between the Section 106 agreement or unilateral undertaking and an individual planning permission for a specific development creates the direct and binding relationship that requires monitoring and enforcement. It is accepted that monitoring of agreements is necessary to make development acceptable; the case by case unique legal agreement provides the confirmation that such an obligation is directly related to a specific development.

Whether a planning obligation would be fairly and reasonably related in scale and kind to the development

The contributions from this scheme are reasonably related in scale and kind by using a tariff based approach. A clear linkage is made between additional residential units by size and tenure with the impact this generates, converted back into a simple tariff.

The SPD *Contributions to Education* uses the most recent Department for Education capital cost per additional pupil place to underpin the contribution required. The value of Section 106 financial contributions towards pre-school/primary and secondary educational provision for each new unit of housing are clearly set out in the SPD linked to the average numbers of children resident in each size of unit. Information on school capacity since 2007 has been clearly set out in other Council reports as referenced above, the most recent update being in November 2011. In terms of Education facilities, the use of the ‘cost per pupil place’ figures from the Department for Education means that the contribution apportioned to the developer is certainly no more than the capital cost of delivering a new school place to account for the additional

children moving to that area as a result of new development

The Libraries Contribution is based on the actual cost of the previous capital investment programme, with the rate set based on the proportion of new residents from development compared to the number of existing residents. Importantly, this programme was only a quarter of the size of the current programme of improvements now costing £3-4 million, and developers are again in a position of contributing less than the full cost of the 'per person' impact. The Council have chosen not to revise the contributions at this present time to avoid placing additional burdens upon the development industry.

The SPD *Contributions to Health Facilities* utilises the NHS London Healthy Urban Development Unit model to analyse the average numbers of residents living in each size of unit and the average associated health care capital investment requirements. The cost of Health facilities improvements linked to development are largely born by the NHS. As with Education and Libraries obligations, a contribution is only being requested from developers to mitigate for the impact of that specific development. Such contribution remains proportionate to the nature of the development and specifically related to the people likely to move into the development and therefore the impact it will have on local services. It is therefore clear that the obligation is related in both scale and kind to the nature of this scheme.

The Council uses a sliding scale approach to the size of monitoring contribution required. The scale is designed to make the monitoring contribution proportionate to the related monitoring and administration of each legal agreement. The monitoring contribution is therefore:

- 5% for schemes with £25,000 or less other contributions,
- 4.5% for contributions between £25,001 - £50,000 (dropping by 0.5%)
- Increasingly lowers percentages, dropping by further 0.5% increments at various intervals down to 1% for the significant developments / regeneration schemes.

Whilst the Circular 05/05 identification for the need for monitoring contributions has been replaced through the NPPF, the collection of monitoring contributions remain relevant through the CIL Regulations (as amended) 2010, where Regulation 61 confirms that up to 5% of the CIL income should be for monitoring and enforcing the payment of CIL. Such a designation clearly demonstrates that a system operating on a percentage basis is both appropriate and fair.

In conclusion, it is considered that a financial contribution towards future Libraries, Health facilities and Monitoring is justified in terms of the three legal tests set out paragraph 204 of the National Planning Policy Framework.

With regards to Library Facilities: To accord with Core Strategy policies CS15 and CS10 and the SPD, the proposed scheme would require a contribution of **£519.00**, plus a monitoring fee of 5%.

With regards to Health Facilities: To accord with Core Strategy policies CS15 and CS10 and the SPD, the proposed scheme would require a contribution of **£4,792.00** plus a monitoring fee of 5%.

The applicant has indicated a willingness to submit a unilateral undertaking to agree to pay the aforementioned contributions and as such the proposal complies with policies CS10 and CS15 of Barnet's Local Plan Core Strategy and the relevant SPD's.

3. COMMENTS ON GROUNDS OF OBJECTIONS

- Increased congestion and traffic- *addressed in main report*
- An overlooking of properties along Gibbs Green- *addressed in main report*
- The possible loss of trees as a result- *the proposal would not affect trees or landscaping any more than the previously approved scheme.*
- An increased noise and disturbance from the construction of the scheme- *the revised scheme would not increase noise and disturbance any more than that approved: in any case a condition can be attached to the new decision notice requiring construction to be carried out during standard hours only.*
- The site is not a corner but rather located on a busy junction between Gibbs Green Road and Selvage Lane- *this has been acknowledged*
- The scheme would result in more traffic affecting the existing users of the basement car park nearby- *addressed in main report*
- The scheme would be dangerous for members of the public and road users- *addressed in main report*
- The proposal would appear prominent and out of keeping with the semi-detached nature of the properties in the area- *addressed in main report*
- There would be an increase in water pressure affecting the neighbouring house- *this is considered a civil matter and not a planning issue*
- The scheme would result in an increase in air pollution- *this was not considered an issue under the approved scheme and this remain the case in assessing the current scheme.*

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

Subject to the signing of the formal Unilateral Undertaking in relation to contribution to educational, libraries and health facilities the application is recommended for **APPROVAL**.

SITE LOCATION PLAN: 49 - 53 Selvaqe Lane, London, NW7 3SS

REFERENCE: H/03578/12

