

Location **18 And 20 Russell Gardens London NW11 9NL**

Reference: **23/5071/FUL** Received: 28th November 2023
Accepted: 28th November 2023

Ward: Golders Green Expiry: 23rd January 2024

Case Officer: **Alissa Fawcett**

Applicant: .

Proposal: Change of use from F1 (Learning and non-residential institutions) to C3 (Dwellinghouses)

OFFICER'S RECOMMENDATION

Approve subject to s106

AND the Committee grants delegated authority to the Service Director – Planning and Building Control to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chair (or in their absence the Vice-Chair) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

RECOMMENDATION I:

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

1. Paying the council's legal and professional costs of preparing the Agreement and any other enabling agreements;
2. All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority;
3. Link to Planning application reference 23/5070/FUL at 5-7 Wykeham Road

"This application must be carried out in conjunction with the scheme granted consent under reference 23/5070/FUL at 5-7 Wykeham Road and must be completed (or first brought into use) within 6 months of implementing that grant of consent"

4. Monitoring of the Agreement £110.10

"Contribution towards the Council's costs in monitoring the obligations of the agreement."

RECOMMENDATION II:

That upon completion of the agreement specified in Recommendation I, the Service Director for Planning and Building Control approve the planning application subject to the following conditions and any changes to the wording of the conditions considered necessary by the Service Director for Planning and Building Control:

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

Site Location Plan

PA-01 - Existing and Proposed Site and Ground Floor Plan

PA-02 - Existing and Proposed First, Second and Roof Plans

PA-03 - Existing and Proposed Front and Rear Elevations

PA-04 - Existing and Proposed Side Elevations

PA-05 - Existing and Proposed Outbuilding

Planning Statement

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A-F of Part 1 of Schedule 2 of that Order shall be carried out within the curtilage of either dwellinghouse hereby approved.

Reason: To safeguard the amenities of neighbouring occupiers, the health of adjacent TPO trees and the general locality in accordance with policies DM01 of the Development Management Policies DPD (adopted September 2012).

RECOMMENDATION III:

- 1 That if the above agreement has not been completed or a unilateral undertaking has not been submitted within 3 months of the date of the resolution by Committee to approve, unless otherwise agreed in writing, the Service Director of Development Management and Building Control REFUSE the application under delegated powers for the following reason(s):

1. The development fails to provide a legal undertaking to link this application to planning application reference 23/5070/FUL at 5-7 Wykeham Road, London, NW4 2TB and therefore would result in the loss of an existing community use in an area of identified need without realistic proposals for reprovision of a new community or education use of at least equivalent quality or quantity on the site or at a suitable alternative location, that continue to serve the neighbourhood and wider or community, to the detriment of the provision of social infrastructure and contrary to Policies S1 and S2 of the London Plan (2021), Policy CS10 of the Local Plan Core Strategy DPD (2012) and Policy DM13 of the Local Plan Development Management Policies DPD (2012)

Informative(s):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

We believe that your development is liable for CIL. The Mayor of London adopted a CIL charge on all forms of development in Barnet except for education and health developments which are exempt from this charge. The London Borough of Barnet first adopted a CIL charge on 1st May 2013. A new Barnet CIL Charging Schedule applies from 1 April 2022 (<https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>) which applies a charge to all residential (including sui generis residential), hotel, retail and employment uses.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

You will be sent a 'Liability Notice' that provides 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, which is also available from the Planning Portal website.

The CIL 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 other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please email us at: cil@barnet.gov.uk.

OFFICER'S ASSESSMENT

This application has been brought before the Committee to be considered in conjunction with 23/5070/FUL.

1. Site Description

No. 18 Russell Gardens was an unoccupied residential property until June 2021 when the applicants began to use it in conjunction with the use of no. 20. No.20 Russell Gardens together with the building in the rear garden is used as a therapy centre for Jewish girls and young women (aged between 12-24). The facility is known as "Noa Girls". The applicant advises that the service provides "emotional, practical, and therapeutic support to girls from the London Orthodox Jewish community. Individuals who attend this facility often face complex challenges ranging from mental health, difficult home situations and traumatic life events".

Both properties are set back from the road by front gardens and no.18 has a driveway which provides one off-street parking space.

The building at the rear of no.20 was erected in July 2019 replacing a smaller "garden shed". This building is a single-storey structure divided into two with the larger portion (16.7sqm) used as a therapy room and the smaller section (9.95sqm) as a gym. This building is part of the F1 use at no.20.

The site has a PTAL of 3, which means it has moderate access to public transport (on a scale where 1 is extremely poor and 6b is excellent). The closest bus stop on Golders Green is approximately 140m away. Brent Cross Underground Station is located approximately 640m from the site.

The surrounding area is predominantly characterised by residential development. The site does not lie within a Conservation Area and there are no listed buildings onsite. The Golders Green Town Centre is situated further along Golders Green Road which is at the southern end of the road.

2. Site History

18 Russell Gardens

Ref no: W09113A

Description of development: Conversion into two self contained flats

Decision: Refused

Decision date: 5 September 1989

Ref no: C07912A

Description of development: One double-sided, internally illuminated advertising panel.

Decision: Approved subject to conditions

Decision date: 13th May 1987

Ref no: C01925

Description of development: Installation of dormer window and formation of room in roof space.

Decision: Approved

Decision date: 18th April 1968

Reference: 21/6566/FUL

Address: 18 Russell Gardens, London, NW11 9NL

Decision: Approved following legal agreement

Decision Date: 30 November 2023

Description: Change of use from residential to Class F1 use (Learning and non-residential institutions) together with the retention of the existing building at the rear of no.20 Russell Gardens for Class F1 use

20 Russell Gardens

Ref no: 15/03244/FUL

Description of development: Part single part two storey rear extension, two storey side extension, conversion of single dwelling house into 2 no. self-contained flats

Decision: Refused

Decision date: 01.07.2015

Ref no: 16/1781/HSE

Description of development: Single storey side extension following the demolition of the existing sheds

Decision: Approve subject to conditions

Decision date: 01 June 2016

Ref no: 18/7452/191

Description: Certificate of Lawful Development for use as Class D1 (Non residential Institution)

Decision: Lawful

Decision date: 29.03.2019

3. Proposal

This application seeks consent for a change of use from F1 (Learning and non-residential institutions) to C3 (Dwellinghouses)

The site is currently in use as Noa Girls, a charity that provides emotional, practical and therapeutic counselling services to support adolescent girls from the London Orthodox Jewish community. Noa Girls has occupied No. 20 Russell Gardens, from where they have been providing services since 2009. The charity has also been operating out of No. 18 Russell Gardens since September 2020.

The existing facility at Russell Gardens is no longer considered fit for purpose. The charity requires more space to accommodate their existing operations for therapy rooms and waiting areas and has been searching for alternative and more accessible premises for some time. The opportunity has arisen for the charity to purchase an alternative site at Nos 5 and 7 Wykeham Road in Hendon. A separate concurrent planning application for the change of use of Nos 5 and 7 Wykeham Road to Class F1a has been submitted.

4. Public Consultation

Site Notice: 07.12 2023

Consultation letters were sent to 92 neighbouring properties.
No responses were received.

Internal / other consultations:

Highways - No objection

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

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 updated on the 19th December 2023. This is a key part of the Government's 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 (2021)

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 current London Plan which sets out the Mayor's overarching strategic planning framework from 2019 up to 2041 was adopted in March 2021, replacing the London Plan 2016.

Barnet's New Local Plan (Reg 24)

Barnet's Draft Local Plan - Reg 24: The Reg 22 version of the draft new Local Plan was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission, the Local Plan underwent an Examination in Public (Reg 24). The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites.

In order to address issues of legal compliance and deficiencies in soundness the Council has produced Main Modifications to the Local Plan ([LINK](#)). These Main Modifications were approved by Cabinet on March 12th and will now be subject to a period of formal public consultation commencing in May 2024. Whilst the Council moves forward to formal adoption of the Local Plan (subject to the outcome of the public consultation and the Inspectors Report) the Main Modifications shall be considered, in the interim, a relevant material consideration in the Council's decision making on planning applications.

The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of the policies and site proposals in the draft Local Plan and the stage that it has reached.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM08, DM13, DM17

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Loss of community use
- Principle of proposed development
- Impact on the character and appearance of the existing building and the wider locality
- Impact on neighbouring residential amenity
- Highways

5.3 Assessment of proposals

This application has been submitted with the accompanying planning application at 5-7 Wykeham Road, planning reference 23/5070/FUL. It is proposed to relocate the Noa charity currently residing at 18-20 Russell Gardens to the Wykeham Road site. If consent is granted for both applications, then the applicant will convert these properties at Russell Gardens back to residential use, otherwise they will remain in use by the charity. A legal agreement securing the timings of the change of use will be undertaken if the application is approved by Members.

Loss of community use

Policy S1 and S2 of the London Plan (2021) seek to provide and support high quality; inclusive; social infrastructure to meet local needs and support service delivery strategies. Development proposals that result in the loss of social infrastructure (in an area of identified need) should only be permitted where there are realistic proposals for reprovision that continue to serve the neighbourhood and wider or community.

Core Strategy Policy CS10: Enabling inclusive and integrated community facilities and uses, states that;

"The council will work with our partners to ensure that community facilities including schools, libraries, leisure centres and pools, places of worship, arts and cultural facilities, community meeting places and facilities for younger and older people, are provided for Barnet's communities."

Development Management Policy DM13: Community and education uses, notes under point a:

"Loss of community or educational use Loss of community or educational use will only be acceptable in exceptional circumstances where:

i. New community or education use of at least equivalent quality or quantity are provided on the site or at a suitable alternative location."

In this instance, the charity wishes to relocate to the site on Wykeham Road, which has a separate application for change of use from residential to community use (planning reference 23/5070/FUL). Therefore, the existing community use is proposed to be provided at a suitable alternative location in line with policy.

Principle of the proposed development

Policy DM01 of Barnet's Development Management Policies Document DPD (2012) Protecting Barnet's character and amenity notes under point b. "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."

The principle of the return of the existing buildings back to residential use as single family dwellings in this location is considered to be acceptable, as this would have been the original use and is the existing and prevailing character of the street.

Impact on the character and appearance of the existing building; the streetscene and the wider locality

The existing residential character of nos. 18 and 20 Russell Gardens has been retained, and there are no external alterations to either building proposed to facilitate the change of use. The properties have remained in appearance as a pair of semi-detached houses. As such, the proposal would not present any new design considerations, and the proposed use would have an acceptable impact on the streetscene and local area.

Impact on amenity of neighbouring residential amenity

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.

This application is solely for the change of use of the buildings from community back to residential. No external alterations are proposed. The community use did not require any alterations so the buildings have remained with the appearance of single family dwelling houses throughout the community use. The use of each property as a single dwellinghouse is no considered to give rise to harm to amenity, given the character and intensity of occupation would be commensurate with its original use and that of the surrounding area.

Highways

The Local Highway Authority have been consulted for this application and make the following observations;

"This planning application involves returning the properties at Nos 18 and 20 Russell Gardens back to their original, residential use (Use Class C3) from Use Class F1. The proposed development will not negatively impact highways or parking the surrounding area. The proposed change of use is therefore considered acceptable to Highways."

5.4 Response to Public Consultation

No responses received.

6. Equality and Diversity Issues

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- "(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

For the purposes of this planning application, the term "protected characteristic" relates to age; gender; race and religious beliefs, specific to girls and young women within the Jewish Community.

Officers have in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to grant planning permission for this proposed development will comply with the Council's statutory duty under this important legislation.

In terms of any potential negative impacts, the application has attempted to address these through the linking of this proposal to the re-provision of the considerably improved new facilities for the existing community use proposed in the scheme under consideration at 5-7 Wykeham Road. It is suggested that these impacts be addressed through a S106 agreement and that any impacts are unlikely to disproportionately affect any one group with a protected characteristic.

With the S106 and conditions recommended, the proposal is found to accord with Development Plan policies as they relate to the relevant equalities and diversity matters by providing an inclusive approach which creates an improved environment for the operation of the charity that is accessible and would continue to be over the lifetime of the development. The development would therefore have a positive effect in terms of equalities and diversity matters.

It is considered by officers that the submission adequately demonstrates that the development and the approach of the Applicant are acceptable with regard to equalities and diversity matters. 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.

7. Conclusion

Having taken all material considerations into account, it is considered that the proposed development would have an acceptable impact on the character of the application site and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers, or the local highway.

The proposal is considered to accord with the requirements of the Development Plan and is therefore recommended for APPROVAL, subject to conditions and the completion of a legal agreement.

