

Location **34 West Avenue London NW4 2LJ**

Reference: **22/0022/RCU** Received: 5th January 2022
Accepted: 7th January 2022

Ward: Hendon Expiry: 4th March 2022

Case Officer: **Helen McGuinness**

Applicant: Mr Lipi Werjuka

Proposal: Retention of the use of ground floor, first floor and land to the rear of No 34 West Avenue as part of existing school use at No 27 Green Lane; Associated internal alterations; Siting of modular building and erection of canopy to the rear of No 34 West Avenue. (AMENDED DESCRIPTION).

OFFICER'S RECOMMENDATION

Refuse

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

- 1 The development results in the loss of residential accommodation and fails to provide any evidence to robustly demonstrate that the proposal meets an identifiable need, to the detriment of the prevailing character of the local area and residential amenities of neighbouring occupiers, contrary to Policies DM01, DM07 and DM13 of the LB Barnet: Local Plan (Development Management Policies) DPD (2012) and Policies H8 and S3 of the London Plan (2021)
- 2 The change of use has resulted in a harmful increase in noise, disturbance and disruption to neighbouring residents through associated general activity and constitutes an over-intensive use that contributes towards a change in the function and character of the street and is incongruous to the established pattern of development, contrary to Policies CS1 and CS5 of the LB Barnet: Local Plan (Core Strategy) DPD (2012), Policies DM01, DM04 and DM13 of the LB Barnet: Local Plan (Development Management Policies) DPD (2012) and the Sustainable Design and Construction SPD (2016)

- 3 The outbuilding, by reason of its size, design, height, bulk and siting, would result in an unduly dominant and discordant addition representing a disproportionate and unsympathetic over-development of the limited curtilage and an incongruous intervention in a visible location which would fail to respect the established pattern of development, to the detriment of the character and appearance of the host property, the street scene of Green Lane and the surrounding area, contrary to Policies CS1 and CS5 of the LB Barnet: Local Plan (Core Strategy) DPD (2012) Policy DM01 of the LB Barnet: Local Plan (Development Management Policies) DPD (2012) and Policy D3 of the London Plan (2021)

- 4 The outbuilding, by reason of its size, height, siting and proposed use, would appear visually overbearing when viewed from the neighbouring property, No. 32 West Avenue, resulting in a harmful loss of outlook and increased sense of enclosure together with undue noise and disturbance, to the detriment of the residential amenities of neighbouring occupiers, contrary to Policies D3 and D14 of the London Plan (2021), Policy CS1 of the LB Barnet: Local Plan (Core Strategy) DPD (2012), Policies DM01 and DM04 of the LB Barnet: Local Plan (Development Management Policies) DPD (2012) and the Sustainable Design and Construction SPD (2016).

Informative(s):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority (LPA) has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.

The applicant did not seek to engage with the LPA prior to the submission of this application through the established formal pre-application advice service. The LPA has discussed the proposal with the applicant/agent where necessary during the application process. Unfortunately the scheme is not considered to accord with the Development Plan. If the applicant wishes to submit a further application, the Council is willing to assist in identifying possible solutions through the pre-application advice service.

- 2 The plans accompanying this application are:

Existing Ground Floor Plan: WA.34.EX.101 Rev 0

Existing First Floor Plan: WA.34.EX.111 Rev 0

Location Plan: 0100031673Design and Access Statement (produced by EAPanning; dated Dec 2021)

- 3 This is a reminder that should an application for appeal be allowed, then the proposed development would be deemed as 'chargeable development', defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Therefore the following information may be of interest and use to the developer and in relation to any future appeal process:

We believe that your development is liable for CIL. The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £60 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. The London Borough of Barnet first adopted a CIL charge on 1st May 2013. A new Barnet CIL Charging Schedule applies from 1 April 2022 (<https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>) which applies a charge to all residential (including sui generis residential), hotel, retail and employment uses.

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

Liability for CIL is recorded to the register of Local Land Charges as a legal charge upon a site, payable should development commence. The Mayoral CIL charge is 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.

The assumed liable party will be sent a 'Liability Notice' providing full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the original applicant for permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice; also available from the Planning Portal website.

The Community Infrastructure Levy becomes payable upon commencement of development. A 'Notice of Commencement' is required to be submitted to the Council's CIL Team prior to commencing on site; 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 any appeal being allowed, please contact us: 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 Extension: 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 www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil for further details on exemption and relief.

OFFICER'S ASSESSMENT

1. Site Description

The site is located on the corner of Green Lane and West Avenue Road, it is visible on both street fronts as it is a corner property. The site is located within Hendon ward.

The site sits within an area primarily comprising of residential living. There are other schools located within close proximity such as Hendon school and the independent Jewish Day School.

The A502 is not far from the site, which serves a high street with access to various amenities. The site is a two-storey building and is enclosed.

The application site is not located within a conservation area, nor does it contain any listed buildings.

2. Relevant Planning History

Ref: ENF/1143/21

Complaint: Without Planning Permission, the change of use of an outbuilding to use as a pre-school nursery.

Date: 18th September 2021

Ref: ENF/1277/21

Complaint: Without Planning Permission, the use of the property as classrooms and a toilet block in conjunction with the neighbouring educational facility at 27 Green Lanes and the construction of a building to the rear of the site for use as a classroom (with attached Perspex roof).

Date: 1 November 2022

Ref: ENF/01232/08

Complaint: Without planning permission the erection of a wall, adjacent to a highway, greater than 1m in height within the last four years.

Date: 1st October 2008

Reference: F/04968/08

Address: 211 Golders Green Road, London, NW11 9BY

Decision: Refused

Decision Date: 1 April 2009

Description: Retention of the use of the property as a school.

Reference: F/03652/09

Address: 211 Golders Green Road, London, NW11 9BY

Decision: Insufficient Fee

Decision Date: No Decision Made.

Description: Change of Use of Ground and First Floors from Class C3 (residential) to D1 (Synagogue.), Extension to roof including hip to gable end and side/rear dormers to create a residential unit in the loft space. Internal Alterations.

Ref: ENF/00867/03/C

Complaint: Use of property as a school

Date: 8th July 2003

3. Proposal

This application seeks planning permission for the retention of the use of ground floor, first floor and land to the rear of No 34 West Avenue as part of existing school use at no 27 Green Lane, associated internal alterations; siting of modular building and erection of canopy to the rear of No 34 West Avenue (Amended Description).

The site and the erection of the modular building are contained on site and in use, on the 1 November 2022 the owner of the site was served a Planning Contravention Notice (Ref: ENF/1277/21). The complaint was, 'Without Planning Permission, the use of the property as classrooms and a toilet block in conjunction with the neighbouring educational facility at 27 Green Lanes and the construction of a building to the rear of the site for use as a classroom (with attached Perspex roof)' the agent subsequently responded on the 21 November 2022 address all the items asked within the notice.

It is noteworthy that the property was previously used as self-contained flats, and one such flat remains in use on the property. Additionally, the present internal layout commenced use in July 2022, and the agent seeks planning permission to retain the use as per the drawing attached to the application (Ref: Existing ground floor drawing no. WA.34.EX.101 Rev.0).

4. Public Consultation

Consultation letters were sent to 81 neighbouring properties.

66 responses have been received, 64 which are supporting the application, they are summarised below:

- Shortage of girls primary schools within walking distance of the Jewish community.
- Having a school within walking distance reduces car congestion and unwanted pollution.
- Educational offering is good.
- The additional space is important to enable continued growth of the local Jewish Orthodox
- A great school that needs expansion, and one of the only schools within walking distance of the Jewish community.
- The only orthodox Jewish school within the vicinity of an established Jewish community.
- The school does have a long-term plan for premises and this location will only be used for the short term.
- Being able to walk to school boosts the children's moral and we as health and gives them a chance to enjoy the outside world.
- The school is considerate to its surroundings, having additional space would benefit both pupils and staff.

1 letter of objection has been received as summarised below:

- The loss of a garden, trees and bushes.
- The loss of 6 residences in a residential area.
- The increased noise from the school. There are people working from 6am on weekdays and very often on Sundays.
- There are, at least, 8 purpose-built schools within walking distance.
- The traffic in the immediate area is at a standstill every day at schooltime. This leads to increased noise and pollution. Drivers are aggravated and impatient and horn blowing is a real nuisance.
- Most of the children at 27 Green Lane are driven to school and the parking suffers because of this. There are double yellow lines on the corners of West Avenue, but there are cars parked there daily, just to let children alight as near as possible to the entrance. This is extremely dangerous for pedestrians and other road users. They also stop in the road and park in residents' driveways.
- I also believe that the way they treated and continue to treat the local residents shows that they have no interests apart from their own.

4.1 Internal consultees

The Highways and Environmental Health departments were consulted on the application.

Environmental Health responded:

No objections subject to below conditions and informatives.

Noise from site as classroom (bespoke)

Before development commences, a scheme of proposed mitigation measures for noise from the classroom shall be submitted to and approved by the Local Planning Authority. The approved mitigation scheme shall be implemented in its entirety before any of the units are occupied.

Reason: To ensure that the amenities of occupiers are not prejudiced by noise in the immediate surroundings.

C245 #INSULATION AGAINST INTERNALLY/EXTERNALLY GENERATED NOISE
I402 Acoustic Consultant to be used

If the proposed development will include air handling plant:

C440 RESTRICT NOISE FROM PLANT
I402 ACOUSTIC CONSULTANT TO BE USED

Highways responded:

This application is for the retention of the ground floor flat and modular building which accommodate a school.

The proposed retention is not expected to have a significantly detrimental impact on the surrounding public highway and I therefore have no objection to the proposed on highways grounds.

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 20th July 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 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.

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: CS1, CS5, CS9, CS10
- Relevant Development Management Policies: DM01, DM02, DM04, DM07, DM13, DM17

Barnet's Local Plan (Reg 22) 2021

Barnet's Draft Local Plan -Reg 22 - Submission was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission the Local Plan will now undergo an Examination in Public. The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. It represents Barnet's draft Local Plan.

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, 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.
- 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 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 the principle of the development is considered acceptable
- 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 and;
- Whether harm would be caused to the local highways network and car parking

5.3 Assessment of proposals

Principle of development

The site is situated in an accessible location with access to other schools such as the Hendon School and the Independent Jewish Day School in proximity. The site is not located within a town centre, but rather a predominantly residential area.

Policy DM07: Protecting housing in Barnet states that: loss of residential accommodation will not be permitted unless:

- (a) The proposed use is for a local facility (children's nursery, educational or health use) provided that it is not detrimental to residential amenity and;
 - (b) Where need can be demonstrated and;
 - (c) The demand for the proposed use cannot adequately be met elsewhere and is in line with other policies
- or;
- (d) The location is no longer environmentally suitable and viable for residential use
- or;
- (e) It involves identified regeneration areas with large scale demolition of housing and estates which provides for the net replacement of the total residential units.

Policy DM13: Community and education uses specifies:

b: New community or educational use

New community or educational uses should be located where they are accessible by public transport, walking and cycling, preferably in town centres or local centres. New community or educational uses should ensure that there is no significant impact on the free flow of traffic and road safety. New community or educational uses will be expected to protect the amenity of residential properties.

The London Plan (2021)

Policy H1- Sets new housing delivery targets for London LPA's for a ten-year period. The London Borough of Barnet's ten-year housing delivery target for period 2019 to 2029 is 23,640. To deliver this substantial increase in housing completions the London Plan recognises that a presumption in favour of housing development is required.

Policy H8(A) - Loss of existing housing and estate redevelopment states the the 'loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace'.

With regards to the loss of the residential use, policy DM07 seeks to protect housing in Barnet. In that respect the loss of existing housing will normally be resisted. The proposal is to expand the existing F1 use across the building, which involves the change of use from C3 residential use to class F1 (former D1 Educational use).

It is acknowledged that the criteria listed in DM07 parts a-c are not alternatives, but rather a proposed change of use would be required to meet all of the criteria and be acceptable.

The applicant has not appropriately demonstrated that the proposed change of use would not be detrimental to the residential amenity of the occupier of the first floor flat or surrounding residential dwellings. The applicant has not provided significant information as to whether the proposed use cannot be met elsewhere. Therefore, in the absence of the information officers are unable to determine if the proposal will comply with DM07.

Although to provide for an expansion of the established local education facility in the adjoining property, the applicant has not provided sufficient evidence to suggest that the site is no longer suitable for residential use, and as the road is predominantly characterised by residential dwellings, the Council would strongly resist the loss of housing in accordance with section d) of the policy. Furthermore, the site is not part of a wider regeneration scheme and therefore fails against section e) of the policy.

Additionally, the LPA point to a similar case at 211 Golders Green Road which resulted in a refusal of permission and an appeal proceeding this outcome. The planning inspector dismissed the appeal with specific reference to housing supply stating the following:

'There is no dispute that the appeal site has previously been used for residential purposes. It might also be the case, on the evidence of the appellant's expert planning witness, that properties front this busy main road are no longer attractive as single family dwellinghouses. Nevertheless, despite the presence of non-residential uses hereabouts, the amount of residential uses, in the form of flats and other types of residential accommodation, remains substantial. There would be nothing inherently unsuitable about the nature of the property or its location that would significantly detract from its capabilities of continuing in residential use.'

Furthermore, London Borough of Barnet v Adler & Ors | [2009] EWHC 2012 (QB) | England and Wales High Court (Queen's Bench Division) demonstrates that the High Court were prepared to grant an injunction to the development based on the statements as submitted by the planning inspectorate for the aforementioned case at 211 Golders Green Road.

The council consider that the application site is still considered a viable residential dwelling

and/or dwellings, further demonstrated by the continued occupation of a resident at No. 34 West Avenue as per the enforcement investigation (ENF/1277/21).

No replacement residential accommodation is proposed.

The applicant has therefore provided insufficient information in justifying the loss of the residential unit contrary to policy DM07 of the Adopted Barnet Development Management Policies DPD (2012) and H8 of the London Plan (2021).

Furthermore, insufficient information has been provided to demonstrate the need of the school expansion in the current location. Notwithstanding the current occupation of the site, the applicant has not provided evidence of any works carried out to demonstrate the school can only be provided in the current location therefore contrary to DM13.

It is therefore considered that the advantages of the above expansion of the school does not outweigh the harm caused in the context of the surrounding residential area and the loss of residential housing as noted in the body of this assessment.

Impact on the character of the area

Paragraph 126 of the National Planning Policy Framework (2021) states:

"The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. 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. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process."

Policy DM01 requires that the design and layout of new development should respect the character of the area in which it is situated and respond to the positive features of that character. The retention of the modular building used as a classroom is considered to have an impact on the street scene on Green Lane, additionally the character and pattern of development that exists within the area does include some outbuildings to rear of properties however based on the location of the application site it is considered to be incongruous.

Barnet's Residential Design Guidance (2016) under Paragraphs 14.40 and 14.41 states that outbuildings should not be too large or significantly reduce the size of the garden to become out of character with the area. Also, the design and materials should be in harmony with the surrounding area and the location of the outbuilding should be situated towards to the rear of the properties.

The rear outbuilding measures 6.00 metres in depth, width at 7.3 metres and is a maximum height of 3.2 metres from ground level. The outbuilding has a footprint of 42sqm. The outbuilding is currently in use as a mobile classroom in conjunction with the main building at No. 27. Site images indicate a canopy has been erected over the rear entrance of no.34 linking to the entrance of the existing outbuilding. The rear canopy measures approximately 1.97 metres in depth from the rear elevation and 3.6 metres in width.

Having reviewed the existing development, it is considered, by reason of its size, bulk, scale and location within the curtilage, that the outbuilding represents in an incongruous

form of development, contributing to the overdevelopment of the site and harmfully reduces amount of the available rear amenity space to the detriment of the character of the existing site.

Having reviewed the character of the wider area it is noted that no similarly sized outbuildings are existing. The current outbuilding at no. 34 West Avenue is visible when viewed from Green Lane given its location directly rearward of the property. As such, the existing outbuilding is not considered to conform with the prevailing pattern of development in the wider area and has a deleterious impact on the street scene and surrounding area.

In light of the above, it is clear that the existing outbuilding is not an acceptable addition to the character of the existing property and wider area and thus fails to comply with the policies and expectations outlined in Policy DM01.

Furthermore, officers consider the proposed conversion of the house and use of the outbuilding as a classroom to be unacceptable when considered in the context of the surrounding residential area. The proposed classroom is located to the rear of no.34 which retains a first floor flat. As such, the proposed use of the outbuilding, by virtue of its siting, will harmfully increase noise, disturbance, and disruption to neighbouring residents through associated general activity in an area more used to single family dwellings - and together result in an over-intensive use that will have an adverse effect on residential amenity contrary to Policy DM01.

The proposed canopy by virtue of its scale and location is not thought to result in harm to the character and appearance of the host dwelling, street scene and wider locality.

Impact on the amenities of neighbours

Despite having been mostly converted already, No. 34 West Avenue remains occupied by one self-contained unit on the first floor, therefore in residential use. The proposal seeks to retain the use of the ground floor of no. 34 as a school and first floor as offices used in conjunction with the school - in addition to the proposed outbuilding and canopy to the rear of the application site.

It is important that any scheme addresses the relevant development plan policies (for example policy DM01 of the Barnet Local Plan and policies D3 and D6 of the London Plan) in respect of the protection of the amenities of neighbouring occupiers. This will include taking a full account of all neighbouring sites.

Section 12 of the National Planning Policy Framework (2021) sets out guidance for 'achieving well-designed places'.

Paragraph 130 of the NPPF states that planning policies and decision should ensure that development "...create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users..." (part f)

Outbuilding:

Barnet's Residential Design Guidance (2016) under Paragraphs 14.40 and 14.41 states that outbuildings should not unduly over-shadow neighbouring properties and unduly affect outlook from an adjoining property's habitable rooms of principal garden areas.

On review of the submitted information it is clear that, by reason of the size, height and siting of the existing outbuilding, it is considered to result in a visually obtrusive feature, detrimental to the outlook and sense of enclosure from the constrained rear amenity space at no. 32. West Avenue.

The existence of the outbuilding and the associated change of use also extinguishes the utility of the rear garden as amenity space for the remaining occupier(s).

Change of use:

Policy DM04 of Barnet's Development Management Policies Document DPD (2012) states that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted. Proposals to locate noise sensitive development in areas with existing high levels of noise will not normally be permitted. Mitigation of noise impacts through design, layout, and insulation will be expected where appropriate.

Policy D14 (Noise) of the London Plan (2021) states:

A- In order to reduce, manage and mitigate noise to improve health and quality of life, residential and other non-aviation development proposals should manage noise by:

- 1) avoiding significant adverse noise impacts on health and quality of life
- 2) reflecting the Agent of Change principle as set out in Policy D13 Agent of Change
- 3) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise generating uses
- 4) improving and enhancing the acoustic environment and promoting appropriate soundscapes (including Quiet Areas and spaces of relative tranquillity)
- 5) separating new noise-sensitive development from major noise sources (such as road, rail, air transport and some types of industrial use) through the use of distance, screening, layout, orientation, uses and materials - in preference to sole reliance on sound insulation
- 6) where it is not possible to achieve separation of noise-sensitive development and noise sources without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through applying good acoustic design principles
- 7) promoting new technologies and improved practices to reduce noise at source, and on the transmission path from source to receiver.

Officers note the proposed retention of the use results in primarily internal changes, however the intensification of the use of the property as a school would result in a heightened level of coming-and-going and associated activity at the site.

The proposed classroom and WC use is located directly below the residential unit retained within No 34, in addition to the proposed offices used in conjunction with the school located on the first floor surrounding the flat.

Environmental Health Officers have been consulted and in the PCN response the agent advised that there was sound insulation during construction works.

The details of the sound insulation have not been provided, as per Environmental Health's

recommendation. In the absence of that information, the authority is unable to determine if the proposal will result in undue harm to the amenity of the neighbouring occupiers, contrary to DM04 and D14 - however, the configuration, proximity and intensity of use is considered likely to be detrimental.

Highway Impacts

Paragraph 111 of the National Planning Policy Framework (2021) states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Policy CS9 of the Barnet Core Strategy identifies that the Council will seek to ensure more efficient use of the local road network and more environmentally friendly transport networks, require that development is matched to capacity and promote the delivery of appropriate transport infrastructure.

The Local Highway Authority have been consulted on the application and assess that the proposed retention is not expected to have a significantly detrimental impact on the surrounding public highway and therefore raise no objection on highways grounds

5.4 Response to Public Consultation

The points raised in the submitted objection have been addressed in the above report.

The application received supporting comments from the existing school community. Even though the additions proposed to be retained will only be temporary as many suggest in their comments, this does not form the basis of the proposal and so should be assessed in the same manner as something that will be retained permanently.

The agent provided a response to a PCN issued by Planning Enforcement (Ref: ENF/1277/21), stating that the flats that did exist did not have planning permission but are lawful through the passage of time under Section 171(B) of the Act in regard to the 4 year rule - and therefore, should be given lesser importance than purpose built flats.

However, the existing school at 27 Green Lane was established on the same basis. In both these instances, the LPA is obliged to apply the same planning process as it would to any other lawful development.

The London Plan (2021) Policy H1 - Increasing Housing Supply. This policy sets new housing delivery targets for all London Boroughs. The London Borough of Barnet's ten-year housing delivery target for period 2019 to 2029 is 23,640. To deliver this substantial increase in housing completions the London Plan recognises that a presumption in favour of housing development is required. This policy prioritises sites within certain locations, including sites within 800 metres of a train station.

Although, new development would be subject to contemporary standards as set out in the Development Plan, the LPA have a policy position to resist the loss of any kind of established housing - either through planning permission or through the passage of time.

6. Equality and Diversity Issues

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

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

For the purposes of this obligation the term "protected characteristic" includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

The proposal relates to the needs of children and comprises a religious aspect which would fall within protected groups (age and religion) and it is acknowledged that the proposals would benefit those groups by providing additional space to facilitate the established school. Testimonial evidence as to the benefit of the school to the community has been provided.

This need has been taken into account however, with particular regard to the absence of a robust approach to determining the location and the case law history on the matter of the residential use, it is not considered that the proposal as submitted represents the only, or most appropriate way to realise or apportion the space required to meet this expansion. On that basis, it is not considered that sufficient weight can be prescribed to the circumstances such as to outweigh the harm to character and amenity - as identified in the preceding appraisal.

On that basis, 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 the development would have an adverse impact on the character of the area, which is primarily characterised by residential dwellinghouses.

The proposal will result in the unacceptable loss of a residential dwelling contrary to policy DM07. The proposed outbuilding by reason of its design, scale and siting would constitute an overly dominant addition which will fail to respect the established character and

appearance of the area and of the host property, appearing imposing from the streetscene. The proposal will result in an adverse impact on the amenities of neighbouring occupiers.

The development is therefore contrary to Policies D1, D3, D4, D14, H1, H2 and H8 of the London Plan 2021, Policies CS1 and CS5 of the LB Barnet: Core Strategy (2012), Policies DM01, DM02, DM04, DM07 and DM13 of the LB Barnet: Development Management Policies DPD (2012), the Adopted Residential Design Guidance SPD (2016).

This application is recommended for REFUSAL.

