

Location **71 Vivian Avenue London NW4 3XE**

Reference: **17/0149/FUL** Received: 11th January 2017
Accepted: 19th January 2017

Ward: West Hendon Expiry 16th March 2017

Applicant: Ms B. Friedman

Proposal: Demolition of existing building and construction of a new two storey detached building with rooms in the roofspace and basement with lightwells to front, side and rear to provide 7no. self-contained flats. Single-storey outbuilding to the rear to be used as a gym. Associated amenity space and refuse storage and provision of 2no. off-street parking spaces to the front

Recommendation: Approve subject to conditions

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

Proposed Plans and Elevations by Tal Arc Ltd, Dwg No. 71VA-PP7-03

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 a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the

safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation in accordance with policies CS NPPF, CS1, CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012), Policies DM01, DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), and Policies 7.4, 7.5, 7.6 and 7.21 of the London Plan 2015.

- 4 a) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in full accordance with the details as approved under this condition 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).

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

Reason: To protect the amenities of future and neighbouring residential occupiers in accordance with Policies DM02 and DM04 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

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

Reason: To ensure that the amenities of the occupiers of adjoining properties are not prejudiced by overlooking in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 7 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.

- 8 Before the development hereby permitted is occupied, the existing parking shall be retained in accordance with the submitted planning application. Thereafter, the parking spaces shall be used only as agreed and not be used for any purpose other than the parking and turning of vehicles in connection with 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.

- 9 The approved development shall make provision for cycle parking spaces in accordance with London Plan Cycle Parking Standards. Details of such spaces shall be submitted to and approved by the Local Planning Authority and provided prior to first occupation and retained thereafter.

Reason: In the interests of promoting cycling as a mode of transport 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.

- 10 Prior to the first occupation of the new dwellinghouse(s) (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 that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. 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 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 6% 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 The use of the outbuilding hereby permitted shall at all times be ancillary to and occupied in conjunction with the main building and shall not at any time be occupied as a separate unit or dwelling.

Reason: To ensure that the development does not prejudice the character of the locality and the amenities of occupiers of adjoining residential properties in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 13 a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
- c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development 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.

- 14 a) Before the development hereby permitted is first occupied, details of the sub-division of the amenity area(s) shall be submitted to and approved in writing by the Local Planning Authority.
- b) The development shall be implemented in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

- 15 Before the building hereby permitted is first occupied the proposed window(s) in the first and second floor flank elevations facing 69 and 73 Vivian Avenue 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).

- 16 a) No development or site works shall take place on site until a 'Demolition & Construction Method Statement' has been submitted to and approved in writing by, the Local Planning Authority.

The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure

or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution.

b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.

Reason: In the interests of highway safety and good air quality in accordance with Policies DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and Policy 5.21 of the London Plan (2015).

- 17 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).

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 £7070 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 £27270 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 The applicant is advised that the provisions of The Party Wall etc. Act 1996 may be applicable to this scheme. This relates to work on an existing wall shared with another property; building on the boundary with a neighbouring property; or excavating near a neighbouring building. Further information can be found at <https://www.gov.uk/party-wall-etc-act-1996-guidance>.

Officer's Assessment

1. Site Description

The property previously featured a two storey detached single dwelling, close to its junction with Sevington Road. Following implementation of planning consent 15/03894/FUL for a flat conversion, structural issues were encountered and the building was subsequently fully demolished. Hence, the property is currently a demolition site. The previous house was not a Local or Statutorily Listed Building and the site is not within a Conservation Area.

2. Site History

Reference: 14/07466/PNH

Application type: Prior Notification

Decision: Prior Approval Required and Refused

Decision Date: 23 December 2014

Description: Single storey rear extension with a proposed depth of 7.450 metres from original rear wall, eaves height of 3 metres and maximum height of 3 metres

Reference: 15/00299/HSE

Application type: Householder Application

Decision: Approved subject to conditions

Decision Date: 7 April 2015

Description: Part single, part two storey rear extension. First floor side extension

Reference: 15/03894/FUL

Application type: Full Application

Decision: Approved subject to conditions

Decision Date: 22 September 2015

Description: Part single, part two storey rear extension. First floor side extension.

Conversion of existing garage into a study. Construction of basement with rear, front and side lightwells

Reference: 16/1744/FUL

Application type: Full Application

Decision: Prior Approved subject to conditions

Decision Date: 7 October 2016

Description: Conversion of the building into 7no. self-contained flats following a part single, part two storey rear extension and first floor side extension. Extension to roof including dormer windows to side and rear elevations and rooflight window to front. Conversion of existing garage into a habitable space. Construction of basement with rear, front and side lightwells

The applicant has provided a letter from Martin Redston Associates (Consulting Civil and Structural Engineers) dated 17 November 2016 that states the following:

"We are writing to confirm that as a matter of urgency we inspected the remaining left hand side and front flank of the building. As discussed it had been intended that you retain these structural elements at the above site. Our observations verified that the brick walls are badly crack and distorted and could collapse at any time. Therefore in their present condition, they should be demolished for safety of site personal and members of the

public. We look forward to receiving confirmation that this operation has been completed at the earliest opportunity".

It is understood that this led to the ultimate demolition of the remainder of the building. Notwithstanding this, given that the building is not within a Conservation Area the demolition would be permitted development under Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, it is acknowledged that a condition of this permitted development is the requirement to notify the Local Planning Authority (LPA) as soon as possible when the safety issue is identified. On 28 November 2016 a complaint was received about the demolition (LPA ref# ENF/01454/16). Ultimately this led to the submission of the subject application on 11 January 2017 whereby the Council officially received notice about the demolition, albeit not strictly in accordance with the GPDO.

3. Proposal

The applicant proposes to demolish the existing building, albeit this has already commenced under the GPDO, then the construction of a new two-storey detached building to provide 7 self-contained flats, featuring a single-story outbuilding (gym), associated amenity space, refuse storage, and car parking. It should be noted that the ultimate proposal is similar to that consented under 16/1744/FUL.

4. Public Consultation

83 consultation letters were sent to neighbouring properties.

38 objections and 42 letters of support have been received as at 23 February 2017.

The views of objectors can be summarised as follows:

- Building has been demolished without planning consent
- The proposed gym building is being lived in
- There are concerns about on-going damage to neighbouring properties from construction
- The applicant has a history of retrospective planning applications and non-compliance
- 7 flats is over-development on this site
- Adverse impacts from construction traffic
- The provision of car parking is inadequate
- The proposed refuse storage is unsightly and unsafe
- The building should be rebuilt for a single family home
- The public notice was tampered with twice during consultation
- The current build as progressing does not reflect the current proposal
- The building may ultimately be used for more than 7 flats
- The construction has not been stopped in lieu of an implementable planning consent
- The build commenced without pre-commencement conditions being satisfied
- The process (i.e. applications for house extensions) to arrive at a flat conversion was misleading
- Dust and mud from the demolition has not been adequately contained
- It is unclear how finished levels will be determined
- No further consent should be given to enlarge the house
- The existing house was structurally sound and did not need to be demolished
- The removal of trees and shrubs from the rear garden has caused biodiversity loss

- The flats do not provide a quality living environment for future occupiers
- The building is out of character with the street
- The finished building will have adverse impacts on neighbour's amenity
- It is unclear how Council will guarantee compliance in the future
- The development sets an unfavourable precedent
- The proposal drawings are deficient in detail as they do not show front or rear boundaries
- The current application is not the same as the previous insofar that it is retrospective
- It is not appropriate to apply for planning permission in retrospect
- Vivian Avenue cannot accommodate additional traffic
- It is unclear when the building inspector condemned the house as unsafe
- The building contractor appears to be working out of hours

It is noted that the Council has received a number of representations expressing support for the application as is common with previous applications for this site. This is an issue raised by Members at a previous Committee where an application for this site was determined.

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 2031. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

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

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, CS15.
- Relevant Development Management Policies: DM01, DM02, DM08, DM17.

Supplementary Planning Documents

- Residential Design Guidance SPD (adopted April 2013)
- Sustainable Design and Construction SPD (adopted April 2013)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- The principle of flats in this location
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality
- Whether significant harm would be caused to the living conditions of neighbouring residents
- Whether there is a sufficient level of amenity for future occupiers

5.3 Assessment of proposals

The principle of flats in this location

Assessment: The principle of flats in this location has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make the principle of the development unacceptable.

For completeness, the previous appraisal is cited below:

"The proposal seeks to sub-divide the previously approved redeveloped site into nine self-contained flats. Recent previous schemes (references 15/00299/HSE and 15/03894/FUL) gave consent for very similar extensions as sought under this application.

It should be noted that this part of Vivian Avenue is characterised by a variety of semi-detached single family dwellings and flatted development. Policy DM01 of Barnet's adopted Local Plan (Development Management Policies) 2012 states that development proposals should be based on an understanding of local characteristics in order to ensure that local character is preserved. In particular, the conversion of dwellings into flats in roads characterised by houses will not normally be appropriate. From an assessment on site, council tax records and planning history it appears that self-contained units exist in the area.

The number of overall units has been reduced from nine to seven to lessen the impact of the development on neighbouring occupiers, and given the majority of the proposed units are single occupancy it can be considered that the proposed development is similar in density to a large five bedroom house.

Furthermore, it is considered that given the site is located close to the primary retail frontage of Vivian Avenue in Hendon affording good transport links, and the Highways

department have raised no objection to the proposals, the scheme is on balance considered to be able to accommodate seven self-contained units.

The proposal is therefore considered to be acceptable and in line with the established character of the area. The National Planning Policy Framework, indicates that the character of an area is made up of much more than its physical appearance, but includes how it functions and contributes to local identity and sense of place. Taking account of such considerations, the proposal would be in line with Policy DM01."

Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality

Assessment: The applicant proposes to rebuild the previously consented building allowed under 16/1744/FUL. Therefore, the acceptability of the overall character and appearance of the ultimate building has already been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make the character and appearance of the building unacceptable.

There are minor differences between both of the schemes. For example, the revised development now under consideration demonstrates a more traditional roof form with a ridge roof and more regular hipped roof form. This implies a reduction in height of the overall building and a more modest form of development.

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

Assessment: The applicant proposes to rebuild the previously consented building allowed under 16/1744/FUL. Therefore, the acceptability of the impacts on the living conditions of neighbouring residents from the ultimate building has already been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make the impacts on the living conditions of neighbouring residents unacceptable.

It is therefore considered that the proposed development is acceptable in terms of the impact the scale and appearance the development will have on the visual character and appearance of the area, as well the impact on the amenity of neighbouring occupiers."

Whether there is a sufficient level of amenity for future occupiers

Assessment: The applicant proposes to rebuild the previously consented building allowed under 16/1744/FUL. Therefore, the level of amenity afforded to future occupiers for the ultimate building has already been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make the living conditions of future occupiers unacceptable.

For completeness, the previous appraisal is cited below:

"It is considered that the current application complies with the space standards for new development outlined in Policy 3.5 (table 3.3) of the London Plan 2015 and is considered to provide adequate internal space for future occupiers.

The proposed development would provide the following accommodation and amenity space:

Internal floor areas

Flat 1 (2b3p) 72.8 m²
Flat 2 (1b2p) 58.5 m²
Flat 3 (1b1p) 43.7 m²
Flat 4 (1b1p) 37.1 m²
Flat 5 (1b1p) 44.8 m²
Flat 6 (1b1p) 56.4 m²
Flat 7 (1b1p) 40.4 m²

These dwellings would meet the minimum gross internal areas as required. The proposed dwellings are also compliant with Part 2.2 part of the Council's Sustainable Design and Construction SPD in regard to the size of bedrooms having a minimum floor area of 8 sq. Furthermore the proposed development meets the requirement that glazing to all habitable rooms should not normally be less than 20%.

Looking specifically at the lower ground floor units proposed; Unit 1 shows its entire amenity space provided via a large lightwell feature at lower ground level. Given the site's change in levels to the rear where they drop away, this lightwell feature would not be totally underground and the occupiers of this unit would be afforded adequate light and outlook to and from their amenity area, as such it is considered that on balance this unit would provide an acceptable level of amenity for future occupiers.

In regards to Unit 2, this unit is proposed to be a duplex unit split over two levels; lower ground and ground floor, and therefore whilst the outlook at lower ground floor level may be limited the appropriate amount of light and outlook would be afforded at ground floor level. This unit would also benefit from easy access into the communal garden at the rear of the site. On balance it is considered that Unit 2 would provide an acceptable level of amenity for future occupiers.

Table 2.3 within the Sustainable Design and Construction SPD indicates that for flats, outdoor amenity space should be 5 m² per habitable room. It is proposed to provide the units in the basement with lightwells as additional amenity to the communal garden. Flat 1 which is proposed to be contained within the basement would have a large lightwell of 28.9m², and Flat 2 would be provided with 4.2m². The rear garden would be used communally by all residents and has an area of approximately 250m² exceeding the requirements.

An existing outbuilding would be retained for use as a gym for all residents of the property.

An appropriate area for the storage of recycling and refuse bins has been provided for each new dwelling at the front of the site. This is considered to be acceptable. No details of the proposed enclosures have been provided at this stage and therefore a condition requiring these details is required.

The site has a very high PTAL rating of 5 and is located within a controlled parking zone. The proposed development offers two parking spaces to serve the units. The parking spaces would be provided for the ground floor units. Highways officers have reviewed the scheme and raise no objection to the proposals subject to the attached conditions and informatives."

5.4 Response to Public Consultation

Building has been demolished without planning consent

Response: Council is in receipt of a letter from Martin Redston Associates (Consulting Civil and Structural Engineers) dated 17 November 2016 that states the following:

"We are writing to confirm that as a matter of urgency we inspected the remaining left hand side and front flank of the building. As discussed it had been intended that you retain these structural elements at the above site. Our observations verified that the brick walls are badly crack and distorted and could collapse at any time. Therefore in their present condition, they should be demolished for safety of site personal and members of the public. We look forward to receiving confirmation that this operation has been completed at the earliest opportunity".

It is understood that this lead to the ultimate demolition of the remainder of the building.

Given that the building is not within a Conservation Area the demolition would be permitted development under Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, it is acknowledged that a condition of this permitted development is the requirement to notify the LPA as soon as possible when the safety issue is identified. On 28 November 2016 a complaint was received about the demolition (LPA ref# ENF/01454/16). Ultimately this led to the submission of the subject application on 11 January 2017 whereby the Council officially received notice about the demolition (cited above), albeit not strictly in accordance with the GPDO.

The proposed gym building is being lived in

Response: It was observed during a site visit on 2 February 2017 that the building proposed to be used for a gym was being used as a welfare unit/site office. Under Schedule 2, Part 4, Class A of the GDPO, temporary buildings can be established for operations (e.g. demolition, construction etc.) carried out in connection with a lawful development. Given the demolition of the house is lawful under the GPDO and the ultimate development proposal is before Council for consideration the use as a welfare unit/site office would be considered lawful. However, if the building is being used for something else not reasonably in connection with such an operation (e.g. residential accommodation) then it may be reported to Council's Planning Support Team for further investigation.

There are concerns about on-going damage to neighbouring properties from construction

Response: This is a civil matter and not a planning consideration.

The applicant has a history of retrospective planning applications and non-compliance

Response: Each planning application is assessed on its own merits. The applicant's history is not a material planning consideration.

7 flats is over-development on this site

Response: The principle of 7 flats in this location has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or

material considerations have emerged that would make the principle of the development unacceptable.

Adverse impacts from construction traffic

Response: Two additional conditions have been added over and above the previous consent 16/1744/FUL to require the applicant to submit a Construction Method Statement and to restrict construction hours to 8:00-18:00 M-F, 8:00-13:00 Saturday, and not on Sundays or Public Holidays. This will allow Council additional control over this issue to mitigate potential impacts.

The provision of car parking is inadequate

Response: The principle of 7 flats with 2 car parks in this location has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The proposed refuse storage is unsightly and unsafe

Response: The size and location of the refuse storage has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The building should be rebuilt for a single family home

Response: The principle of flats in this location has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The public notice was tampered with twice during consultation

Response: It is acknowledged that the public notice was removed at least once during the period as this was physically confirmed by Officers. Please be advised that the LPA exceeded its obligations under the Development Management Procedure Order 2015 in regard as a development such as this only requires that either the proposal is notified by letters to neighbours or by public notice.

The current build as progressing does not reflect the current proposal

Response: The building must be constructed as consented. If it is not then this can be reported to Council's Planning Support Team for investigation.

The building may ultimately be used for more than 7 flats

Response: The building may not be used for more than 7 flats unless consented as such. If the building is used for more than 7 flats non-compliance can be reported to Council's Planning Support Team for investigation.

The construction has not been stopped in lieu of an implementable planning consent

Response: As discussed, above the demolition of the building is proceeding in accordance with the GPDO. The construction of a new building is not permitted at this time.

The build commenced without pre-commencement conditions being satisfied

Response: Breaches such as this can be reported to Council's Planning Support Team for investigation.

The process (i.e. applications for house extensions) to arrive at a flat conversion was misleading

Response: From a legal administrative perspective the process of achieving the building envelope via house extensions prior to a flat conversion is sound.

Dust and mud from the demolition has not been adequately contained

Response: An additional condition has been added over and above the previous consent 16/1744/FUL to require the applicant to submit a Construction Method Statement. This will allow Council additional control over this issue to mitigate potential impacts.

It is unclear how finished levels will be determined

Response: Identical to 16/1744/FUL, the applicant has been conditioned to submit finished levels for Council's assessment.

No further consent should be given to enlarge the house

Response: Council cannot prevent the applicant from applying for further consents to enlarge the building. Any future application will be assessed on its own merits according to policy and material considerations at that time.

The existing house was structurally sound and did not need to be demolished

Response: Council has received correspondence from Martin Redston Associates (Consulting Civil and Structural Engineers) dated 17 November 2016 that states that the left hand side and front flank of the building were badly cracked and distorted and could collapse at any time. It is understood that this ultimately led to the full demolition of the building. In light of this Council does not accept that the previous house was structurally sound.

The removal of trees and shrubs from the rear garden has caused biodiversity loss

Response: The principle of this development, including associated vegetation clearing has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The flats do not provide a quality living environment for future occupiers

Response: The principle of this development, including the quality of the living environment for future occupiers, has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The building is out of character with the street

Response: The principle of this development, including its architectural character, has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The finished building will have adverse impacts on neighbour's amenity

Response: The principle of this development, including its impacts on neighbouring amenity, has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

It is unclear how Council will guarantee compliance in the future

Response: Future non-compliance can be reported to Council's Planning Support Team for investigation.

The development sets an unfavourable precedent

Response: The principle of this development has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

The proposal drawings are deficient in detail as they do not show front or rear boundaries

Response: The drawing titled "Proposed Plans and Elevations" by Tal Arc Ltd, Dwg No. 71VA-PP7-03 does show the front and rear boundaries. This document is publically available.

The current application is not the same as the previous insofar that it is retrospective

Response: This application is partly retrospective insofar that the demolition had started when the application was lodged. However, the planning application as it relates to the ultimately building is not retrospective as the building has not been built.

It is not appropriate to apply for planning permission in retrospect

Response: This application is not made in retrospect as the building has not been built.

Vivian Avenue cannot accommodate additional traffic

Response: The principle of this development, including additional traffic movements, has previously and recently been established by 16/1744/FUL. Since this decision was made on 7 October 2016 no policy or material considerations have emerged that would make this unacceptable.

It is unclear when the building inspector condemned the house as unsafe

Response: Council is in receipt of a letter from Martin Redston Associates (Consulting Civil and Structural Engineers) dated 17 November 2016 that states that the left hand side and

front flank of the building were badly cracked and distorted and could collapse at any time. It is understood that this ultimately led to the full demolition of the building. This may be taken as the date at which the building was deemed as unsafe. This correspondence can be viewed on Council's website using reference number 17/0149/FUL.

The building contractor appears to be working out of hours

Response: An additional condition has been added over and above the previous consent 16/1744/FUL to restrict construction hours to 8:00-18:00 M-F, 8:00-13:00 Saturday, and not on Sundays or Public Holidays. This will allow Council additional control over this issue to mitigate potential impacts.

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 support the Council in meeting its statutory equality responsibilities.

7. Conclusion

The applicant implemented consent 16/1744/FUL in late 2016. Following implementation, advice was issued by Martin Redston Associates (Consulting Civil and Structural Engineers) on 17 November 2016 about the structural integrity of the existing building that ultimately led to its full demolition. The applicant now proposes to build the development exactly as consented by 16/1744/FUL.. Given the applicant proposes to rebuild this extant consent albeit in a slightly modified manner it is recommended that the development is consented subject to the conditions contained herein.

VW
SW

AUDLEY ROAD

VIVIAN

AVENUE

SEVINGTON ROAD

GRAHAM

ROAD

NE
SE

FOSCOTE ROAD

