

Location **54A Bulwer Road Barnet EN5 5EY**

Reference: **22/3355/RCU** Received: 28th June 2022
Accepted: 8th July 2022

Ward: Barnet Vale Expiry: 2nd September 2022

Case Officer: **Zakera Matin**

Applicant: Mr Amir Farigi

Proposal: Separation of part of the ground floor from the existing residential unit and change of use from storage to cafe; Removal of canopy from the rear yard.

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 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 hereby permitted shall be carried out in accordance with the following approved plans:

2000 (Site Location Plan)
2001 (dated 05/2022)
2002 Rev C (dated 02/2023)
2003 Rev A (dated 10/2022)
2004 (dated 05/2022)
2005 B (dated 10/2022)
2006 Rev A (dated 02/2023)
E-mail from agent dated 08/09/2022 and 14/09/2022
Valuation Report
Parking Survey (dated 01/12/2022)

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 The use hereby permitted shall not be open to members of the public before 8am or after 5pm from Monday to Saturday and before 10am or after 4pm on Sundays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties.

- 4 a) Within three months of the date of this permission, details of mitigation measures to show how the development will be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration has been submitted to and approved in writing by the Local Planning Authority.

This sound insulation shall ensure that the levels of noise generated from the cafe and any associated plant; as measured within habitable rooms of the adjoining residential dwelling shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am.

The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The mitigation measures as approved under this condition shall be implemented in their entirety and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of the residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD, and D14 of the London Plan (2021)

- 5 No means of outdoor amplification/speakers should be used on the site at any time.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2016) and Policies D13 and D14 of the London Plan 2021.

- 6 The rear canopy shall be removed within 3 months of the permission. The enclosed rear area shall not be used as outdoor seating area for the cafe at any time.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2016) and Policies D13 and D14 of the London Plan 2021.

- 7 a) Notwithstanding the approved plans, within three months of the date of this permission, details of the proposed 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); CS14 of the Adopted Barnet Core Strategy DPD (2012); and Policies D6 and S17 of the London Plan 2021.

- 8 a) Notwithstanding the approved plans, within three months of the date of this permission, details of the proposed cycle parking spaces and cycle storage facilities shall be 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 the spaces shall be permanently retained thereafter.

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy T5 and Table 10.2 of the London Plan (2021) and 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.

- 9 Within one month of the date of this permission, the rear cafe/toilet window(s) in the elevation facing the rear residential amenity space 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 October 2016).

- 10 Within one month of the removal of the rear canopy, the amenity area shall be subdivided in accordance with approved plan 2002 Rev C (dated 02/2023) by means of a screen fence not less than 1.7m in height and not exceeding 1.8m in height 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).

Informative(s):

- 1 The applicant is advised that any development or conversion which necessitates the removal, changing, or creation of an address or addresses must be officially registered by the Council through the formal 'Street Naming and Numbering' process.

The London Borough of Barnet is the Street Naming and Numbering Authority and is the only organisation that can create or change addresses within its boundaries. Applications are the responsibility of the developer or householder who wish to have an address created or amended.

Occupiers of properties which have not been formally registered can face a multitude of issues such as problems with deliveries, rejection of banking / insurance applications, problems accessing key council services and most importantly delays in an emergency situation.

Further details and the application form can be downloaded from: <http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf> or requested from the Street Naming and Numbering Team via street.naming@barnet.gov.uk or by telephoning 0208 359 4500.

- 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.

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 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.

OFFICER'S ASSESSMENT

1. Site Description

The site comprises a property located at the junction of Potters Road and Bulwer Road. The area around the junction of the road is characterised by a local parade of shops, restaurants, cafes etc. There are semi-detached residential properties located to the west of the site.

The site relates to the part of the ground floor. The neighbouring property at No.54 is a semi-detached dwelling sited to the west. Part of the ground floor and first floor of No.54a comprises a residential dwelling. The remaining part of the ground floor facing onto the junction was formerly used as storage.

2. Site History

Reference: 18/4424/FUL

Description: Conversion of existing shop into 1no self-contained flat. Alterations to front and side elevations including new windows and doors

Decision: Refused

Date: 27.09.2018

Reference: 21/1699/FUL

Description: Change of use from A1 & C3 to Class E(f) Creche, Day Nursery or Day Centre (Car Free Development).

Decision: Withdrawn

Date: 27.08.2021

3. Proposal

Separation of part of the ground floor from the existing residential unit and change of use of that part from storage use to cafe; Removal of existing canopy at rear yard.

4. Public Consultation

Consultation letters were sent to 92 neighbouring properties.

10 objections received as below:

- There is no need for another café in the area
- The proposed rear canopy could be used for shisha and probable amenity impact for neighbouring residential occupiers
- Impact on parking in this area
- Probable impact of refuse storage
- Probable impact on hours of opening during weekends
- Connection to drainage
- Previously, the property was a chemist, which was of no concern to the residents, though there was far less traffic than now. This surely could be used for something more in fitting with the surrounding residential houses.

5. Planning Considerations

5.1 Policy Context

Revised 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 revised National Planning Policy Framework (NPPF) was published in 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. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan. The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04, DM12, DM17.

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

Barnet's Draft 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

Sustainable Design and Construction SPD (adopted 2016)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Principle of the change of use
- 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.
- Highways considerations

5.3 Assessment of proposals

Principle of the change of use

It has been proposed to separate part of the ground floor from the existing residential unit and change the use from storage use to cafe.

It is noted that the part of the ground floor was used as a chemist shop (and associated storage) and upstairs was an integral residential dwelling. However, with regard to Google Street View, it is evident that the chemist ceased operation some years ago. The premises had been used for storage in the interim period and this has become the established lawful use.

Past applications were made to convert the part of the ground shop/store into residential use which was refused. The planning history of the site confirms that this part of the ground floor was in A1 use. The submitted valuation report also refers to the part of ground floor as retail unit.

It is noted that the previous use as a chemist was in Class A1, which now falls under Class Class E (Commercial, Business and Service) by virtue of the 2020 Amendment Order. The proposed café also falls under use Class E. Therefore, the proposed change would no longer have required planning permission, were it not for the intervening use. The purpose of the new Class E was to enable flexibility between uses in order to encourage the ongoing vitality and viability of commercial centres - within the context of which, a cafe use would not be incongruous.

It is noted that in the past the store was apparently integrated with the residential accommodation upstairs. The applicant proposes to separate part of the ground floor from the existing residential unit. The existing door connecting the shop/store with the residential unit would be blocked. However, both the dwelling and the commercial premises would remain viable (as evidenced by their occupation) and as such, there is no objection in that regard.

It is noted that the site is located at the junction of roads which feature local shops, cafes, restaurants etc. In this context the proposed use would not be out of character and would contribute in the vibrancy of the local parade.

There are residential dwellings on the west of the site, however, these are away from the junction of the roads and this site faces the junction and other retail and E use class and would be a suitable use for a location such this.

With regard to Policy DM12, the proposal would not result in the loss of an A1/retail use

In respect of new uses, Policy DM12 states that: "A proposal that either creates an over concentration of Class A2, A3, A4 and A5 uses or has a significant adverse effect on the amenity of existing residents will be refused".

Notwithstanding the changes to the Use Classes Order, around two-thirds of the premises would remain in (former) Class A1 use and only 4no within the (former) classes A2-A5. As such, it is not considered that an over-concentration would exist as a result and the LPA does not exist to prevent competition.

Amenity matters are discussed in more detail below however, subject to appropriate conditions, it is not considered to result in any undue impact on neighbouring residents.

Therefore, the change of use is considered acceptable in principle.

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

Policy CS5 Protecting and enhancing Barnet's character to create high quality places' seeks to ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design. Policy DM01 states that development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

As mentioned earlier, the site is located at junction of roads which feature local shops, cafes, restaurants etc. There are residential dwellings on the west of the site, however, these are away from the junction and this site faces the junction and other retail and Class E uses and would be a suitable use for a location such this. In this context the proposed use would not be out of character.

No fundamental change is proposed in the external elevation (though it has been considerably cleaned up from its former iteration) and the proposed café would maintain an active frontage. The signage is not part of this application, and the applicant is advised to apply for it separately.

The proposal has been amended to incorporate removing the (unauthorised) outdoor seating area and canopy (situated to the side of the premises abutting Potters Road). The amended proposal is therefore considered not to have any detrimental impact on the street scene.

Overall, the proposal is not considered to have any detrimental impact on the character of the area and street scene.

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

Policy DM01 states that, Development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

It further mentions that, "Schemes which significantly harm the amenity of neighbouring occupiers will be refused planning permission. Protecting amenity helps to protect the wellbeing of the boroughs residents."

The applicant proposes that the café would serve sandwiches, coffee and teas. The café counter worktop is used for preparing drinks, and for making sandwiches and no kitchen is required. Most users would be local residents and will walk to the shop to grab a coffee.

The outdoor seating area and canopy would be removed and the outdoor space would not be used as a shisha bar as some of the objectors mentioned. A condition is attached prohibiting any use of outdoor area at rear for outdoor seating area and any use of amplification/speakers to protect the amenity of neighbouring occupiers.

The Environmental Health officer has no objection subject to attached conditions on noise mitigation for residential occupiers at no.54A. Conditions would be attached regarding opening hours to preserve the amenity of the neighbouring occupiers.

The café would not have any undue detrimental impact on the residential amenity of No. 54 as any impact would be buffered by the existing residential dwelling at 54a.

The rear facing toilet window of the cafe would be obscured glazed and not considered to have any overlooking impact for the rear garden of residential property at no.54 a. A condition is attached for the rear facing toilet window to be obscured glazed.

Subject to attached conditions, it is not considered that the proposed change of use would have any harmful impact on neighbouring residential amenity.

Highways considerations

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. Policy DM17 of the Barnet Development Management Plan document sets out the parking standards that the Council will apply when assessing new developments.

The Highway officers were consulted on the proposal. No parking is proposed as part of the application as the considerable majority of users are likely to be pedestrian.

Highway officers informed that, observation shows that the surrounding roads experience parking pressures which are likely to be exacerbated by the anticipated parking displacement from the proposed development. The applicant was therefore required to carry out a car parking survey subject to the Lambeth Methodology standard practice on the surrounding roads to show there is enough capacity to accommodate the additional on-street parking demand arising from the proposed development.

The applicant subsequently provided parking survey, which has been considered acceptable by the Highway Authority.

5.4 Response to Public Consultation

Addressed in the report.

Connection to drainage/sewage is not a material planning consideration.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set out 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 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 nearby occupiers and Highways. This application is therefore recommended for APPROVAL

