

Location 61 Finchley Lane London NW4 1BY

Reference: 23/2928/FUL Received: 6th July 2023
Accepted: 6th July 2023

Ward: Hendon Expiry 31st August 2023

Case Officer: Zakera Matin

Applicant: Mr Ari Sufrin

Proposal: Single storey rear outbuilding (Part Retrospective)

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:

01, 02, 03, 04, 05, 06, 07, 01a.

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 of the outbuilding hereby permitted shall at all times be ancillary to and occupied in conjunction with the main building and shall not at any time be occupied as a separate unit or dwelling.

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

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. A pre-application advice service is also offered. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The applicant is advised that the provisions of The Party Wall etc. Act 1996 may be applicable to this scheme. This relates to work on an existing wall shared with another property; building on the boundary with a neighbouring property; or excavating near a neighbouring building. Further information can be found at <https://www.gov.uk/party-wall-etc-act-1996-guidance>.

OFFICER'S ASSESSMENT

1. Site Description

The application site contains a semi-detached large Victorian property which has been converted previously into 5 self-contained flats located on the northern side of Finchley Lane within the ward of Hendon. Recently a two storey building to provide 2no further self-contained flats has been approved and built on the site on the side of semi-detached property.

The communal rear garden features 4no ad hoc existing outbuildings for flats 1, 3, 4 and 5 and one large L shaped outbuilding wrapping around the rear boundaries of the garden - which is under construction. Flats 1 and 2 and those within the new two storey building have their amenity spaces fenced off separately from the communal garden of flats 3, 4 and 5 (which contains the outbuildings)

The application site is not a locally/statutorily listed building nor is it located within a conservation area.

2. Site History

Application: 19/1636/191

Description: Use of Flat 3 as 2no. self-contained flats and use of Flat 4 as 2no. self-contained flats (amended description).

Decision: Lawful
Date: 27.03.2019

Application: W02947H
Description: Conversion to five flats.
Decision: Conversion to five flats.
Date: 16.07.1975

Application: W02947E
Description: Conversion to 5 flats and two-storey side extension.
Decision: Approved subject to conditions
Date: 22.01.1975

Application: 19/2636/FUL
Address: Adjacent To 61 Finchley Lane
Description: Erection of a two storey dwelling
Decision: Approved subject to conditions
Date: 15.11.2019

Application: 20/0973/FUL
Address: Adjacent To 61 Finchley Lane
Description: Erection of a two storey dwelling
Decision: Approved subject to conditions
Date: 11.07.2020

Application: 21/3648/FUL
Address: Adjacent To 61 Finchley Lane
Description: Erection of a two storey building to provide 2no self-contained flats.
Associated amenity space, cycle storage and parking
Decision: Approved subject to conditions
Date: 19.11.2021

Application: 23/0004/FUL
Address: 61 Finchley Lane, London NW4 1BY
Description: Single storey rear outbuilding with green roof (part retrospective) and retention of existing outbuildings in the rear garden
Decision: Refused
Date: 21.04.2023

Reasons:

The outbuildings, by reason of their excessive footprint, size, design and siting, would be a disproportionate, unsympathetic and incongruous form of overdevelopment which would fail to respect the appearance, scale, mass and pattern of surrounding buildings and spaces, to the detriment of the character and appearance of the host property and the wider locality, contrary to Policy D3 of the London Plan (2021), 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 the Residential Design Guidance SPD (2016).

The outbuildings, by reason of their excessive scale, depth, height and siting, would represent an incongruous and visually obtrusive form of development, resulting in an undue loss of outlook and increased sense of enclosure to the rear gardens of Nos 59 and 63 Finchley Lane, to the detriment of the residential amenities of neighbouring occupiers,

contrary to Policy D3 of the London Plan (2021), Policy 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 the Residential Design Guidance SPD (2016).

Application: 23/0005/FUL

Address: 61 Finchley Lane, London NW4 1BY

Description: Single storey rear outbuilding with pitched roof (part retrospective) and retention of existing outbuildings in the rear garden

Decision: Refused

Date: 21.04.2023

Reasons:

The outbuildings, by reason of their excessive footprint, size, design and siting, would be a disproportionate, unsympathetic and incongruous form of overdevelopment which would fail to respect the appearance, scale, mass and pattern of surrounding buildings and spaces, to the detriment of the character and appearance of the host property and the wider locality, contrary to Policy D3 of the London Plan (2021), 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 the Residential Design Guidance SPD (2016).

The outbuildings, by reason of their excessive scale, depth, height and siting, would represent an incongruous and visually obtrusive form of development, resulting in an undue loss of outlook and increased sense of enclosure to adjoining rear gardens, to the detriment of the residential amenities of neighbouring occupiers, contrary to Policy D3 of the London Plan (2021), Policy 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 the Residential Design Guidance SPD (2016).

Application: 23/1983/FUL

Address: 61 Finchley Lane, London NW4 1BY

Description: Single storey rear outbuilding with green roof (part retrospective)

Decision: Refused

Date: 30.06.2023

Reasons:

The outbuilding, by reason of its excessive footprint, size, design and siting, would be a disproportionate, unsympathetic and incongruous form of overdevelopment which would fail to respect the appearance, scale, mass and pattern of surrounding buildings and spaces, to the detriment of the character and appearance of the host property and the wider locality, contrary to Policy D3 of the London Plan (2021), 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 the Residential Design Guidance SPD (2016).

The outbuilding, by reason of its excessive scale, height, depth and siting, would represent an incongruous and visually obtrusive form of development and result in an undue sense of enclosure to the rear garden of 5 Garrick Way, to the detriment of the residential amenities of neighbouring occupiers, contrary to Policy D3 of the London Plan (2021), Policy 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 the Residential Design Guidance SPD (2016).

3. Proposal:

The application proposes for single storey rear outbuilding with flat roof (part retrospective).

The proposed outbuilding would be sited at the rear. The current proposal has been significantly reduced in scale and footprint and no longer features retention of a wrap around structure along the rear boundary. The existing outbuildings at front would also be removed. It is noted that the existing outbuildings do not have any planning permission, nor do they benefit from any Certificate of Lawful Development, as they are less than 4yrs old (with regard to the statute of limitations set out under Section 171B of the Act) and the property does not benefit from permitted development rights (as it is in flats).

The proposed outbuilding would measure 3.6 in depth on side along the common boundary of neighbouring properties no.59 Finchley Lane, 12.3 m in width at the rear abutting the rear boundary with neighbouring property 1 to 6 Newlands. It would feature a flat roof with 2.45m maximum height. It would feature a communal gym.

The total foot print of the previous refused outbuilding was 90.25 sqm under ref: 23/1983/FUL. The proposed footprint would be 44.28m. There would be reduction of 45.97 sqm footprint.

4. Public Consultation

Consultation letters were sent to 20 neighbouring properties.
13 objections received as below;

- If approved it would be put into residential use
- The existing site is already intensely used
- The proposed development will reduce already inadequate private amenity space
- The building would appear cramped and do not accord with the pattern of development nearby
- The proposed development would bring with it more comings/goings
- There are no permitted development rights pertaining to these buildings
- It would have a significant adverse impact on neighbouring residential amenity
- The existing use of 61 Finchley Lane creates a nuisance to nearby occupiers
- There is no logical need for the proposed outbuilding and the idea of it being used as a communal gym

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 July 2021. This is a key part of the Government's 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.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 190 sets out that the local planning authority should identify and assess the particular significance of any heritage asset...They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

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.

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.

The Council's approach to householder development 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. 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 Local Plan (Reg 22) 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, 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 new development should recognise the scale, massing and roof form of surrounding buildings and reflect these where they are a positive attribute of the area's character.

- In respect of amenity, states that new development should be sited and designed such that there is no detriment to existing residential amenity space through the overlooking and/or privacy loss; and dominance or overshadowing.

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 local area.
- Whether harm would be caused to the living conditions of neighbouring residents.

5.3 Assessment

Impact on the character and appearance of the property and general locality:

Policy D3 of London Plan 2021 states that, "Good design and good planning are

intrinsically linked. The form and character of London's buildings and spaces must be appropriate for their location, fit for purpose, respond to changing needs of Londoners....."

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

Policy DM01 requires all proposals should preserve and enhance the local character of the area.

Policy CS5 emphasises on protecting and enhancing the gardens of residential properties. Policy CS5 states that,

" We will ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design. Developments should:

- protect and enhance the gardens of residential properties.
- enhance the borough's high quality suburbs and historic areas through the provision of buildings of the highest quality that are sustainable and adaptable."

In paragraph 10.7 Residential gardens, Core Policy CS5 states that, "The NPPF sets out the definition of previously developed land and specifically excludes private residential gardens. This protection enhances the important contribution of gardens to the suburb and its quality of life."

Policy DM01 in sections 2.9 states that, "Gardens make a significant contribution to local character. They provide the natural element of residential character contributing towards biodiversity, tranquillity, sense of space and enhancement of the setting of buildings."

Residential Design Guidance SPD advises that, "Where new development is considered detrimental to the site and local character, planning permission will normally be refused."

SPD Residential Design Guide in paragraph 14.40 states that,

"In general, rear garden walls and fences should not exceed 2 metres to protect views and daylight. The same principles apply to the design of back garden buildings as to rear extensions:

- they should not unduly over-shadow neighbouring properties
- they should not be too large or significantly reduce the size of a garden to become out of character with the area
- they should not unduly affect outlook from an adjoining property's habitable rooms or principal garden areas
- their design and materials should be in harmony with the surrounding area."

It further mentions that,

"Proposals should consider location of garden buildings such as sheds and greenhouses so that they minimise the impact on neighbouring properties. Garden buildings should be located to the rear of properties."

The current proposal has been significantly reduced in scale and footprint and no longer features retention of a wrap around structure along the rear boundary. The existing outbuildings at front would also be removed.

The proposed remaining outbuilding would measure 3.6 in depth on side along the common boundary of neighbouring properties no.59 Finchley Lane, 12.3 m in width at the rear abutting the rear boundary with neighbouring property 1 to 6 Newlands. It would

feature a flat roof just 2.45m at its maximum height. It would be used as communal gym for the existing flats.

The proposed height would be same the rear boundary and would not appear visually overbearing to the neighbours. Because of reduction in scale and footprint it is not considered out of character - with some other modest garden buildings in evidence in the surrounding area.

The total footprint of the recent refused outbuilding was 90.25 sqm under ref: 23/1983/FUL. The proposed footprint would be 44.28m. There would be a reduction of 45.97 sqm footprint from the recent refused scheme.

The communal rear garden serves the existing flat 3, 4 and 5 of 61 Finchley Lane. Because of the reduction of the scale of the proposed outbuilding and the removal of the existing outbuildings, ample amenity space for the existing flats would be retained.

It is considered that the current reduced proposal addresses the reason for refusal under 23/1983/FUL which raised concern regarding excessive scale and "wrap-around form" of the U-shaped footprint which was considered uncharacteristic and would have detrimental visual impact.

As in the current application, the scale and the uncharacteristic footprint of the development have been significantly reduced and whilst the existing outbuildings would be removed, the size and siting is now more consistent with the expectations of the Residential Design Guidance SPD and adequate amenity space would be retained for the existing flats.

In this respect the amended proposal is considered to respect the character and appearance of the host property and the wider locality.

Impact on the amenities of neighbouring occupiers:

It will be important that any scheme addresses the relevant development plan policies (for example policy DM01 of the Barnet Local Plan and the London Plan 2021) in respect of the protection of the amenities of neighbouring occupiers.

This will include taking a full account of all neighbouring sites.

The outbuilding would be just 2.45m high along the common boundaries with neighbouring properties no.59 and 1 to 6 Newlands at the rear. The submitted drawings illustrate that the rear and side boundaries abutting the outbuilding are similarly 2.45m height. In this context the proposal would not appear unduly overbearing for the neighbouring occupiers. Furthermore, the excessive scale and footprint has been reduced.

The proposal would be sited 3.2m away from the common boundary with properties at Garrick Way, and are consequently not considered to have any detrimental impact on neighbours in terms of overbearing impact.

The proposed use as communal Gym for the existing flats is ancillary and considered acceptable in this respect with regard to the nature and intensity of its use.

In this context, the current proposal is considered not have any unduly detrimental impact for the neighbours because of the reduced scale and footprint and considered acceptable in that respect.

5.4 Response to Public Consultation

Addressed in the report.

-The proposed use is considered ancillary and condition is attached prohibiting the use of the outbuilding as a self-contained unit at any time.

6. Equality and Diversity Issues

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

7. Conclusion

The proposal addresses the previous reasons for refusal.

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 neighbouring occupiers. This application is therefore recommended for APPROVAL

