

RECOMMENDATION II:

That upon completion of the agreement the Acting Assistant Director of Planning and Development Management approve the planning application reference: B/03009/12 under delegated powers subject to the following conditions: -

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

SK0, Design and Access Statement, Sustainability Statement (date received 6-Aug-2012);

SK1, SK2 (date received 1-Nov-2012).

Reason:

For the avoidance of doubt and in the interests of proper planning.

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 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.

4. Notwithstanding what is shown on the approved drawings, 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. These shall include the following:

- Brickwork for the extensions and boundary brick walls
- Roof tile
- Railings
- Gates
- External doors
- Pipe work and duct work
- Rooflights and roof windows
- Inverted dormers

Samples shall be provided where necessary.

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 commences, details of the proposed new windows shown on plans at a scale of 1:20 shall be submitted and approved in writing by the Local Planning Authority. This should be accompanied by details and sections of any existing windows to be retained. A sample window shall be made available on site. The development shall be implemented in accordance with such details as approved.

Reason:

To safeguard the character and appearance of the application property.

6. The ground floor retail premises shall be used for any purpose within Class A1 and Class A2 only.

Reason:

To enable the Local Planning Authority to exercise control of the type of use in order to safeguard the amenities of the area and maintain the viability of this part of the town centre.

7. No deliveries in relation to the retail uses at ground floor shall be taken at or dispatched from the site on any Sunday, Bank or Public Holiday or before 8.00am or after 18.00pm on any other day.

Reason:

To prevent the use causing an undue disturbance to occupiers of adjoining residential properties at unsocial hours of the day.

8. 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.

9. The roof of the single storey rear extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.

Reason:

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

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.
11. Notwithstanding what is shown on the approved drawings, no development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected including the subdivision of the amenity spaces. The boundary treatments shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details and shall thereafter be retained.

Reason:
To ensure that the proposed development does not prejudice the appearance of the site or the surrounding locality and the amenities of occupiers of adjoining residential properties.
12. 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:

The insertion of additional windows in the buildings.

Reason:
To safeguard residential amenity
13. A scheme of hard and soft landscaping 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.
14. 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.
15. 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.

16. 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.

17. Prior to the occupation of the residential units, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).

Reason:

To protect the amenities of future and neighbouring residential occupiers.

18. Before development commences, a scheme of proposed noise 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.

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.

19. 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. These details shall include:

- Location of materials storage and site accommodation
- Details of vehicles and machinery to be used during the construction process
- Schedule of works including likely timescales
- Details of the hours of delivery/collection of materials to and from the site
- Enclosure of the site during construction
- Details of contractor parking

The construction shall be carried out in accordance with the details as approved.

Reason:

To safeguard residential amenity and to ensure highway safety at all times during the construction of the development.

20. No development shall take place within the area indicated until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason:

To enable archaeological investigation of the site.

21. No development shall take place until the applicant has secured the implementation of a programme of recording and analysis, which considered building structure, architectural detail and archaeological evidence, in accordance with a written scheme of investigation which has been submitted and approved by the Local Planning Authority.

Reason:

To ensure a record of the structure is made before the asset is re-developed.

22. Before the building hereby permitted is occupied the proposed rooflight window(s) in the rear roofslope of the extended part of the building facing No.2 Normandy Avenue and serving the living area and bedroom of Flat 9 shall be obscure glazed and non-opening up to a height of 1.7m above the floor in which the window is installed.

Reason:

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

23. Prior to the occupation of the ground floor retail units, details of the proposed opening hours for the retail units shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the approved details.

Reason:

To safeguard residential amenity.

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 and the Adopted Barnet Core Strategy (2012) and Development Management Policies DPD (2012).

In particular the following policies are relevant:

Core Strategy (Adopted) 2012: CS NPPF, CS1, CS5, CS6, CS9, CS10, CS15.

Development Management Policies (Adopted) 2012: DM01, DM02, DM03, DM04, DM06, DM08, DM11, DM17

Adopted Supplementary Planning Documents:

Supplementary Planning Document - Sustainable Design and Construction
Supplementary Planning Document - Planning Obligations
Supplementary Planning Document - Contributions to Education

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

The proposal is considered to represent an acceptable and appropriate form of development. It will see the retention of employment on a site located within the town centre as well as the retention of a building of local importance providing residential units in a sustainable town centre location. The proposed development will be sustainable promoting the Council's objectives towards sustainability and will result in minimal harm to the amenities of the occupiers of neighbouring residential properties. It will maintain the viability and vitality of this area, contributing to its growth as a thriving town centre and would allow for the retention of a locally important building on this site. This proposal is considered to be in accordance with Council's policies and guidance.

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

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.

iv) In this case formal pre-application advice was sought prior to submission of the application.

2. The applicant is advised that High Street Barnet Road (the whole length) is a Traffic Sensitive Road; deliveries during the construction period should not take place between 8.00 am-9.30 am and 4.30 pm-6.30 pm Monday to Saturday. Careful consideration must also be given to the optimum route(s) for construction traffic and the Environment, Planning and Regeneration Directorate should be consulted in this respect
3. If the development is carried out, redundant vehicle crossovers are required to be reinstated to footway level by the Highways Authority at the applicant's expense. For further information please contact Traffic & Development Section, London Borough of Barnet, North London Business Park (NLBP) Building 4, Oakleigh Road South, London N11 1NP
4. 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 £22,260.00.

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

5. 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 05/03/2013, that unless otherwise agreed in writing, the Assistant Director of Planning and Development Management should REFUSE the application B/03009/12 under delegated powers for the following reason/s:

1. The development does not include a formal undertaking to meet the extra education, health, libraries services and amendment to the traffic costs together with associated monitoring costs arising as a result of the development, contrary to policies CS9, CS10, CS15 and DM17 of the adopted Local Plan Core Strategy 2012 and Supplementary Planning Document- Planning Obligations, Supplementary Planning Document - Contributions to Education, Supplementary Planning Document - Contributions to Libraries and Supplementary Planning Document- Contributions to Health Facilities.

1. MATERIAL CONSIDERATIONS

The Community Infrastructure Levy Regulations 2010

National Planning Policy Framework

The National Planning Policy Framework (NPPF) published on 27 March 2012 is a material consideration in planning decisions. Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 14 identifies a presumption in favour of sustainable development.

Twelve core land-use planning principles that under-pin both plan-making and decision-taking are set out in paragraph. 17.

These include:

- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- Take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs;
- Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- Promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions;
- Good design is recognised in para. 56 as a key aspect of sustainable development, it is indivisible from good planning, and should contribute positively to making places better for people.

In para. 58 it is stated that planning decisions should, amongst other things, ensure that developments;

- Add to the quality of the area,
- Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation,
- Are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Para. 203 advises Local Planning Authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations, and that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Para. 204 states that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

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, 5.3, 7.4

Local Plan Core Strategy (September 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). The Core Strategy was adopted by the Council on 11 September 2012 and replaces the 2006 Unitary Development Plan.

Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS6, CS9, CS10, CS15.

Local Plan Development Management Policies (September 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. The Development Management Policies DPD was adopted by the Council on 11 September 2012 and replaces the 2006 Unitary Development Plan.

Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM08, DM11, DM17.

Adopted Supplementary Planning Documents/Guidance:

- Planning Obligations (2006)
- SPD: Sustainable Design and Construction (2007)
- SPD: Contributions towards Education (2008)
- SPD: Contributions towards Libraries (2008)
- SPD: Contributions towards Healthcare (2009)

The Council is currently consulting on the draft Supplementary Planning Document 'Sustainable Construction and Design' (November 2012) and 'Residential Design Standards' (November 2012). The former 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 later document stresses the importance of achieving a high quality design and appearance for development.

Relevant Planning History:

B/00063/10/ENQ - Demolition of the Court House. Construction of 14 flats, 3 shops and basement car park (PRE APPLICATION ENQUIRY)

B/01815/11 - Demolition of Barnet Court House and erection of a part three storey, part four storey building comprising of 9no self contained residential units and 3no ground floor retail units for A1 and A2 uses. Provision of 1no off-street disabled parking bay and alterations to vehicular access from Normandy Avenue. Associated amenity space and installation of photovoltaic panels at roof level. Refused 09/08/2011. Appeal dismissed 24/01/2012.

B/00038/12/ENQ - Demolition of the court house construction of 8 flats and 3 shops (PRE APPLICATION ENQUIRY)

Consultations and Views Expressed:

Neighbours Consulted: 314

Replies: 14 - 8 objections, 4 support, 2 'comments'

Neighbours Wishing To 2
Speak

The objections raised may be summarised as follows:

- The development would not be in keeping with the architectural look of the surrounding area therefore reduce value of other properties in the locality
- There is no car parking provision which will make the already congested parking worse
- Having no parking will cause existing residents inconvenience and lead to unnecessary penalty fines
- Provision of the commercial premises is folly
- It would be a crime against aesthetics to see this building go the way of some of its neighbours
- It is unclear as to what extent the property at No.2 would be overlooked by this development
- Plans do not make it clear what impact the building work will have on the stability of neighbouring houses
- We do not accept that residents will not have cars
- Could improve parking situation with the introduction of all day resident parking in Normandy Avenue
- Empty shops will only add to the derelict appearance of this area
- The proposed railings are normally associated with institutions and schools
- Photographs of the Court house in the 70's show a weather vane atop the Court House, maybe a similar one could be placed there

Internal /Other Consultations:

Metropolitan Police Service (H)

Following discussions between the applicant and Barnet Police in respect of the private space in particular, Barnet Police have no objections in principal to the development proposals.

Traffic & Development

The proposal is for conversion of existing Barnet Court House into 9 self contained flats (4 x 1-bedroom, 4 x 2-bedrooms and 1 x 3-bedroom). No off street parking will be provided for the proposed flats.

The parking provision is not in accordance with the parking standards in the London Borough of Barnet Adopted Unitary Development Plan 2006.

Any vehicles associated with the occupancy of the residential development would have to be parked on-street. High Street, Barnet is located within the Chipping Barnet Controlled Parking Zone (CPZ). Residents within the CPZ are able to purchase resident parking permits to park legally in designated residents bays. There are currently more permits issued than resident's bays available.

It is noted that the site benefits from the following features:

- The site's location near shopping amenities;
- The site is within a controlled parking zone;
- Good public transport accessibility near bus routes and High Barnet Underground Station.

However, as no parking provision is proposed for the residential element of the scheme and the CPZ is currently oversubscribed in vicinity of the site it is considered appropriate to exempt residents from purchasing residential permits. To effect this exemption it will be necessary to amend the Traffic Regulation Order that covers the Controlled Parking Zone. The cost of the amendments is £2,000 .

A previous application for a residential development has been refused and dismissed on appeal (B/01815/11). The inspector's decision report confirmed that the proposal would be acceptable at this location subject to an agreement to prevent residents from purchasing resident's parking permits.

The proposal is acceptable on highways grounds providing the applicant enters into a legal agreement which includes a contribution for modifications to the Traffic Order to prevent future occupiers of the proposed flats from purchasing residents' parking permits.

English Heritage

No objections, recommend conditions in respect of building recording and archaeological monitoring of geotechnical investigations

Urban Design & Heritage

No objections following amendments to the scheme

Date of Site Notice: 06 September 2012

2. PLANNING APPRAISAL

Site Description and Surroundings:

The application site is located on the south western side of the High Street in Barnet. The site is located on a prominent corner plot adjacent to Normandy Avenue, on the approach to the Wood Street Conservation Area.

Currently existing on the site is the Old Court House Building which is a part single, part two storey building built in the early 1900s. This building has been very recently added to the Local List and is considered to be a building of local importance. The existing building is characterful with good detailing and is comparable in quality to designated heritage assets within the nearby Conservation Areas.

The scale of the existing building fits in well with the surrounding properties and does not have a detrimental impact upon the adjacent residential dwelling on Normandy Avenue. There is a degree of spacing between the Old Court House and the properties on Normandy Avenue.

The general character of development in the vicinity is modest, Edwardian/late Victorian red brick buildings with pitched roofs. The ground floors are usually commercial uses. The surrounding buildings tend to be 2 or 3 storeys, some with rooms in the roofspace. Levels rise from the south east to the north west as you approach the main retail area and these levels are respected with the roof heights of buildings along this stretch of the High Street.

Proposal:

This application seeks planning permission for the conversion of the court house into 9 self contained units and 2 commercial units (Class A1/A2) with a ground floor single storey front and both side extensions following demolition of existing single storey rear and side extension, first floor extension to both sides with new pitched roof, front and rear dormer windows to existing pitched roof at first floor level, 2no dormer windows to front elevation and 4no skylights to rear elevation to facilitate rooms in roofspace. This application follows a previous submission which involved demolition of the existing building and construction of a five storey flat roofed building which was refused by the Local Planning Authority and subsequently dismissed at appeal (LBB reference B/01815/11).

Starting with the two storey side and rear extension which would sit behind the old Court House. It would measure 19m wide, 9.75m high with a pitched roof similar to that on the old Court House and would have a depth of 9.2m. The roof of this extension would have gable ends. This extension would be set off the boundary with No.11 High Street by 2.2m and off the boundary with No.2 Normandy Avenue by approximately 10-10.5m (this boundary is slightly splayed).

The single storey rear extension which would then extend from the two storey side and rear extension would measure 5.7m deep, 25.6m wide and 3.3m high with a flat roof. Given the level changes across the site from south to north, the roof of the extension would be staggered across the site however each part would have a maximum height of 3.3m above the ground on which that part of the extension sits. This extension would be set off the rear boundary of the site (common boundary with No.2 Normandy Avenue) by 4.1m.

2no front dormers are proposed within the roof of the old Court House. These would measure 1.3m wide, 2.2m high and would extend some 1.2m from the roofslope.

Conservation style rooflights and other rooflights are proposed in the front roofslope of the two storey side and rear extension.

2no dormers are also proposed within the single storey side extension closest to Normandy Avenue which would measure 1.1m wide, 2m high with pitched roofs and would extend 1.1m from the roofslope.

4no inverted dormers are proposed at roof level, both within the old Court House and within the roofs of the extensions.

There will be changes to the landscaping around the building with the introduction of formal bin areas, entrances and soft landscaped areas. To the rear of the building, abutting the boundary with No.2 Normandy Avenue, it is proposed to provide 3no rear gardens for the ground floor residential units.

No parking is proposed for this development.

Planning Considerations:

Proposed Use

No objection is raised with regard to the proposed use of the site for residential or retail purposes. In the context of the area, having commercial units at ground floor is compatible and appropriate with the established High Street uses. Residential units above the commercial properties are also appropriate, similar examples exist in the vicinity. This view was upheld by the Inspector in determining the appeal in January 2012.

Size, Design, Mass and Bulk of the proposed extensions

The conversion of the old Court House building is welcomed. Whilst the building may not be statutory Listed, it is of architectural merit and is considered to be in scale with the neighbouring development. The advice report provided from English Heritage, following its assessment of whether the building should be statutorily listed or not states; *"Barnet Court House is a building of clear local interest and is a sympathetic, if uninspired, building, typical of its period, which fits in well in its high street location. Externally it survives well with few alterations. However, the general plainness of the design, loss of the majority of the courtroom fittings and average quality craftsmanship and materials means that it falls short of the special architectural interest in a national context needed to qualify it for designation."*

As mentioned previously, the building is now included on Barnet's Local List as it is considered to be a building of local importance.

As the application site is set on a higher level than properties to the southwest, it is prominent and highly visible. As such, the retention of the building on this site is considered to be of great importance for the character and appearance of the locality and the entrance into the Wood Street Conservation Area, the boundary of which is further to the north. The application site is considered to be more sensitive than other locations because of this and the fact that it is visible from various public vantage points.

In assessing any extensions or alterations to the main court house building, due consideration must be given to the size, design, mass and bulk of the extensions to ensure that they are not overly dominant or out of scale with the main court house building. Whilst the two storey side and rear extension is large, it is considered to have been sympathetically designed around the court house. It would be set back from the building, allowing the court house to be the dominant element of the site. Furthermore having a separate roof to the court house ensures that the mass and bulk of the extension is reduced and that there is a degree of permeability and views through and within the site. Subject to a number of conditions relating to materials and other details, this extension is considered to be a sympathetic addition which would respect the character and appearance of the application site and the Court House.

The proposed single storey rear extension is of a modest size and given the level changes through and around the site, there would be limited views of this site. Again, subject to conditions relating to materials and other details, it is considered that this element of the scheme would not detract from the character and appearance of the application site and the Court House.

The addition of dormers within the old Court House and the single storey side extension closest to Normandy Avenue is considered acceptable. They are subordinate additions which would sit well within the roofslopes without appearing unduly bulky or resulting in top heavy roofs.

Policy DM01 of the councils Local Plan states the following: *“Development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.”* It is considered that this proposal complies with these requirements and as such accords with DM01.

Paragraph 49 of the NPPF states that “Housing applications should be considered in the context of the presumption in favour of sustainable development”.

The government consider that “there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- **an economic role** – ... by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation
- **a social role** – ... by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment ... ”

Paragraph 56 states “the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.

It is considered that the application complies with the above sections of the NPPF.

Residential Amenity and Site Layout

As with any new proposal for a mixed use development, the inter-relationship between the two uses is crucial. It is proposed to have two retail units at ground floor to the front of the old Court House. These would be accessed via one entrance door, which is the main entrance for the old Court House. These units would have internal floor areas of 72sqm and 75 sqm respectively. Bin and toilet facilities are to be provided within the retail unit itself. 4no flats are then proposed at ground floor, largely within the two storey side and rear extension. As this extension would be a new build, largely built adjacent to the external wall of the old Court House, it is considered that it can be constructed in such a way as to ensure that there would be no noise or disturbance resulting from the retail units to those living in the ground floor residential units. The flats would have separate entrances as well as separate bin stores. It is therefore considered that subject to a number of appropriately worded conditions in respect of sound insulation, refuse stores, hours of operation and deliveries, that the two uses could operate without causing undue noise, disturbance and general nuisance.

In July 2011, the Mayors London Plan was published. Table 3.3 of this document sets out the minimum floorspace standards for new residential dwellings. The

Council refers to these floorspace standards when assessing applications for new residential dwellings. The accommodation includes the following:

4no 1bed 2person units - required floorspace is 50sqm

4no 2bed 4person units - required floorspace is 70sqm

1no 3bed 5person unit - required floorspace is 86sqm

All of the units comply with the minimum floorspaces set out in Table 3.3 in the Mayors London Plan and most of the units including Flat's 1, 2, 3, 5, 6, 7 and 9 exceed the minimum floorspaces. The layout of the units is considered to be acceptable and would allow for sufficient outlook from and light to the units. The internal layouts of the units in relation to each other will result in minimal noise and disturbance.

One of the Council's key objectives is to improve the quality of life for people living in the Borough and therefore development that results in unacceptable harm to neighbours amenity is unlikely to be supported. Good neighbourliness is a yardstick against which proposals can be measured.

As part of the previous submission the Council raised concerns about the impact of the proposed development on the amenities of those living at No.2 Normandy Avenue. Whilst the current submission is materially different in that it proposes the conversion of the existing building with extensions, the impact of this development on those living at No.2 is still a material consideration. In dealing with this issue in the appeal, the Inspector stated *'The appeal proposal has been designed to orientate principally to the south and east. The flats would be set back from the rear to avoid any unacceptable overlooking of nearby windows or gardens, an overbearing outlook or an unacceptable effect on daylight. No.2 Normandy Avenue has only obscure glazed windows on the flank wall facing the appeal site. Whilst there is potential for unacceptable overlooking from the roof terrace of the proposed building into nearby gardens, a condition could be imposed to provide an opaque screen on the perimeter of the roof garden. In this respect there would be no harm to the privacy of nearby residents...'*

There are a number of windows in the rear elevation of the extensions facing No.2 Normandy Avenue. At ground floor level, there are no significant concerns regarding overlooking as a result of the windows being at ground level, the level changes between this part of the site and No.2 Normandy Avenue and the erection of a 1.5m high timber fence along the boundary between the two sites. It is acknowledged however that the boundary treatment to the rear should be no less than 1.8m to ensure that overlooking does not result and as such, a condition has been imposed in respect of boundary treatments. At first floor, there would be a separation distance of approximately 10.5m between the windows within the Court House and the garden of No.2 Normandy Avenue which is considered to be sufficient to ensure that overlooking would be mitigated and that any overlooking which could result would be no more than that normally found in established residential areas. This separation distance is decreased to 10m between the bedroom of Flat 6 and the immediate garden area for No.2 Normandy Avenue however this distance is still considered to be acceptable and would not have a significantly harmful impact on the living conditions of those living at No.2 in respect of the enjoyment of their rear garden. With regards to the windows within the roof of the extension, these have been designed in such a way as to minimise overlooking but still allow for a degree of light and outlook. Whilst conditions have been recommended in respect of full details of the windows, including these rooflights, another condition in respect of opaque

glazing or screening has been recommended for these windows to ensure that they do not result in direct overlooking, or increased perception of being overlooked especially as they are at a high level and closer to the boundary with No.2 than the existing building.

The extensions themselves are considered to be sited sufficiently off the boundary to ensure that they would not be overbearing to the neighbouring occupiers. Whilst built form would be extending closer to the boundary with No.2 Normandy Avenue, it is considered that there is a sufficient distance between the extension and the boundary to ensure that the extensions would have minimal visual impact. With regards to the those living in the upper floors of No.11, the extension would extend some 5.2m beyond the rear wall of No.11 but again, given the set off from the boundary, it is not considered to be overbearing or visually intrusive to those living at No.11 High Street.

The layout of the site indicates areas of soft landscaping. Given the previous use of this building as a Municipal building, the lack of soft landscaping is not unusual. Whilst this site is in a town centre location and is somewhat restricted in terms of the amount of open land, the introduction of soft landscaping is welcomed. It would not only soften the appearance of the site but would improve the visual amenity of the locality. A landscaping condition has been recommended to ensure that any soft landscaping to be planted would be of a suitable species which would survive and would positively contribute to the appearance of the site.

Sufficient information has been submitted in respect of bin stores and locations. A bin store is proposed in an open area close to the boundary with No.11 High Street which would be hidden behind gates and a wall. An additional bin store is proposed close to the boundary with No.2 Normandy Avenue set behind railings. Whilst this information has been submitted, there are concerns in respect of how the bins will be stored and whether they would be in an enclosure. There were concerns about the width of the gates with regards to whether the bins would be small enough to fit through the opening. However the applicant has advised that they will be using particular sized bins which should fit. To ensure that this is the case, a condition in respect of further information has been recommended.

Parking

This development would be a car free development. Parking would generally be required for this type of development at a ratio of one parking space per unit.

Any vehicles associated with the occupancy of the residential development would have to be parked on-street. High Street, Barnet is located within the Chipping Barnet Controlled Parking Zone (CPZ) as is Normandy Avenue. Residents within the CPZ are able to purchase residents parking permits to park legally in designated residents bays. There are currently more permits issued than resident's bays available.

The site, however is close to local shopping amenities and there is good public transport accessibility near bus routes and High Barnet Underground Station, with a Public Transport Accessibility Level (PTAL) of 5 (6 being the highest).

However as no parking provision is proposed for the residential element of the scheme and the CPZ is currently oversubscribed in the vicinity of the site, it is considered appropriate to exempt residents from purchasing residential permits. To effect this exemption, it will be necessary to amend the Traffic Regulation Order that covers the Controlled Parking Zone. The cost of the amendments is £2000.00.

No parking was proposed for the previous application which was refused and dismissed on appeal. In considering this particular element of the development, the Inspector said *'There is also provision for a contribution to amend the Traffic Regulation Order that covers the Controlled Parking Zone (CPZ). Except for 1 disabled parking space, the proposed development would be car free. The CPZ is oversubscribed in the vicinity of the site and there is potential for injudicious kerbside parking and a risk to highway safety particularly near the junction. Despite prevention efforts, I note that Barnet has a poor record for personal injury accidents involving parked cars. Further competition for parking places in the vicinity has potential to compromise highway safety contrary to the objectives set out in UDP Policies GParking, M14 and IMP1. I therefore find the contribution to amend the Traffic Regulation Order to be directly related to the development and necessary to make the development acceptable in planning terms, and fairly and reasonably related to the development proposed. It therefore passes the CIL tests, and I have taken it into account as a material planning consideration'*.

The applicant has agreed to enter into a legal agreement with the Council in respect of paying this contribution to amend the traffic order. As such, there are no objections on Highways grounds to this development.

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.

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* ie 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 EN5 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 Education, Libraries, Health facilities and Monitoring is justified in terms of the three legal tests set out paragraph 204 of the National Planning Policy Framework.

Education needs generated by the development

The proposal would provide nine residential units that it is 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 Local Plan Core Strategy policy CS10 and the SPD the proposed scheme would require a contribution of £21,399.00 (at the time of determining this application) 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 Local Plan Core Strategy policy CS10 and the SPD the proposed scheme would require a contribution of £670.50 (at the time of determining this application) plus a monitoring fee of 5%.

Contributions to Health facilities

The proposal would provide nine residential units that it is 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 the SPD the proposed scheme would require a contribution of £9,626.00 (at the time of determining this application) and a monitoring fee of 5%.

The applicant is willing to pay the necessary contributions and a Unilateral Undertaking is currently being drafted (at the time of writing this report).

3. COMMENTS ON GROUNDS OF OBJECTIONS

Largely dealt with in the planning appraisal however the following comments can be made:

- Impacts on property prices are not a material planning consideration
- Structural issues are not a material planning consideration

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. SECTION 106 ISSUES

The contributions 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.

6. CONCLUSION

Having taken all material considerations into account, it is considered that the proposed development as previously approved would be in keeping with the character and appearance of the surrounding area. The proposed development is not considered to have a detrimental impact on the residential amenities of neighbouring developments and would provide good quality residential accommodation as well as allowing for the retention of a building of local importance. This application is considered to comply with National, London Plan, and Council Policies and Guidelines and is recommended for **APPROVAL**.

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

SITE LOCATION PLAN:
EN5 5UJ

Barnet Court House, High Street, Barnet, Herts,

REFERENCE:

B/03009/12



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