

**Location** **Railway Arches Colindeep Lane London NW9 6HD**

**Reference:** **21/3264/RCU** Received: 14th June 2021

Accepted: 14th June 2021

Ward: Colindale Expiry 9th August 2021

**Case Officer:** **Daniel Wieder**

Applicant: MR BERT GLYNN

Proposal: Retention of existing retaining walls and levelled hardstanding;  
Introduction of new truck cell block hardstanding, installation of new  
acoustic fence; Associated landscaping (Retrospective Application)  
[Amended Description]

## **OFFICER'S RECOMMENDATION**

Approve subject to conditions

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

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

Site Location Plan

Existing Plan HD1280/1000 Rev E

Proposed Plan HD1280/1001 Rev F

Existing/Proposed Section 1 - 1A HD1280/1002 Rev C

Existing/Proposed Section 2 - 2A HD1280/1003 Rev A

Existing/Proposed Section 3 - 3A HD1280/1004 Rev A

Existing/Proposed Section 4 - 4A HD1280/1005 Rev D

Existing/Proposed Section 5 - 5A HD1280/1006 Rev C

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) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby approved shall not be first occupied or brought into use until details of all acoustic walls, fencing and other acoustic barriers to be erected on the site have been submitted to the Local Planning Authority and approved in writing.

b) The details approved by this condition shall be implemented in their entirety prior to the commencement of the use or first occupation of the development and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their homes in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012) and Policies D13 and D14 of the London Plan 2021.

- 4 Before the development hereby permitted is first occupied a fence not exceeding 2m in height shall be installed around the perimeter of the area designated to remain soft natural soil surface as detailed on approved drawing Proposed Plan HD1280/1001 Rev F and shall be permanently retained as such thereafter.

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature, and to prevent accidental incursions by vehicles or heavy materials inadvertently being stored on the soft landscape area in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012) and Policy G7 of the London Plan 2021.

- 5 Prior to the commencement of any works resulting from this permission, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- a) Details, specifications and planting schedules of the proposed soft landscaping - including all trees and shrubs and associated soils/bedding - to be managed
- b) Details of measures to improve ecological biodiversity
- c) Confirmation of the aim of management to maintaining effective screening of the acoustic fence and retaining wall
- d) Appropriate options for achieving that aim (eg: Determining a periodic check and replacement of measures under a) and b) as necessary)
- e) Prescriptions for management actions including details of the treatment and control of Japanese knot weed where found on the site.
- f) Preparation of a work schedule for specific operations (including an annual work

- plan capable of being rolled forward over the lifetime of the installation).
- g) Details of the body or organization responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures (to ensure the works under f)

The LEMP shall also include details of the funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning screening and biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development in accordance with Policy DM01 and DM16 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012) and Policies G6 and G7 of the London Plan 2021

- 6
- a) No development other than demolition work shall take place unless and until a Drainage Strategy detailing all drainage works to be carried out in respect of the development hereby approved and all Sustainable Urban Drainage System features to be included in the scheme has been submitted to and approved in writing by the Local Planning Authority.
  - b) The development hereby approved shall not be first occupied or brought into use until the drainage works and Sustainable Urban Drainage System features approved under this condition have been implemented in their entirety.

Reason: To ensure that the development provides appropriate drainage infrastructure and to comply with Policy CS13 of the Local Plan Core Strategy (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policies 5.13 and 5.14 of the London Plan 2016.

#### **Informative(s):**

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. 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 Tree and shrub species selected for landscaping/replacement planting provide long term resilience to pest, diseases and climate change. The diverse range of species and variety will help prevent rapid spread of any disease.

In addition to this, all trees, shrubs and herbaceous plants must adhere to basic bio-security measures to prevent accidental release of pest and diseases and must follow the guidelines below. "An overarching recommendation is to follow BS 8545: Trees: From Nursery to independence in the Landscape. Recommendations and that in the interest of Bio-security, trees should not be imported directly from European suppliers and planted straight into the field, but spend a full growing season in a British nursery to ensure plant health and noninfection by foreign pests or disease. This is the appropriate measure to address the introduction of diseases such as Oak Processionary Moth and Chalara of Ash. All trees to be planted must have been held in quarantine."

## **OFFICER'S ASSESSMENT**

### **1. Site Description**

The applicant site contains a plot of land used as an industrial material storage and distribution yard with heavy vehicles traffic, totalling a gross area of 1850 sqm, located at the Railway Arches, Colindeep Lane.

The site is bordered by railway lines to the east and adjoins the rear boundary of properties on Colin Crescent to the west. The site sits at a significantly higher level than the neighbouring properties on Colin Crescent.

The application site does not lie within a conservation area or contain a locally or statutory listed building.

The application site does contain a number of protected designated trees alongside its southern and western border, Ref: TPO/CA/116/G1 x 2 Lombardy poplar, TPO/CA/116/G2 x 26 Thorn.

Officers undertook a site visit on the 5th of August 2021. A further site visit was carried out by the Councils Tree officers on the 28th of August 2021.

### **2. Relevant Planning History**

ENF/0185/21: Construction Works Near TPO Trees

### **3. Proposal**

The application seeks the retrospective permission for the retention of existing retaining walls and installation of a new sound proofing boarded fence behind the retaining walls, with associated landscaping - including levelling and hardsurfacing

The application seeks the retention of a 65m long reinforced concrete retaining wall that has been constructed alongside the boundary adjoining the rear gardens of Colin Crescent. The concrete wall measures 0.25m thick, with a height of 1.5m from the ground level of the industrial site. The ground level of the site varies across the 65m length of the wall adjacent to the neighbouring properties; adjacent to properties 79-85 the concrete wall reaches a

height of 2.5m from the ground level of the residential boundary fence which reduces to a height of approximately 2m adjacent to the rear of properties 85-95.

The elements of the proposal concerning the installation of a new sound proofing acoustic fence behind the retaining walls and associated landscaping have undergone significant amendments throughout the lifetime of the application, alongside detailed guidance from the Councils Tree team.

The proposal includes the installation of a soundproof boarded fence that will sit at ground level behind the existing concrete wall in the industrial yard, at a minimum of 2m distance from the existing residential boundary fences of Colin Crescent i.e. where the existing concrete wall is already at a distance of over 2m the wooden soundproof fence will sit just behind the wall, and where the wall is closer there will be a gap between the wall and the proposed soundproof fence. The proposed soundproof fence will reach a height of 3m from ground level.

The proposed landscaping works involve the planting of various trees and shrubs and filling of topsoil between the retaining wall and neighbouring boundary fences, where appropriate, and the infilling of topsoil and ivy climbing plants between the retaining wall and soundproof fence where applicable. Within the root protection area of the remaining TPO trees no additional hard surfacing or vehicle parking will be added, whilst in the other areas of land truck cell block hardstanding is proposed over the existing soft landscape up to the acoustic fence.

#### **4. Public Consultation**

Consultation letters were initially sent to 20 neighbouring properties.

6 responses have been received, comprising 5 letters of objection and 1 letter of support

The objections received can be summarised as follows:

- The planting of mature trees with a minimum height of 3m that was in keeping with the variety of trees which were removed.
- Rainwater drainage should be constructed the entire length of the wall to prevent the flooding of properties caused by the loss of the previous trees and the increased footprint of the yard
- The sound proofing fence should reach height of 3.5m to protect against loud commercial noise (previous tenants also resulted in lots of noise complaints)
- Installing the acoustic fence as proposed would be too high and dangerous
- Construction of retaining wall destroyed mature trees and earth mound which served to screen sight and noise.
- TPO trees must have a structure permanently surrounding the tree to protect it from further damage by the current owners.
- Working hours should be restricted by council as well
- The height of any structure should not be visible above the new fence line or the fence height needs to be increased in height prior to construction/erection.
- No provision for drainage and RC concrete slab will not absorb water in the same way as the trees and soft landscaping - as site is higher than neighbouring properties this will lead to runoff into gardens.
- Plans inaccurate, imprecise and insufficient information on fence and landscaping

The support received can be summarised as follows:

- Support the project on condition mature trees planted and job completed well, as view is ugly at the moment and noise increased by trees being cut down

Upon submission of amended plans a new 21-day consultation period was carried out on the 26th November 2021.

5 responses have been received, comprising 5 letters of objection, 0 letters of support and 0 letters of comment.

The objections received can be summarised as follows:

- The retaining wall should be extended to the boundary of No. 77, to provide increased safety to the occupiers of No. 77 from the heavy vehicle traffic and reduce noise.
- Application still unspecific on type of acoustic fencing and trees proposed.
- Application still makes no provision for draining despite significant risk and precedent of rainwater running into residential properties.
- Working hours should be restricted by council as well
- Acoustic fence and trees should be taller to block all views of site from second floor windows.
- Spacing indicated on plans not sufficient for planting of mature trees.
- The unconsented retaining wall must be removed and previous earth mound with trees, shrubs, bushes and corrugated metal fence reinstated, providing adequate screening and acoustic separation.

Upon submission of final amendments, a further 21-day consultation period was initiated on the 3rd March 2022.

Any responses will be reported in the Addendum

## **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 in 2021. 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, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

## The Mayor's London Plan 2021

The London 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.

The new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous Plan.

## 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, DM04, DM14

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity.

## Barnet's Draft New Local Plan (2021)

Barnet's Draft Local Plan on 26th November 2021 was submitted to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Department of Levelling Up, Housing and Communities. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2021 (as amended).

The Regulation 22 Local Plan sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of the policies and site proposals in the draft Local Plan and the stage that it has reached.

## Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)

- Sets out information for applicants to help them design an extension to their property which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation. The SPD states that large areas of Barnet are characterised by relatively low-density suburban housing with an attractive mixture of terrace, semidetached 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.

- States that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building which can be achieved through respecting the proportions of the existing house and using an appropriate roof form.
- In respect of amenity, states that extensions should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to the adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

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.
- Whether harm would be caused to the living conditions of neighbouring residents.
- Impact on Trees and Landscaping

## **5.3 Assessment of proposals**

### Preamble

An enforcement case was opened in February 2021 after complaints were received regarding construction works around TPO trees. A new concrete retaining wall had been built on top of a concrete platform, parallel to the rear boundaries of the properties at Colin Crescent.

Upon discussion with the applicant and a site inspection, the applicant was invited to apply for planning permission for the retention of the works completed as well as the further works proposed.

### Design and Visual Amenity

Any scheme for the site will need to respect the character and appearance of the local area, relate appropriately to the site context and comply with development plan policies in these respects. This will include suitably addressing the requirements of development plan policies such as DM01 which states that all proposals should preserve and enhance the local character of the area, as well as policies CS05 (both of the Barnet Local Plan) and D3 of the London Plan 2021.

The application seeks the retention of a 65m long reinforced concrete retaining wall that has



been constructed alongside the boundary adjoining the rear gardens of Colin Crescent. The concrete wall measures 0.25m thick, with a height of 1.5m from the ground level of the industrial site.

The proposal includes the installation a sound proofing boarded fence that will sit at ground level behind the exiting concrete wall in the industrial yard, at a minimum of 2m distance from the existing residential boundary fences of Colin Crescent - i.e. where the existing concrete wall is already at a distance of over 2m the wooden soundproof fence will sit just behind the wall, and where the wall is closer there will be a gap between the wall and the proposed soundproof fence. The proposed soundproof fence will reach a height of 3m from ground level.

The application site contains a plot of land used as an industrial material storage and distribution yard with heavy vehicles traffic, totalling a gross area of 1850 sqm. Within the context of the industrial nature of the site, officers are satisfied that the concrete retaining wall and acoustic fence are not, in principle, at odds with the prevailing character of the site and would relate appropriately to the sites context.

The western boundary of the site, which adjoins the rear of the neighbouring properties of Colin Crescent, was initially host to a significant earth mound with shrubs, bushes and a corrugated metal fence. Though the concrete wall does give rise to a potentially austere impact, officers are satisfied that the proposed landscaping and screening, as detailed below, suitably mitigates the harmful impact and it is not unacceptable to a degree that would warrant refusal. The lower bulk of the wall is also to some extent screened by existing boundary treatments and outbuildings. The proposed acoustic fence will also mitigate views into the industrial site beyond.

As such, it is found that the established character and appearance of the existing dwelling would not be unduly affected, should this proposal receive approval and therefore, in this regard, it is in compliance with Policy DM01 of Barnet's Development Management Policies DPD.

### Residential Amenity

Barnet's Residential Design SPD provides clear guidance with regard to what is expected from new developments to ensure that the amenity of neighbouring occupants is not harmfully impacted.

With regard to this application, the key concerns raised in the consultation period centred around increased noise and disturbance from the industrial yard and natural screening of the site, as a result of the removal of the trees during the construction of the retaining wall. This assessment will thus have regard to whether the sound proofing, and landscaping measures proposed are sufficient in providing screening and sound proofing, whilst simultaneously not resulting in a barrier so high as to be overbearing.

The applicant has proposed a new acoustic fence by Jacksons or similar, at a height of 3m from ground level. Environmental Health have been consulted and advised that in principle this is acceptable, with a minimum height of 3m deemed to be suitably effective.

As the exact specifications of the fence proposed has not been provided, Environmental Health have advised a condition to be attached to provide full details of the acoustic fence to the LPA for approval. Environmental Health have also advised that in order for the fence to not have to cut the line of site to the neighbouring first floor windows, which it is not

proposed to do. They have also recommended the hours of use of the industrial yard should be conditioned to be between 7am and 9pm however, this is outside of the scope of the established use.

The initial proposal sought consent for installing a 1.8m acoustic fence directly on top of the 1.5m concrete retaining wall. As the top of the retaining wall measures a varying 2 to 2.5m height from the neighbouring ground level this would result in a wall over 4m high at the end of the neighbour's gardens, which would result in an unacceptably deleterious overbearing impact.

Throughout the lifetime of the application the proposal has been amended to move the position of the acoustic fence to sit behind the retaining wall inside the industrial yard, with a height of 3m. A minimum 2m gap will be maintained between the acoustic fence and the neighbouring rear boundary fencing at all points. Officers consider that this amended positioning of the acoustic fence - together with the distance from the rear of adjoining properties - mitigates the overbearing visual impact, whilst enabling effective sound insulation, alongside the landscape screening.

In assessment, officers are satisfied that the development is not considered to prejudice the residential amenities of neighbouring properties; therefore, in this regard, it is in compliance with Policy DM01 of Barnet's Development Management Policies DPD.

### Trees and Landscaping

Throughout the lifetime of this application case officers have worked alongside the applicant and Barnet's Arboriculture consultants to achieve an acceptable proposal in regard to tree and landscaping concerns.

The applicant site contains a number of trees within it and adjoining, as well as two group tree protection orders PO/CA/116/G1 x 2 Lombardy poplar, TPO/CA/116/G2 x 26 Thorn.

The landscaping and tree proposal aims to protect the root protection area of the designated trees and provide suitable screening of the site and the acoustic fence, in regard to both its visual and noise impact, through various tree and hedge options.

The landscaping works are broken down into four broad areas.

To the rear of Nos 79 - 83 Colin Crescent, back fill and topsoil will be added to achieve finished ground level and holly trees will be planted between the concrete retaining wall and residential fence. The acoustic fence will be situated 1m behind the retaining wall, with the gap infilled by 0.35m of topsoil and planted with ivy at the base to spread up the fence.

To the rear of Nos 83 - 87 there are a number of existing trees that will be maintained between the concrete retaining wall and the residential fence. The acoustic fence will be situated 1m behind the retaining wall, with the gap infilled with 0.35m of topsoil and planted with ivy at the base to spread up the fence.

To the rear of Nos 87 - 91, rows of trees using species like holly, holm oak, western red cedar and leylandii will be planted between the retaining wall and residential fencing to provide a thick hedge. As there is already a gap of over 2m between the retaining wall and residential fencing, the acoustic fence will sit directly behind the retaining wall, without any plant infill.

To the rear of Nos 91 - 95 back fill and topsoil will be added to achieve finished ground level and climbing ivy will be planted adjacent to the retaining wall. The acoustic fence will be situated 1m behind the retaining wall, with the gap infilled with 0.35m of topsoil and planted with ivy at the base to spread up the fence.

Approximately to the rear of No 89, within the applicant site, lies two protected trees, T2 and T3. The proposal ensures that the root protection area within the site is designated to remain soft landscaping without any hardstanding or vehicle parking. Officers have recommended a fence is constructed surrounding this designated area to ensure this and a condition will be attached to this regard.

Officers are satisfied that the works proposed and agreed will successfully protect the Root Protection Area of the TPO and aid in the screening of the acoustic fence and retaining wall to the benefit of the amenity of the neighbouring properties.

Given the extent of the landscaping works a condition will be attached for the applicant to provide a landscape and ecological management plan to be approved by the local authority before the commencement of development.

#### **5.4 Response to Public Consultation**

- The main planning issues have been addressed within the body of the report.
- Concerns regarding specific details of the acoustic fencing, draining strategy, work hours and landscaping have been addressed through the conditions attached in case of approval.
- Boundary disputes are not within the remit of planning policy.

#### **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**

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development, as amended, would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for APPROVAL

