

Location **Paul May Residential Home 17 Dukes Avenue London N3 2DE**

Reference: **15/03759/S73** Received: 17th June 2015

Accepted: 7th July 2015

Ward: West Finchley Expiry 1st September 2015

Applicant: Miss radlamah canakiah

Proposal: Variation of condition 2 pursuant to planning permission reference C09068 dated 25/06/1986 to read 'The premises shall be used only as supported temporary housing and shall not be used for any other purpose within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987, or for any other purpose whatsoever, without the prior permission of the Local Planning Authority'

Recommendation: Approve subject to conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Additional Information (SENSITIVE), 1 of 2, 2 of 2, Planning Statement, Site Location Plan.

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 The premises shall be used only as supported temporary housing and shall not be used for any other purpose within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987, or for any other purpose whatsoever, without the prior permission of the Local Planning Authority'. After 10/09/2016, the premises shall be used only as an Old Peoples Home and shall not be used for any other purpose within Class C2 of the General Permitted Development Order 2015.

Reason: To enable the Local Planning Authority to maintain control of the use in the interests of neighbouring amenity and the character of the area.

- 3 Before the development hereby permitted is first occupied turning space and parking spaces shall be provided and marked out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and that area shall not thereafter be used for any purpose other than the parking and turning of vehicles.

Reason: To ensure that parking and associated works are provided in accordance with the Council's standards in the interests of pedestrian and highway safety and the free flow of traffic in accordance with Policy CS9 of the Local Plan Core Strategy (adopted September 2012), Policy DM17 of the Local Plan Development Management Policies DPD (adopted September 2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

- 4 The rear staircase shall be used as a fire escape in the event of an emergency only and for no other purpose.

Reason: To safeguard neighbouring amenity.

- 5 When the premises cease to be occupied by Barnet Homes or at the end (of 1 year) whichever shall occur first, the use hereby permitted shall cease [and all materials and equipment brought on to the premises in connection with the use shall be removed].

Reason: To safeguard neighbouring amenity.

- 6 The premises shall not be used for the rehabilitation of persons with past or present dependence on alcohol or drugs, as a hospital, residential school, college or training centre.

Reason: To safeguard the amenities of neighbouring occupiers and enable the Local Planning Authority to maintain control over the use of the premises.

Informative(s):

- 1 In accordance with paragraphs 186 and 187 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.

Officer's Assessment

1. Site Description

The site property is a two storey semi-detached building on the east side of Dukes Avenue.

The surrounding area is predominantly residential in character. The site property is in use as a care home. Numbers 7, 27 and 33 are in use as flats. The remainder of properties are in use as single family dwellinghouses.

2. Site History

C09068 - Change of use to residential care home and erection of a single storey rear extension - Approved – 25/06/1986

C09068A - Single storey front and rear extensions. Roof extension incorporating front gable and rear dormer window to Residential Care Home. – Approved – 01/11/1995

3. Proposal

The proposals are for the variation of condition 2 pursuant to planning permission reference C09068 dated 25/06/1986 to read 'The premises shall be used only as supported temporary housing and shall not be used for any other purpose within Use Class C2 of the Town and Country Planning (Use Classes) Order 1987, or for any other purpose whatsoever, without the prior permission of the Local Planning Authority'.

The condition currently reads:

'The premises shall be used only as an Old People's Home and shall not be used for any other purpose within use class 14 of the Town and Country Planning Use Classes Order 1972 or for any other purpose whatsoever without the prior approval of the Local Planning Authority.'

The Use Classes Order has since been amended and the use as an Old Peoples Home now falls within Use Class C2.

4. Public Consultation

Consultation letters were sent to 77 neighbouring properties.
38 responses have been received, comprising 38 letters of objection.

The objections received can be summarised as follows:

- Applicant has not been transparent about what is proposed
- It is not clear from the application exactly what the change in use will entail or what its consequences will be; a change from an old age home to temporary housing is not clear.
- Application does not say who will be occupying the premises. It could be anyone applying for assistance with temporary housing.
- HMOs are known to have negative consequences for the surrounding neighbourhood.
- Dukes Avenue is a quiet residential street

- the use of number 17 as accommodation for a revolving group of new 6 short-term residents would have a substantial and detrimental effect on the residential amenity of its neighbours
 - It seems inappropriate to site this type of business premises in a quiet residential street
 - With a planned reduction of staff at the property, the application is even more flawed: having fewer staff to look after potentially dangerous lodgers seems like a recipe for disaster.
 - I object to the change of use on two grounds. Firstly, that permission should never have been granted for business use, as a nursing home, in a residential road.
 - Excluding those undergoing 'drug rehabilitation' for instance does not exclude drug users, just as 'ex-offenders' does not rule out current offenders.
- The range of people with difficult conditions or behaviour not excluded from the application is limitless and the application is therefore wide open to abuse.
- The large fire escape at the rear of No.17 directly overlooks the gardens of Nos. 19 and 15, and will inevitably be used as a smoking area in the new development - this will result in intrusion and an unacceptable loss of privacy.
 - Traffic and Parking
 - Current owner has no experience of running such a facility
 - The application says that there is an oversupply of residential care homes in Barnet but the Barnet Housing Strategy predicts a 41% increase in the elderly population which would reverse any perceived oversupply very quickly.

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 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 2015

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 2050. 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.

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, CS4, CS5, CS9.
- Relevant Development Management Policies: DM01, DM02, DM04, DM09, DM17

The Core Strategy in Policy CS4: Providing quality homes and housing choice in Barnet, seeks to provide supported housing to maximise the independence of vulnerable residents including young people, people with disabilities, older people, homeless people and other vulnerable adults.

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

DM04 states that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted. Proposals to locate noise sensitive development in areas with existing high levels of noise will not normally be permitted. Mitigation of noise impacts through design, layout, and insulation will be expected where appropriate.

DM09 states that Housing proposals for older people should:

- help to meet an identified need;
- demonstrate that they will not have a harmful impact on the character and amenities of the surrounding area; and
- be within walking distance of local shops and easily accessible by public transport; and
- provide adequate communal facilities including accommodation for essential staff on site.

DM17 states that the council will expect development to provide parking in accordance with the London Plan standards, except in the case of residential development, where the maximum standards will be:

- 2 to 1.5 spaces per unit for detached and semi detached houses and flats (4 or more bedrooms);
- 1.5 to 1 spaces per unit for terraced houses and flats (2 to 3 bedrooms); and
- 1 to less than 1 space per unit for development consisting mainly of flats (1 bedroom).

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether the principle of the use is acceptable.
- Whether harm would be caused to the character of the general locality;
- Whether harm would be caused to the living conditions of neighbouring residents.
- Whether the proposals would harm highway and pedestrian safety.

5.3 Assessment of proposals

The report to committee is accompanied by an exempt report as the information contained within is considered to be protected under the Data Protection Act 1998.

- Whether the principle of the use is acceptable with regard to the character of the area.

The existing property is in use as an Old Person's Home. It is recognised that this is already a non-conforming use within the area which consists of residential dwellings and some flats. The proposals seek to amend this condition to allow other uses within C2 use class.

The proposals would result in the loss of designated old people's accommodation. There is no objection to this, as there has been a general shift in demand across the borough away from traditional old peoples home to extra care homes and independent living. The preamble to policy CS4 and CS11 of the Adopted Core Strategy support this approach, stating that: 'Our analysis shows there is an oversupply of traditional rented sheltered housing'.

Other possible uses within C2 use class include:

Residential care homes
hospitals
nursing homes
boarding schools
residential colleges
training centres.

It is considered that it would be necessary to add a further condition restricting certain types of use which may be harmful to the character of the area.

Under the proposed use, the property will not be occupied by ex-offenders, young people, rough sleepers or those undergoing drug rehabilitation. Furthermore, secure residential institutions are covered by a separate use class C2A and the proposals would not permit this.

Although it is recognised that the occupiers of the premises will be more transient in their nature than the existing residents it is not considered that this would cause material harm to the amenities of neighbouring residents.

It is considered that, given that previous use of the property, the proposed amendment to the condition would not be likely to cause materially greater harm the character of the area the existing use.

- Whether harm would be caused to the living conditions of neighbouring residents.

The existing building has six bedrooms, a kitchen, lounge, meeting room and a living room. The proposed internal changes are limited to the installation of a new door and a shower. The proposals would not involve any extension to the property.

It is recognised that the existing use to an extent is non-conformant within the area. However it is not considered that the proposals would result in a materially greater intensity of use, and as a result are unlikely to cause harmful noise and disturbance to neighbouring residents.

- Whether the proposals would harm highway and pedestrian safety.

The property benefits from an existing driveway to the front with capacity to park two vehicles. The surrounding streets are within a Controlled Parking Zone (CPZ).

5.4 Response to Public Consultation

- Applicant has not been transparent about what is proposed *It is considered that there is adequate information to assess the application. Conditions are suggested to ensure that the proposals do not harm the character of the area.*

- It is not clear from the application exactly what the change in use will entail or what its consequences will be; a change from an old age home to temporary housing is not clear. *Conditions are suggested to ensure that the use of the property does not harm the character of the area or neighbouring amenity.*

- Application does not say who will be occupying the premises. It could be anyone applying for assistance with temporary housing. *Conditions are suggested to ensure that the proposed use would fit acceptably within the character of the area*

- HMOs are known to have negative consequences for the surrounding neighbourhood. *The proposals are not for a HMO which falls in a different use class. The proposals are for C2 use class as a residential institution.*

- Dukes Avenue is a quiet residential street *Noted and this is considered in the main report*
- the use of number 17 as accommodation for a revolving group of new 6 short-term residents would have a substantial and detrimental effect on the residential amenity of its neighbours *It is not considered that the proposed use would have a materially greater impact on neighbouring amenity than the existing use*

- It seems inappropriate to site this type of business premises in a quiet residential street *It is recognised that the proposals are to an extent out of character but no more so than the existing use*

-With a planned reduction of staff at the property, the application is even more flawed: having fewer staff to look after potentially dangerous lodgers seems like a recipe for disaster. *It is considered that the proposed staff would be adequate for the operation of the premises*

- Permission should never have been granted for business use, as a nursing home, in a residential road. *As a matter of fact, the existing use is lawful and cannot be rescinded.*

- Excluding those undergoing 'drug rehabilitation' for instance does not exclude drug users, just as 'ex-offenders' does not rule out current offenders. *It is not possible to ever stop such people from living within a given property, but the applicant has undertaken to ensure that the site is not expressly used for these purposes*

The range of people with difficult conditions or behaviour not excluded from the application is limitless and the application is therefore wide open to abuse. *It is considered that conditions can adequately control the use of the property*

- The large fire escape at the rear of No.17 directly overlooks the gardens of Nos. 19 and 15, and will inevitably be used as a smoking area in the new development - this will result

in intrusion and an unacceptable loss of privacy. *The fire escape is a feature of the existing property. A condition is suggested to ensure that this is only used for access purposes.*

- Traffic and Parking Addressed in the main report.

- Current owner has no experience of running such a facility The applicant is Barnet Homes. In any event, this is not a reason to withhold permission

- The application says that there is an oversupply of residential care homes in Barnet but the Barnet Housing Strategy predicts a 41% increase in the elderly population which would reverse any perceived oversupply very quickly. Addressed in main report – there is currently an oversupply of this form of housing.

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 obligation the term “protected characteristic” includes:

- age;

- disability;

- gender reassignment;

- pregnancy and maternity;

- race;

- religion or belief;

- sex;

- sexual orientation.

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.

The proposals would provide supported temporary accommodation.

The proposals would result in the loss of a residential care home for the elderly with 6 rooms. It is considered that, there is an oversupply of this form of accommodation and that there is adequate provision in Barnet to meet demand. It is therefore considered that the loss of the accommodation would not be contrary to the Equalities Act 2010.

The proposed temporary supported accommodation would meet identified demand within the Borough and would have a positive impact in this regard.

It is not considered that the use of the premises as temporary supported accommodation would have a negative impact on neighbouring residents.

7. Conclusion

The proposal is considered to accord with the requirements of the Development Plan and is therefore recommended for approval.

