

LOCATION: Rear of 39 Somerset Road, Barnet, Herts, EN5 1RL

REFERENCE: B/01631/12 **Received:** 27 April 2012

Accepted: 27 April 2012

WARD(S): Oakleigh

Expiry: 22 June 2012

**Final
Revisions:**

APPLICANT: Mr Davies

PROPOSAL: Demolition of existing three bedroom house and erection of two-storey house with rooms at lower ground floor level and in roof space.

RECOMMENDATION: APPROVE SUBJECT TO SECTION 106

1. The development hereby permitted shall be carried out in accordance with the following approved plans: DAT/9.0 and DAT/9.1 (received 15 May 2012), Drawing Nos. OS 00, P01, P02, P03, P04, P05, P06 and P07 (received 27 April 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 the dwelling hereby permitted is occupied the parking spaces shown on Drawing No. P01 received on 27 April 2012 shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved dwelling. The parking spaces shall be constructed of a porous material, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason:

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

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

Reason:

To safeguard the 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.

5. Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the development is occupied.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

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

Reason:

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

7. No site works or works on this development shall be commenced before temporary tree protection has been erected around existing trees to the rear of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas.

Reason:

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

8. Prior to the first occupation of the dwelling hereby approved, the screen wall to the front and side of the first floor terrace to the south western side of the dwelling as shown on drawing No. P.04 (received 27 April 2012) shall be constructed and permanently retained as shown on the submitted plans, and shall not be reduced in height or altered in any way.

Reason:

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

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

Reason:

To ensure that the 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.

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

Reason:

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

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

Reason:

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

12. No development shall take place until a 'Demolition & Construction Method Statement' has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
- access to the site;
 - the parking of vehicles for site operatives and visitors;
 - hours of construction, including deliveries, loading and unloading of plant and materials;
 - the storage of plant and materials used in the construction of the development;
 - the erection of any means of temporary enclosure or security hoarding;
 - measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution at all stages of the development.
- Throughout the construction period the detailed measures contained within the approved Statement shall be strictly adhered to at all times.

Reason:

In the interests of highway safety and good air quality in accordance with Policy DM04 and DM17 of the Adopted Barnet Development Management Policies DPD (2012) and policy 5.21 of the London Plan (2011).

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 September 2012): CS NPPF, CS1, CS5, CS10, CS11 and CS15.

Development Management Policies (Adopted September 2012): DM01, DM02 and DM17.

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

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 planning application. The scheme has been amended since that pre-application advice was sought, further to the advice given.

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

3. The Mayor of London introduced a Community Infrastructure Levy on 1st April 2012 setting a rate of £35 per sqm on all 'chargeable development' in Barnet. Your planning application has been assessed to require a charge of £2310.

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

4. Applicants and agents are encouraged to sign up to the Considerate Contractors Scheme (www.ccscheme.org.uk) whereby general standards of work are raised and the condition and safety of the Borough's streets and pavements are improved.
5. Applicants and agents are advised that this development should be designed to achieve an average water consumption target of 105 litres per head per day as calculated according to the Code for Sustainable Homes.

RECOMMENDATION III

That if the above agreement has not been completed or a unilateral undertaking has not been submitted by 12 April 2013 the Acting Assistant Director of Planning and Development Management REFUSE the application ref: B/01631/12 under delegated powers for the following reasons:

The proposed development does not include a formal undertaking to meet the costs of extra education facilities, library facilities, health facilities and associated monitoring costs arising as a result of the development, and therefore would not address the impacts of the development, contrary to Barnet Supplementary Planning Documents - Contributions to Education (2008), Health (2009), Libraries (2008) and Monitoring (2007), and Policies CS10, CS11 and CS15 of the Local Plan Core Strategy (Adopted September 2012).

THIS APPLICATION WAS DEFERRED FROM THE PLANNING COMMITTEE MEETING OF 4 OCTOBER 2012.

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". The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

The Mayor's London Plan 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 and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The Mayor's Housing Supplementary Planning Guidance (November 2012) provides guidance on how to implement the housing policies in the London Plan.

Relevant Local Plan (2012) Policies:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11 September 2012.

Relevant Core Strategy DPD (2012): Policies CS NPPF, CS1, CS5, CS10, CS11 and CS15.

Relevant Development Management DPD (2012): Policies DM01, DM02 and DM17.

Supplementary Planning Documents and Guidance

Design Guidance Note No 5 – Extensions to Houses

The Council adopted a Supplementary Planning Document (SPD) "Sustainable Design and Construction" (June 2007), following public consultation. This SPD provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet. Part 6 of the SPD relates to generic environmental requirements to ensure that new development within Barnet meets sufficiently high environmental and design standards.

The Council is currently consulting on the following two supporting planning documents to implement the Core Strategy and Development Management Policies DPDs. These are now material considerations. The Residential Design Guidance SPD (consultation draft November 2012) and Sustainable Design and Construction SPD (consultation draft November 2012) are now material considerations.

Relevant Planning History:

Site Address: 39 Somerset Road Barnet Herts
Application Number: N07988A
Decision: Approve with conditions
Decision Date: 30/07/1986
Proposal: **Conversion of house into four flats and conversion of garage at rear to from cottage. Dormer windows at side of house.**

Site Address: 39 Somerset Road New Barnet
Application Number: N07988
Decision: Approve with conditions
Decision Date: 26/09/1985
Proposal: **Conversion of existing double garage to ancillary residential accommodation**

Consultations and Views Expressed:

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

The objections raised may be summarised as follows:

- The excavation of the basement would cause subsidence to the foundations of Nos. 33-37 Somerset Road, the garages at No. 41, and would cause damage to the drainage sewer pipe running along the back gardens to properties in Somerset Road.
- Beaufort Court would be overlooked by the proposed development, especially from the proposed first floor terrace, causing a loss of privacy.
- The increased roof height would result in a loss of light to Beaufort Court, to Chiltern Court, and to the garden area at No. 41.
- The increased height and width of the proposal, and building over large areas of garden to provide terraces, and the roof terrace wall, would be unsightly and visually intrusive.
- The extra terraces, parking spaces and proximity to Beaufort Court would result in increased noise levels.
- Concern about disturbance caused by the building works.
- The existing property is not dilapidated, and is currently occupied.
- Existing dwelling is a converted garage with a small conservatory on the back. Proposed larger dwelling would be out of proportion to the current dwelling size and the size of the plot.
- Excavation may damage the roots of trees in the garden of Beaufort Court.
- Noise and disturbance would result from the increased use of the access adjacent to No. 39, both during construction and from the greater number of occupants associated with this larger house.
- The proposal would reduce existing views.
- Proposed replacement dwelling is not sustainable.
- Parking space provided is not sufficient and reduces possible green amenity space.
- Trees around the perimeter of the site will be adversely affected, and no tree survey has been submitted.
- Current building would not be permitted today.

- Concerns with regard to impact of excavation for the basement on neighbouring properties, and on sub-soil and water patterns.

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

Further to the receipt of further information (July 2012), the following additional objections have been received:

- No landslides have been recorded as no building works have taken place recently. The proposed building works could be a significant cause of land slippage and slope instability, subsidence and differential heave.
- Detailed surveys and reports have not been made available.
- Water is sucked out of clay soil during dry periods, causing clay to contract and leading to possible structural damage. Too much water in clay can lead to a subsidence risk.
- Proposed development will be visually intrusive when viewed from all neighbouring properties.
- Proposed roof terraces will result in a loss of privacy to neighbours.
- Proposed development is set back from Somerset Road, and concerns are raised around emergency access.

Further to the receipt of a geotechnical survey and structural information (November 2012), the following additional comments were received:

- The basement would cause subsidence to neighbouring properties.
- Excavation of the basement may damage a sewer.
- Proposal would result in a loss of light to neighbours and appear visually intrusive.
- Why were boreholes not carried out on site? No details show where they were taken or when.
- Site specific information and surveys should be provided.
- A construction method statement should be required.

Internal /Other Consultations:

Thames Water: No objection with regard to sewerage infrastructure.

Date of Site Notice: 10 May 2012

2. PLANNING APPRAISAL

This planning application was first presented to the planning Committee at the meeting on 12 June 2012. The application was deferred, with Members requesting further information be submitted relating to the concerns raised in representations relating to subsidence and unstable land. It was deferred again at the meeting on 4 October 2012.

Site Description and Surroundings:

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

No. 39 is a two storey detached building containing four flats. The building to the north east of this, No. 41 Somerset Road, comprises a two storey building containing

four flats. This building has garaging and an amenity area to the rear. The building to the south west of No. 39, Beaufort Court is a three storey block of flats with a lower ground floor parking area, and gardens to the rear. The application site is set to the rear of No. 39 and to the rear of the immediately neighbouring buildings, and is adjacent to the gardens serving the block of flats, and the gardens and garages serving No. 41.

Proposal:

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

Planning Considerations:

Background

This application was first deferred from the Planning Committee meeting of 12 June 2012, in order to seek further information in respect of the stability of the site.

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

The Council's Planning Policy section have also advised that New Barnet is on London Clay, and BGS maps show that Barnet and the rest of London has a very low potential for landslides.

Paragraph 120 of the National Planning Policy framework states that 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Paragraph 121 states that planning policies and decisions should (also) ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including

land remediation or impacts on the natural environment arising from that remediation:

- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 11A of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

The applicant has submitted evidence that there have been no recorded land slips in the area, and has explained that full investigations would be carried out as part of the construction process to satisfy the requirements of the building regulations. The objectors who have raised issues of land slippage have not submitted any evidence to justify their claims.

The information above was presented to the Committee at its meeting of 4 October 2012. The application was deferred from that meeting for the following reason:

Defer to enable the applicant to be requested to provide reports, prepared by competent and suitably qualified persons, providing specific details of ground condition, effect on the water table and subterranean drainage, excavation, temporary works and construction techniques including details of the potential impact of subterranean development on existing and neighbouring properties.

The applicant has since submitted two further reports. A Geotechnical Appraisal has been submitted, and provides the following information:

- The National Geoscience Data Centre holds records of two boreholes carried out close to the site. These confirm the information presented on the geological map (which indicates that the site is underlain by the London Clay formation) and indicate the sub-surface ground conditions comprise firm to stiff, becoming hard. [Officer Note: No details have been submitted to show where the boreholes were taken, or when. Boreholes have not been taken at the application site].
- A computerised stability analysis has been carried out, with the analysis using the worst case ground conditions (a saturated softened clay material, and saturated soil). The analysis demonstrated that even when worst credible ground conditions are used, the proposed development has no destabilising effect on the ground.
- The presence of mature deciduous trees in the northwestern corner of the site, and the presence of medium to high plasticity clay will mean foundations will require deepening in accordance with NHBC guidelines. A piled foundation solution would have a two-fold effect, resulting in foundation loads being transmitted deeper into the soil rather than above a potential shear plane, and if passing through a shear plane will have a stabilising effect by providing some lateral resistance.

A letter has been submitted by a civil and structural engineering firm, advising that the introduction of a pile and ring beam foundation from the proposed development will not create any landslip on the site and will improve the stability of the natural slope that exists on site. Drawings were also submitted detailing the potential foundation design.

A structural engineer within the Council's Building Control section has advised that the submitted details do not include site-specific measurements, and do not refer to any effect on the water table or subterranean drainage. Such an effect could be assessed from the outcome of a site investigation. Further information was requested, however it has not been forthcoming and the applicant has requested that the application be determined on the basis of the current information.

Members previously raised concerns with regard to the construction of the basement, and any possible impact of the construction on the stability of the surrounding land. The applicant has sought to demonstrate that the construction will not adversely affect the stability of the land, and it is considered that a basement could be constructed providing due care is taken during the construction process. The geological survey advises that the application site is on a clay base. This has not been confirmed by on-site boreholes. The application site is located to the rear of buildings fronting Somerset Road. It is noted that these are large and heavy buildings, likely to be exerting considerable pressure at present. The proposed dwelling would be of a lesser size and would not exert as much pressure on the surrounding land. The site is considered to be suitable for its new use, taking into account received details relating to ground conditions and land instability. Conditions could be attached to any approval granted requiring further details of construction methodology to be submitted to the Council and approved in writing prior to any works taking place. Such details may also be related directly to the scheme demonstrating compliance with the building regulations.

The application is therefore recommended for approval.

The full planning assessment of the proposal is set out in detail below. It should be noted that at the time this application was submitted to the Council, and first presented to the Committee, the Unitary Development Plan was a material consideration in the determination of planning applications. That document has since been replaced by the Local Plan Core Strategy, and Local Plan Development Management Policies Development Plan Documents, and updated Supplementary Planning Documents on Residential Design Guidance and Sustainable Design and Construction. The assessment below has therefore been updated to refer to the current planning policies.

Impact of proposal on the character and appearance of the area

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

Impact on the amenities of neighbouring properties

The existing dwelling on the site is located approximately 11 metres rear of No. 39 Somerset Road. In comparison, the proposal is set approximately 15 metres from No. 39. Given this distance, it is not considered that the proposed dwelling would appear overbearing or visually intrusive when viewed from the rear-facing flats and amenity area of No. 39. The proposed dwelling is set further to the rear of its plot when compared to the existing, such that its flank elevation would be adjacent to the detached garage block serving the flats at No. 41 Somerset Road. The proposed dwelling would be set away from the boundary with No. 41, and would mainly be adjacent to the garages at No. 41, and as a result is not considered to appear overbearing when viewed from the rear amenity area of No. 41. At ground floor level,

the proposed dwelling would be located in close proximity to the common boundary with Beaufort Court to the south west. Whilst the ground floor element of the proposal would be visible from Beaufort Court, protruding slightly above the boundary fence, the first floor terrace area above this would be stepped away from the garden at Beaufort Court. It is acknowledged that the ground level at Beaufort Court slopes down away from the application site and toward the rear, however given the distance between the proposed dwelling and the garden area at Beaufort Court, with the proposed dwelling stepped away from the boundary, it is not considered that the proposed dwelling would appear overbearing when viewed from the rear garden area or rear-facing windows at Beaufort Court. The two storey front and side walls of the proposed dwelling would be adjacent to the rear amenity area serving No. 39, however this area does not appear to be heavily used at present, and would remain open on both sides such that the proposal would not result in a sense of enclosure or be overbearing when viewed from this amenity space. As such, it is considered that the proposal would not be detrimental to the amenities of the occupants of any neighbouring property.

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

Amenities of future occupants

The size of the proposed unit and the rooms within the unit comply with the minimum requirements as set out in the Sustainable Design and Construction SPD. Similarly, the amenity space provided complies with the relevant requirements. A lower ground level terrace is proposed to be provided, in addition to the rear garden area, a ground floor level terrace and a first floor terrace. It is considered that sufficient private garden and amenity space would be provided to comply with Policy H18.

Policy DM17 requires between 1.5 and 2 parking spaces to be provided within the application site for detached houses. The existing house has space for at least two

vehicles to park off-street, and the proposed dwelling would retain space for at least two vehicles to park off-street. The vehicular access to the dwelling would be the same as the existing, and no objections are raised with regard to parking provision or on highway grounds.

Other Matters

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

The trees in Beaufort Court are fairly small fruit trees, set away from the common boundary with the application site. Given the separation, the size of the trees, and the open nature of the remaining ground around the trees, it is not considered that the proposal would be detrimental to these trees. In addition, the trees are not covered by a Tree Preservation Order and are not considered to be of a high quality such that additional protection could be given.

The application proposes the demolition of a three bedroom dwelling and the construction of a four bedroom dwelling. Given the creation of the additional bedroom, in accordance with Policies CS10, CS11 and CS15, a financial contribution is required to be provided to meet the extra costs for education and health arising from the proposed development. It is therefore necessary for a Legal Agreement to be entered into.

The Community Infrastructure Levy Regulations 2010:

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

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

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

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

Para. B5 of the Circular sets out five policy tests that must be met by the LPA when seeking planning obligations. In addition, Regulation 122 of the Community Infrastructure Levy Regulations, which came into force on 6 April 2010, makes it

unlawful for a planning obligation to be taken into account in determining a planning application if it does not meet the three tests set out in Regulation 122. These statutory tests are based upon three of the five policy tests in Circular 5/2005 at paragraph B5 (tests (ii), (iii) and (iv)).

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

Education needs generated by the development:

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

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

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

To accord with policy and the SPD the proposed scheme would require a contribution of £4150 plus a monitoring fee of 5%.

Contributions to library services:

The increase in population resulting from this development is not expected to place serious pressures on libraries, and a contribution towards libraries is not relevant in this instance.

Contributions to Health facilities:

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

It is considered that a financial contribution towards future health care facilities is justified in terms of Circular 05/2005 and that a suitably worded legal agreement / undertaking could secure this. To accord with policy and the SPD the proposed scheme would require a contribution of £334 and a monitoring fee of 5%.

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

3. COMMENTS ON GROUNDS OF OBJECTIONS

- A number of comments have been submitted relating to property value. These are not material planning considerations and objections cannot be raised with regard to these issues.

- The issues regarding the impact of the proposal on the amenities of the occupants of neighbouring properties, and with regard to the impact on the trees, are addressed in the Appraisal above

4. EQUALITIES AND DIVERSITY ISSUES

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

5. CONCLUSION

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

SITE LOCATION PLAN:

**Rear of 39 Somerset Road, Barnet, Herts, EN5
1RL**

REFERENCE:

B/01631/12



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