

Location **Fairlawn 11 Capel Road Barnet EN4 8JD**

Reference: **16/0955/RCU** Received: 15th February 2016
Accepted: 16th February 2016

Ward: East Barnet Expiry 12th April 2016

Applicant: Mr Ray Gabriele

Proposal: New two storey detached building with rooms in roof space containing 5 self-contained flats, associated car parking, amenity space, cycling storage, refuse & recycle storage area (Retrospective Application) (Amended Plans)

Recommendation: Approve subject to conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: 3011-48/P004 RevA; 3011-48/P005 RevA; 3011-48/P006 RevA; PL A 13; PL A 15; PL A 17; PL A 1; 3011-48/P001; 3011-48/P001 RevA; 3011-48/P002; 3011-48; 3011- 48/P003; landscape management plan TH1322.

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 All work comprised in the approved scheme of landscaping drawing 3011-48/P001 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.

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.

The site will be maintained in accordance with the landscape management plan reference TH 1322.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD

(adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 7.21 of the London Plan 2015.

- 3 Before the development is first occupied parking spaces should be provided in accordance with submitted drawings 3011-48/P001. The parking spaces should be retained thereafter and used only for parking in connection with the approved development.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles in the interests of pedestrian and highway safety and the free flow of traffic in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 4 Before the building hereby permitted is first occupied the proposed window(s) in the side elevation facing number 11 Capel Road shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted April 2013).

- 5 The property shall be used as self-contained units as shown in the hereby approved drawings under Class C3(a) and no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason: To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

- 6 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 pm on other days.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policy DM04 of the Development Management Policies DPD (adopted September 2012).

- 7 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.

- 8 Prior to the first occupation of the new dwellinghouses (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of

105 per head per day or less. The development shall be maintained as such in perpetuity thereafter.

Reason: To encourage the efficient use of water in accordance with policy CS13 of the Barnet Core Strategy (2012) and policy 5.15 of the London Plan (2015)

- 9 The development shall be implemented in full accordance with the details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins as shown on drawing prior to the first occupation and retained as such thereafter.

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).

- 10 Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent the ground floor units shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.

Reason: To ensure the development meets the needs of its future occupiers and to comply with the requirements of Policies 3.5 and 3.8 of the March 2016 Minor Alterations to the London Plan and the 2016 Mayors Housing SPG.

- 11 Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 25 % in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

Reason: To ensure that the development is sustainable and minimises carbon dioxide emissions and to comply with the requirements of policies DM01 and DM02 of the Barnet Development Management Policies document (2012), Policies 5.2 and 5.3 of the London Plan (2015) and the 2016 Mayors Housing SPG.

- 12 a) Notwithstanding details already submitted, the site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of

traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

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.
- 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.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. Your planning application has been assessed at this time as liable for a £13597.50 payment under Mayoral CIL.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge. Your planning application has therefore been assessed at this time as liable for a £52447.50 payment under Barnet CIL.

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.

Relief or Exemption from CIL:

If social housing or charitable relief applies to your development or your development falls within one of the following categories 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 can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk

Please visit <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> for further details on exemption and relief.

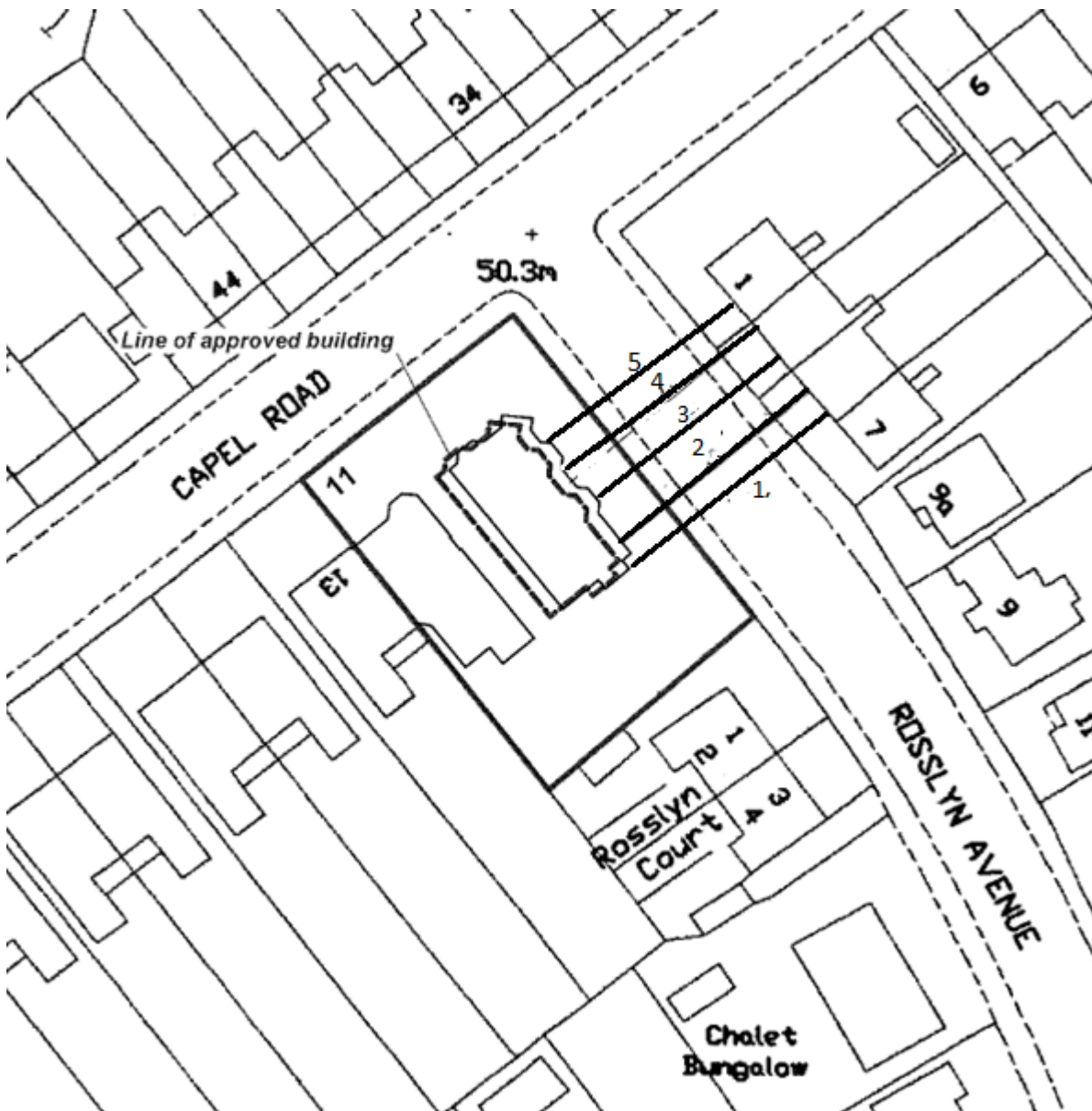
- 3 Any new crossovers or amendments to existing crossovers will be subject to detailed survey assessment by the Highways Authority as part of the application for crossover under the Highways Act 1980 and would be carried out at the applicant's expense and will require submission of a vehicle crossover application to London Borough of Barnet, NLBP, Building 4, 2nd Floor, Oakleigh Road South, London N11 1NP. Any street furniture affected by the proposed crossover would be relocated at the applicant's expense.

Officer's Assessment

Member's will recall that the application was deferred at the last committee meeting :

“so that accurate measurements can be reported back to the Committee in respect of the distance between the habitable rooms in the block and the existing residential properties opposite the site in Rosslyn Avenue, prior to a decision being taken.”

The measurements have been undertaken as instructed and are shown below:



FIRST FLOOR

- 1 – Recessed window to main wall window of no.5 Rosslyn Ave = 21.95m
- 2 – Window to bay window of no.5 = 20.2m
- 3 – Bay window to bay window no.3 Rosslyn Avenue = 19.2m
- 4 – Recessed window to main wall window of no.3 = 20.7m
- 5 – Bay window to bay window of no.1 = 19.06m

LOFT FLOOR

- Dormer window to bay window of no.3 = 21.2m
- Dormer window to main wall window = 21.6m

As can be seen from the above plan the neighbouring properties opposite the site and the application building splay away from each other which results in a variation of distances between the buildings. Whilst not shown on the OS base plan the properties at 1-7 Rosslyn Avenue benefit from original front bay windows. As can be seen "pinch points" arise in the bay to bay distances at ground and first floor level.

It is acknowledged that the ground and first floor bay window distances are less than the 21m as recommended in Barnet's Residential Design Guidance SPD 2016 which states that " In new residential development there should be a minimum distance of about 21 metres between properties with facing windows to habitable rooms to avoid overlooking, and 10.5 metres to a neighbouring garden. Shorter distances may be acceptable between new build properties where there are material justifications."

To this end it is considered that although the 21m separation distance is not achieved in all the windows facing towards Rosslyn Avenue, this measurement is guidance only and as the document indicates there may be material justifications where shorter distances are acceptable.

The minimum distances are predominately those between the bay windows in the new block and the bay windows of no.s 1 and 3 Rosslyn Avenue, opposite and measure 19m and 19.2m respectively. Whilst less than the recommended distance it is considered that the potential overlooking is mitigated by the retention of the existing tree screen along the sites boundary with Rosslyn Avenue. It is not considered that the relationship between the fronts of the buildings in question is such that the neighbouring residents privacy is prejudiced to an unacceptable degree such as to warrant the refusal of the permission sought especially as these frontages form part of the wider public domain. The privacy of the rear gardens of the neighbouring properties 1-7 Rosslyn Avenue remain unaffected. In addition, it is not uncommon for frontage distances between properties to be less than 21m. The building as it exists has been constructed at a distance of 3.7m from the east flank wall of no.11 Capel Road as opposed to 2.5m approved under the previous application 15/02102/FUL. A difference of 1.2m. Whilst this has resulted in the building being closer to the Rosslyn Avenue boundary leaving a gap of between 3.7m and 4.5m (due to the splay) and consequently the neighbouring properties opposite, it is not considered that this results in the building detracting from the character and appearance of the area.

It is not considered the development results in overlooking or loss of privacy such as to warrant refusal and does not outweigh the benefits arising from the development which results in an additional five units to the boroughs housing supply.

Accordingly, approval is recommended.

The previous report is attached as an appendix.

Appendix:

Location	Fairlawn 11 Capel Road Barnet EN4 8JD	
Reference:	16/0955/RCU	Received: 15th February 2016 Accepted: 16th February 2016
Ward:	East Barnet	Expiry 12th April 2016
Applicant:	Mr Ray Gabriele	
Proposal:	New two storey detached building with rooms in roof space containing 5 self-contained flats, associated car parking, amenity space, cycling storage, refuse & recycle storage area (Retrospective Application) (Amended Plans)	

Recommendation: Approve subject to conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: PL A 1; PL A 3; PL A 5 ; PL A 6 ; PL A 7 ; PL A 9 ; PL A 11 ; PL A 13; PL A 15; PL A 17; 3011-48/P001; 3011-48/P003; TH 1322; OMC/1254/15 RevC; 3011-48/P001; 3011-48/P002; maintenance programme TH 1322.

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 All work comprised in the approved scheme of landscaping drawing 3011-48/P001 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.

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.

The site will be maintained in accordance with the landscape management plan reference TH 1322.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 7.21 of the London Plan 2015.

- 3 Before the development is first occupied parking spaces should be provided in accordance with submitted drawings OMC/1254/15 RevC. The parking spaces should be retained thereafter and used only for parking in connection with the approved development.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles in the interests of pedestrian and highway safety and the free flow of traffic in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 4 Before the building hereby permitted is first occupied the proposed window(s) in the side elevation facing number 11 Capel Road shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted April 2013).

- 5 The property shall be used as self-contained units as shown in the hereby approved drawings under Class C3(a) and no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason: To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

- 6 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 pm on other days.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policy DM04 of the Development Management Policies DPD (adopted September 2012).

- 7 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.

- 8 Prior to the first occupation of the new dwellinghouses (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of 105 per head per day or less. The development shall be maintained as such in perpetuity thereafter.

Reason: To encourage the efficient use of water in accordance with policy CS13 of the Barnet Core Strategy (2012) and policy 5.15 of the London Plan (2015)

- 9 The development shall be implemented in full accordance with the details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins as shown on drawing prior to the first occupation and retained as such thereafter.

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).

- 10 Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent the ground floor units shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.

Reason: To ensure the development meets the needs of its future occupiers and to comply with the requirements of Policies 3.5 and 3.8 of the March 2016 Minor Alterations to the London Plan and the 2016 Mayors Housing SPG.

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.
- 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.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. Your planning application has been assessed at this time as liable for a £13597.50 payment under Mayoral CIL.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge. Your planning application has therefore been assessed at this time as liable for a £52447.50 payment under Barnet CIL.

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.

Relief or Exemption from CIL:

If social housing or charitable relief applies to your development or your development falls within one of the following categories 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 can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk

Please visit <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> for further details on exemption and relief.

- 3 Any new crossovers or amendments to existing crossovers will be subject to detailed survey assessment by the Highways Authority as part of the application for crossover under the Highways Act 1980 and would be carried out at the applicant's expense and will require submission of a vehicle crossover application to London Borough of Barnet, NLBP, Building 4, 2nd Floor, Oakleigh Road South, London N11 1NP. Any street furniture affected by the proposed crossover would be relocated at the applicant's expense.

Officer's Assessment

1. Site Description

The development site is a corner location on the southern side of Capel Road in the ward of East Barnet. The site fronts both Capel Road and Rosslyn Avenue. There is a gradient difference between the location of the new building and the existing property at no. 11, and the slope falls towards the east of the site, towards Rosslyn Avenue. The area around Capel Road is characterised predominately by semi-detached and terraced properties, which are Edwardian in style, whilst the area in the wider area, particularly along Rosslyn Avenue is more mixed and includes detached buildings and flats. The site is not within a conservation area and is not a listed building.

Building works have been commenced and as such a two storey building with rooms in the roof space has been developed on the site on the corner with Rosslyn Avenue and Capel Road. The front entrance to the building is sited on Rosslyn Avenue. Final landscaping works are yet to be completed. The building is not currently occupied.

2. Site History

Reference: 15/02102/FUL

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Approved subject to conditions

Decision Date: 2 July 2015

Description: Erection of new two storey building with dormer windows containing 5 self-contained flats to include rooms in the roof space, associated car parking, amenity space, cycling storage, refuse & recycle storage area

Reference: 15/04902/RCU

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Approved subject to conditions

Decision Date: 2 October 2015

Description: Retention of blocked up 3 ground floor windows to east elevation (retrospective application)

Reference: 15/05713/CON

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Approved

Decision Date: 2 November 2015

Description: Submission of details for condition 3 (Levels) pursuant to planning permission 15/02102/FUL dated 16/6/15

Reference: 15/05879/CON

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Approved

Decision Date: 2 November 2015

Description: Submission of details of condition 15 (refuse) pursuant to planning permission 15/02102/FUL dated 16/05/15

Reference: 15/06622/CON

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Approved

Decision Date: 10 December 2015

Description: Submission of details for condition 5(landscaping) and 9(means of enclosure) pursuant to planning permission 15/02102/FUL dated 16.06.2015

Reference: B/04942/14

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Approved

Decision Date: 15 October 2014

Description: Submission of details of condition 6 (Refuse) pursuant to planning permission B/02649/14 dated 10/07/14.

Reference: B/03912/14

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Refused

Decision Date: 15 September 2014

Description: Erection of new two storey building with rooms in roof space containing 5 self-contained flats., Single storey rear extension and insertion of side and rear dormer windows to existing building to form new studio flat., Associated car parking, amenity space, cycling storage, refuse & recycle storage area.

Appeal dismissed 31 December 2014.

Reference: B/03222/13

Address: Fairlawn, 11 Capel Road, Barnet, EN4 8JD

Decision: Refused

Decision Date: 24 September 2013

Description: Erection of a detached two-storey building with rooms in roof space to provide 6 self-contained units. Extension to existing house including single storey rear extension to extend existing self-contained unit. Extension to roof including hip to gable end and roof lights to front and rear elevation to provide 1 extra self-contained unit. Demolition of existing garage and erection of cycle storage unit and refuse unit with associated parking and access works.

Appeal dismissed 22 April 2014.

3. Proposal

The current application relates to the retention of a two storey detached building with rooms in roof space containing 5 self-contained flats, associated car parking, amenity space, cycle storage, refuse & recycle storage area (Retrospective Application). Significant works have already been carried out and the building is now complete, however, the building is not yet occupied and landscaping works to the site still need to be carried out.

Planning permission was granted at committee June 2015 under application 15/02102/FUL for the "Erection of new two storey building with dormer windows containing 5 self-contained flats to include rooms in the roof space, associated car parking, amenity space, cycling storage, refuse & recycle storage area." This followed the refusal of 2 previous applications , both dismissed at appeal.

Whilst planning permission was granted, the development has not been implemented in accordance with the approved plans. The building has not been built in compliance with the previously approved plans as approved under 15/02102/FUL. As such permission is

now sought for the retention of the building as built. The difference between the previously approved scheme and the current building is that the building is set further forward on Rosslyn Avenue by approximately 1.1m.

The building is two storeys in height with accommodation in the roofspace.

The building has a maximum width of 19.5m and a depth of 8.6m. The building has a height of 10.7m. Bay windows are incorporated in the north, south and east elevations. Dormer windows are sited on the east elevation.

2 parking spaces are to be provided off Rosslyn Avenue and 1 parking space off Capel Road, as per the previously approved scheme. This element of the works has not been implemented yet.

As previously approved the building comprises of 5 self contained flats - 3 x 2 bedroom units and 2 x 1 bedroom units. This is made up of 2 x ground floor units, 2 x first floor units and a loft floor unit with dormers facilitating light and outlook to this unit.

The application has been amended since its initial submission to re-site the pedestrian access to the building. The initial proposal saw a separate pedestrian access being provided directly in front of the front entrance to the building off Rosslyn Avenue. The application has now been amended and the plans revised to show the pedestrian access to be shared with the vehicular access and will revert to the access that was previously shown on the plans provided at the appeal stage and to which the inspector raised no objections, this same parking arrangement was also shown on the previously approved plans as part of the later planning application 15/02102/FUL.

4. Public Consultation

Consultation letters were sent to 123 neighbouring properties.

15 responses have been received, comprising 21 letters of objection.

Two rounds of consultation were carried out as the plans were amended during the life of the application to provide more detailed information on the landscaping, accurate position of the building and details of the cycle and refuse enclosures. The second round of consultation largely re-iterated the objections already raised during the initial round of consultation.

The objections received can be summarised as follows:

First round of consultation

Objected at the start of process.

Construction of property in contravention of consent conditions make it unacceptable.

Trust and integrity is put into question.

Cavalier attitude of developer,

No space for parking. Increased traffic and parking demand.

Building is too large. Out of scale. Appearance, scale, mass and height are out of keeping.

Too close to neighbouring property.

Previous application was over ambitious.

Last application should not have been approved.

Previous concerns have been ignored.

Farce to allow retrospective application.

Insufficient space for parking of 3 vehicles.

Why are we back at the start of the process again

Inconsiderate workers during works.

Loss of amenity - privacy, outlook, light, blocking out of winter sun.
Out of character.
New estate in garden area.
Overdevelopment.
Impossible to retain trees along boundary. Loss of trees and vegetation has already occurred.
Looks too urban.
Not in compliance with national and local policies.

Second round of consultation - new issues not already summarised above

Parking space from Capel Road is not large enough to accommodate vehicle.
Lack of space for bins for a development this size.

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 2016

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, CS5.
- Relevant Development Management Policies: DM01, DM02, DM17.

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.

Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)

- The SPD states that large areas of Barnet are characterised by relatively low density suburban housing with an attractive mixture of terrace, semi detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.

Sustainable Design and Construction SPD (adopted October 2016)

- 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 harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Amenities of future residents;
- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment of proposals

Planning permission has previously been approved at committee 16 Jun 2015 for the "Erection of new two storey building with dormer windows containing 5 self-contained flats to include rooms in the roof space, associated car parking, amenity space, cycling storage, refuse & recycle storage area" under application reference 15/02102/FUL. This application was approved subject to conditions. Various applications have subsequently been approved for the discharge of conditions under references 15/06622/CON, 15/05879/CON, 15/05713/CON, 15/04706/CON and 15/04565/CON. As such all the pre-commencement conditions were approved but that planning permission has not been implemented and as such permission is now sought for its retention. Details which would have been covered in the previous conditions applications are provided as part of the current submission details.

The property is built approximately 1.1m further forward towards Rosslyn Avenue than the approved plans. As such a new application has been submitted for the retention of the building as built. The previously approved plans had a common access from the car parking area with pedestrian footpath leading to the main entrance of the building. The revisions to the application since its initial submission show this common access to be maintained. Given that this access has previously been accepted there are no objections to this revision. In addition, the revision allows the existing trees along Rosslyn Avenue to be retained and will provide a suitable level of screening between the new building and the streetscene.

Other than the re-positioning of the whole building and the creation of a separate pedestrian access the building remains the same as the previously approved plans in

regards to scale, bulk and height. The building provides the same internal layout of the building facilitating the creation of 5 self-contained flats.

The main considerations in this case are the position of the building within the site and the forward projection of approximately 1.1m from the previously approved front building line and whether or not this results in harm to the streetscene, established building lines and the appearance of the site of which it forms a part. In addition, due consideration is given to any potential impact on the neighbouring residents as a result of the position of the building as now developed.

The siting forward closer to the boundary with Rosslyn Avenue is not considered to disrupt the established building line of this street. A set back from the boundary will be maintained of between 3.3m and 4m, this is considered a sufficient set back to ensure that the proposal does not appear overbearing on the street.

Although the building sits closer to the properties 1-7 Rosslyn Avenue than the building previously consented it is considered that there is still a satisfactory distance maintained between the new windows and the existing windows in the neighbouring buildings at approximately 21m. Barnet's Residential Design Guidance SPD recommends in new residential development there should be a minimum distance of 21 m between properties with facing windows to habitable rooms to avoid overlooking, and 10.5 m to a neighbouring garden. The development is consistent with this requirement. The development is considered to be appropriate in terms of the impact on the properties facing Rosslyn Avenue.

Principle of self-contained flats

As described above planning permission has previously been granted at the site for 5 self-contained flats. The current application seeks to retain 5 flats as per the previous permission. Previous applications for development at the site (ref B/03912/14 and B/03222/13), were appealed to the Inspectorate (ref: APP/N5090/A/14/2226158 and APP/N5090/A/13/2207101 respectively), and were both dismissed. It was advised by the inspector of the latter appeal that the principle of flats on the site was considered to be acceptable. The decision states: "The proposed development would see the provision of new flats within the area, and I acknowledge that this would lead to the more effective use of land for housing. I also note that the Inspector determining a previous appeal on this site (ref. APP/N5090/A/13/220701) commented that the character of the area is mixed and her letter raised no 'in principle' objection to flats on the site. I concur with this observation."

The principle of self-contained flats in this location is therefore considered to be acceptable as confirmed by the grant of planning permission reference 15/02102/FUL.

Amenity of future residents

The amended footprint is not considered to affect the amenities of the future occupiers and as such the previous assessment is considered to remain valid.

The size of the units are considered to meet the requirements residential space standards outlined in Table 2.1 in the councils Sustainable Design and Construction SPD. The minimum room dimensions and floor areas for living rooms are considered to meet the recommended guidelines outlined in Table 2.2 within the aforementioned SPD.

The development results in the loss of part of the existing garden, and in accordance with Table 2.3 in the aforementioned SPD, flats require 5sqm of amenity space per habitable

room. (The SPD defines habitable room as 'A room within a dwelling, the primary purpose of which is for living, sleeping or dining, including kitchens where the total area is more than 13m² (including fittings), or the dining space if it is divided from the working area by a moveable partition. Rooms exceeding 20m² will be counted as two.'). The development provides spaces for outdoor amenity within the curtilage of the building. As described previously by the inspector, "although the garden spaces would not be large, in my view they would provide adequate communal spaces for normal domestic activities such as hanging washing outside to dry or to sit and enjoy the outdoor environment.. I am satisfied that acceptable outdoor amenity space would be provided" . It is considered that the development aligns with the objectives of councils outdoor amenity space policy.

Part 2.4 in the councils aforementioned SPD advocates that residential units have suitable access to outlook, daylight and privacy. It is considered that the development will provide sufficient aspect and outlook for all habitable rooms, and the proportion of glazing in each room will enable good levels of daylight for future residents. In addition, the siting and position of the building is considered to be distant enough from adjoining dwellings to ensure that overlooking and loss of privacy will not harm the amenity of future residents.

Character and appearance

It is considered that the overall design, including the height, width, length of the building, the roof form and overall fenestration which takes references in terms of bay windows and the pitch of the roof, from nearby buildings in Capel Road, would appear sympathetic to the character of the area and is in accordance with the scheme previously granted planning permission. Officers consider that no character and appearance issues are raised as a result of the amended building footprint closer to Rosslyn Avenue.

The materials used are considered to be acceptable comprising of rendered walls, red tile roof and white upvc double glazed windows. As seen on site the building is considered to be acceptable and relates well to the surrounding buildings in terms of the materials used.

The levels across the site and the levels of the building on site are considered to be acceptable and the building is in keeping with the established levels and heights of surrounding buildings.

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

As addressed above the amended scheme is not considered to give rise to any new amenity issues. There is still considered to be a sufficient distance between the new building in particular the facing windows towards Rosslyn Avenue.

Parking

The parking arrangement has not changed since the previous approval, 3 parking spaces are to be provided.

Due consideration was made of the parking arrangements as part of the previously approved scheme. There are no material matters which have arisen since the previous decision that would change the consideration of the parking arrangements. As per the previous report:

"The development includes 3 off street parking spaces, two spaces provided off Rosslyn Avenue, and one space provided off Capel Road. As per the most recent appeal statement (APP/N5090/A/14/2226158), in which the scheme included 3 off street parking spaces

(provided off Rosslyn Avenue), the planning inspector advised "the previous appeal would have seen flats on the site with similar parking provision, and my colleague Inspector concluded there would be sufficient on street parking and that no harm to highway safety would occur. Based on the information before me, I concur that there would be sufficient on-street parking provision and no harm to highway safety". Therefore, based on these comments by the Inspector, the Local Planning Authority accepts the proposed 3 off street parking spaces at this site to be satisfactory."

Concerns have been raised by neighbouring occupiers that the parking space off Capel Road is not big enough to accommodate a car. From the measurements provided and a judgement made on site it is considered that the parking space is feasible and usable once changes are made to the access point. Based on the current set of plans for the retention of the building and the plans submitted as part of the previous appeal the car parking space is sufficient for the parking of a vehicle and no previous concerns have been raised by either the planning officer or the appeal inspector. The new position of the building as now on site is not considered to make this parking space unviable for use.

Landscaping

The application has been assessed by the Council's tree officer who has visited the site to assess the works already undertaken and the impact on the landscaping to the site, in particular any impact on the existing trees. The officer is satisfied that the building works have not resulted in harm to the trees on site and the trees remain in good health. In addition, the landscaping proposals have been considered and the officer is satisfied that there is sufficient and appropriate landscaping. The revised landscape plan 3011-48/P001 showing three trees; 1 Cercis (Judas tree) and 2 prunus (fruit tree) to be planted along the flank wall and along with the other specified landscaping will suitably soften the new development into the existing streetscape. An ongoing maintenance plan is provided as part of the submission, this has been reviewed and is considered acceptable, this is to be secured by way of condition to ensure the management of the site complies with the details as specified within the report.

The as built structure is located outside the RPA of the retained London plane trees along Rosslyn Ave. These are managed as pollards at around 3 to 4m high.

The landscaping scheme provides for adequate soft landscaping around the building, species selected are suitable for the position. A grass area is proposed between the building and the boundary hedge.

Refuse and cycle parking

The siting of the refuse/recycling bins and cycle parking have been provided adjacent to Rosslyn Court. The enclosures and provision is considered to be suitable and sufficient.

Accessibility

The proposal is accompanied by details of how the development has been designed to be wheelchair accessible to the ground floor flats with ramped access from the vehicle parking spaces and pedestrian access. Measures such as provision of turning circles free from obstruction, provision of suitable stair rises and railings have been incorporated. The development also includes accessible fixtures and fittings including switches, sockets and ventilation and service controls.

The Council's building control team have reviewed the application and consider it would be unreasonable to expect a lift shaft to be provided taking into account the number of units

provided and the fact that other measures are incorporated to make the upper units suitable for those with ambulant disabilities.

5.4 Response to Public Consultation

All planning related matters are considered to be covered in the above appraisal.

It is acknowledged that the development did not accord with the previously approved plans. The purpose of this retrospective application is to formalise the development as built on the current footprint.

Planning legislation does not prevent the submission of retrospective applications. There is nothing to prevent the current retrospective application from being considered. The purpose of the retrospective application is to rectify the breach of the previous permission.

Inconsiderate workers would not fall under planning legislation but would need to be reported to the environmental health team.

The application has been amended since its initial submission to remove the separate pedestrian access and provide a common entrance as per the previously approved plans. The access will be wheelchair friendly and will ensure the ground floor units are wheelchair accessible.

The application has also been amended to provide additional planting along the frontage with Capel Road to provide additional screening and provide an enhanced landscaping scheme for the site. A 5 year maintenance plan has also been provided.

6. Equality and Diversity Issues

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

7. Conclusion

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

