

16 December 2019

Mr Joe Mari
Principal Planning Officer
London Borough of Barnet

Dear Mr Mari

19/05706/FUL - 181D Squires Lane / Land Rear of 172 Long Lane, London, N3 2RA

Formal response to case officer's e-mail dated 11 December 2019

We are in receipt of your letter dated 11 December 2019 regarding some concerns that you presently have with the application currently being considered under reference 19/5706/FUL. We have considered the comments that have been made in that e-mail (and your supplementary e-mail sent on 12 December 2019), and set out our formal response below ahead of any decision being taken.

CHARACTER OF THE AREA

The design of the proposed alterations have been carefully considered in terms of the most preferential manner in which to add to the extant building at roof level to incorporate another dwelling. Our Design and Access Statement explores these different options and how the design of the proposal has formed in some detail, and to assist you we have provided the attached document entitled **façade development**. We trust this is of assistance in explaining the design process as well as alternative roof forms which we would ask that you also consider in respect of their favourability.

The development as a whole retains very much the same design approach as the extant permission save for the fact that we have made some modest alterations to the front elevation and infill to the side of no.183. We have sought to maintain the set-back and set-down appearance of the side infill and we contend that this still performs its functions in terms of providing for an effective transition in the mass and scale of the building from the much more dominant existing front and side elevations at no.181 to the smaller and more subservient features of the terrace building at no.183.

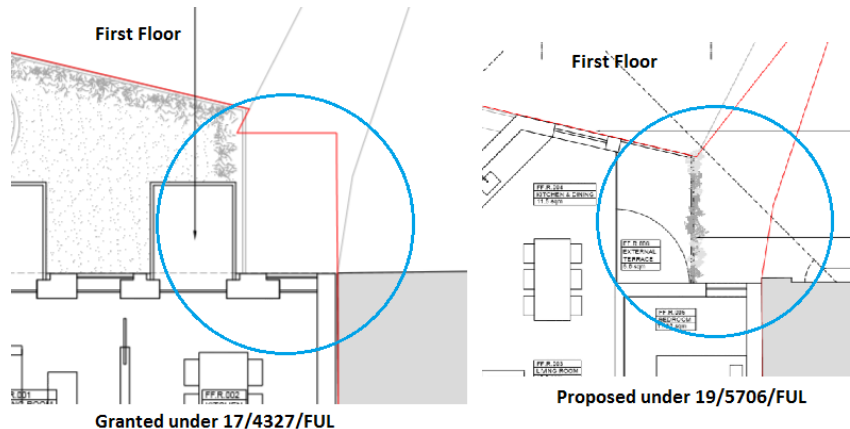
The mansard roof has a markedly lower eaves and ridge height than no.181 and therefore respects the transitional approach across the width of the application site. Furthermore, the massing of the proposed roof addition is situated on the eastern side of the building aligning with no.181, therefore allowing for a stepped down approach over the infill on the western side of the site to no.183. The extent of the roof addition is certainly not significant from front views of the proposed elevation or from public vantage points in-front of no.181. The stepped down transition is considered to be effective in eastward views from the west along Squires Lane.

In view of the contents of the remainder of the letter resolving the other concerns expressed in your e-mail of 11 December 2019, we would respectfully suggest that the matter of design can be dealt with inside of the application process, and would be advanced considerably towards a resolution if we were to be afforded the opportunity to be able to meet with you early in the new year to discuss.

OVERLOOKING IMPACT ON 183 SQUIRES LANE

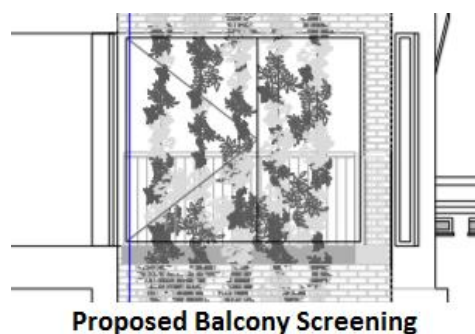
We would strongly disagree that the proposed development gives rise to an unacceptable degree of overlooking from the balconies into the rear garden amenity area of no.183.

In the first instance, we would ask for it to be noted that we have positioned the balconies a distance away from the intervening boundary that is of no material difference to that approved under the extant permission 17/4327/FUL. We refer you to flat 2 of the extant permission that had a balcony positioned at first floor level adjacent to the boundary with no.183.



We would strongly contend that the principle of balconies in this location has already been established through the extant planning permission on the site, and this in effect could be built out at anytime until the expiration of the planning permission. The fact that the balcony in the proposed scheme is conjoined to the building along two sides makes no material difference to the extent of any actual or perceived overlooking of the neighbouring property.

We would go further to state that the degree of any perceived or actual overlooking into the rear garden of no.183 would be more severe under the extant scheme than it otherwise would be in the proposed scheme now before you for consideration. This is because there was no screening to the balconies on the extant scheme and no condition was attached to require screening to be secured and retained thereafter. Future occupiers of the extant development would have had an uninterrupted and complete view into the rear garden of no.183. Whereas, under the proposed scheme, we have devised a comprehensive screening system to prevent against such instances of overlooking.



Notwithstanding the above justification for the proposed scheme on the basis of the balconies and screening hereby being proposed, officers are fully capable of either recommending a form of screening that would be preferable to them in order to resolve their concerns, or simply attach a condition that requires details of screening to be agreed prior to occupation of those units affected.

Such a condition would be perfectly compliant with the government's policy for the use of conditions under paragraphs 54 and 55 of the NPPF (2019).

OVERBEARING IMPACT ON 183 SQUIRES LANE

The extent to which a structure maybe perceived as overbearing is difficult to quantify for there is no written policy or guidance upon which this can be categorically measured. However, we would contend that it is not a completely subjective material consideration upon which a decision taker can have complete freedom in which to use to determine that a scheme is unfavourable.

It is commonly held in many supporting guidance documents that the degree of overbearing impact can be ascertained by considering the height and proximity of an opposing structure. It is routinely assessed against a habitable room opening as opposed to an open amenity area, as the former provides a constant point by which to assess the degree of overbearing impact. An overbearing impact can be expressed in other terms such as a loss of outlook whereby one's view is restricted or harmed by the introduction of a new structure that has restrictive effects.

Section 5.2 of the British Research Establishment (BRE) document entitled '*Site Layout Planning for Daylight and Sunlight*', *A guide to good practice, Second Edition*, can be used as a useful proxy for quantifying a potential impact on outlook (as also interpreted as a view) and overbearing impacts.

5.2.1 At the site layout stage in design the needs for view and for daylight rarely conflict; an open, well daylight layout will usually provide reasonable views.

In essence, for an unreasonable degree of overbearing impact or loss of outlook to occur, there almost always has to be some degree of loss of daylight. For example, a neighbouring extension or rear projection that exceeds the 45o line is likely to have an adverse effect on daylight to the neighbouring property, and together with this loss of daylight is a feeling of overbearingness. Conversely, when a rear projection does not intersect the 45o line or cause a material loss of daylight, then it is also unlikely for the new structure to take away the outlook or cause an overbearing impact on neighbouring properties.

We presume from the absence of any concerns being raised regarding daylight or outlook that these are not material factors for which you consider our scheme to transgress the requirements, and on the same basis and using the BRE guidance as a useful proxy for considering an overbearing impact, we contend that our proposal does not have a significant adverse impact in this regard. The proposed rear projection is off-set from the boundary with no.183 and the extent of projection beyond the rear wall of this property is not significant, rendering any view of the proposed rear addition as being oblique and therefore less consequential to the outlook and amenity of that neighbour.

IMPACT ON FUTURE OCCUPIERS

We note that you have made several points regarding the alleged poor amount of amenity being afforded to future occupiers of the proposed development, and we respond in turn below.

(i) Unit 2 – Outlook

Whilst we note your concerns in respect of the level of outlook being provided to this room we would ask that it be noted that the top half of the window will be clear glazed and therefore afford views out of the bedroom above the obscurely glazed lower window section. We would contend that for a bedroom that is naturally less dependent on outlook than a main living area of the property, this room would be afforded a reasonable level of outlook from these two openings.

We would also ask you to note that the lower ground floor of unit 1 of the extant scheme comprised a main living area, namely a dining room, that was effectively screened from the remainder of the floor plan by an intervening wall and staircase. This room was intended to be used throughout the daytime and evening periods and was therefore at least equally dependent on outlook as a bedroom, for which is only primarily used during the evening and night time periods of the day, and mainly not for purposes that require outlook (i.e. sleeping).

Under the extant scheme there was no outlook provided to the dining room with the only source of daylight coming from the ground floor windows on the next level above. These windows were obscurely glazed in their entirety by condition 05 of the extant permission, as follows:

- 5 *Before the building hereby permitted is first occupied the front windows at ground floor shall be glazed with obscure glass only and shall be permanently fixed shut or provided with only a fanlight opening and shall be permanently retained as such thereafter.*

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 (updated October 2016).

We would therefore strongly content that the situation is no worse, and in our view is patently preferential, to the extant scheme. The bedroom has been provided outlook through a form of clear glazed upper sections of the window openings, and in any case, this is a betterment to a habitable living area of the extant scheme which had no outlook (and little daylight).

(ii) *Unit 3 – Floor Space Requirements*

We have gone back to the CAD file and re-calculated the floor area of bedroom 2 of unit 3 and I can confirm that it does measure exactly 11.3m². On this basis, the bedroom would be compliant as a single bedroom under criterion 10(d), and therefore the unit's occupation is rated as 3 persons. The CLG technical housing standards (2015) requires a two bedroom (3 person) unit to have a floor space of 61m². We have shown unit 3 at 66m² therefore showing some capacity above the minimum floor space requirements. On our calculations therefore, the proposed unit 3 is fully compliant with both the requisite bedroom sizes and the overall unit size. However, even were we to take your measurements of 11.5m² for the second bedroom to flat 3, the overall unit floor space is only 4.0m² deficient against the standards, and this is hardly sufficient reason to refuse permission.

(iii) *Unit 5 – Head Heights*

We would refer you to drawing ref: HASA-191-20-4001 which shows the floor layout of unit 5. On this floor layout, you will note that there is a shaded area of the drawing which has been annotated by the architects to indicate the lower extent of head height within the unit. For the avoidance of any doubt, and as recited from the same drawing, I can confirm that the total area of the unit below 2.3m in head height is 7.0m². The total unit size is 43.0m² meaning that the area of this flat with a lower head height than 2.3m is 16.3%. You will note therefore, that we are fully compliant under criterion 10(i) of the CLG technical housing standards (2015).

(iv) *Outdoor Amenity Space*

We are very surprised that this has been raised as a concern against the proposed scheme for the extant scheme was considered favourably and granted planning permission using the overarching amenity space requirements within the London Plan's Housing SPD (i.e. 5.0m² for 1-2 occupants and 1.0m² for each additional occupant). It should be noted that the draft London Plan also contains the same outdoor amenity space requirements under policy D4 as the former Housing SPD required, and that under both of these, the Barnet's standards sit at odds.

I enclose a section from your delegated report for the extant scheme which stated:

Unit 2 and 3 are served by small balconies to the rear. Although these areas would fail to meet outdoor amenity space standards as set out in Barnet's Sustainable Design and Construction SPD (2016), Officers acknowledge the particular constraints of this site and its ability to deliver outdoor amenity space. It is observed that the neighbouring properties to No. 181 Squires Lane are served by limited outdoor amenity space too and the development would follow this character pattern. The rear balconies, although small, would still give occupiers the ability to undertake day-to-day functions, such as drying washing and storage. The units meet amenity standards in all other aspects. On balance, the amenity space is deemed acceptable in this particular instance.

In addition to the above, we also drew your attention back to another neighbouring development for which you were the planning officer (application ref: 15/07181/FUL). This application proposed an additional flat at 170 Long Lane (next door to our site) and whilst this application was refused, your officer's report stated the following in respect of on-site amenity:

In regards to amenity space, none is provided for the proposed unit. Although this proposed unit is larger than the two units proposed under the previous application, it is noted that the four existing flats have no external amenity space and, given the site's constraints, it would not be possible to provide any such area for the proposed unit. It is also noted that the site is close to local parkland, woods and a nature reserve. The proposed unit also exceeds the recommended minimum floor standards for a flat of this size. The Inspector concluded in his decision that he would be satisfied that the absence of any on-site provision of amenity space would not be detrimental to future occupiers. Appeal decisions are material weight, and on balance, bearing all the above points in mind, the lack of amenity space is considered acceptable.

Having regard to our extant permission, you came to the decision that an outdoor amenity space offering below Barnet's standards was acceptable, and in the second instance of another site you came to the decision that no outdoor amenity space was required for the proposed flat.

We are therefore confused as to what has changed in terms of policy or other material circumstances to allow for a different set of requirements to be used to assess the currently proposed scheme. We would respectfully ask that the applications be dealt with in the same manner, and that this concern be rescinded from forming part of any decision on the current application.

HIGHWAYS AND CYCLE STORAGE

We would firstly ask officers to note that there was considerable parking capacity shown in the stress surveys that were conducted for the extant scheme, and this is highly unlikely to have been used up by cumulative development in the intervening time since permission was approved. We would also ask officers to note that we already have an extant permission for 3no units on the site, and therefore the additional car parking created by the development will be minimal and would not be perceptible to neighbouring properties. However, in saying this, if an additional 'check' survey is required, then this can be carried out at the beginning of the new year (outside of school holidays), with the results provided to the Local Planning Authority within a matter of days and under an extension of time. The same applies to amendments to include 3no additional cycle stands within the development.

HOUSING DELIVERY TEST

In addition to the evidence that we provided within our main planning statement, we have also noted the recent publication of the draft Housing Delivery Test results for 2019 which precedes the formal government announcement to be issued in early 2020. We note that the London Borough of Barnet features on the list for sanctions to be imposed against what has been an under-supply of housing completions in the last three year period (6,127 completions against a housing requirement of 6,574).

The Local Planning Authority will now be required to draw up an Action Plan as to how it expects to recover the deficit position, which is likely to become considerably harder with the adoption of the proposed housing requirements in the new London Plan, which will require the Local Planning Authority to build at least 3,134 dwellings per year.

In this situation, we would expect that the Local Planning Authority would be making every available effort to promote the efficient use of brownfield land in sustainable locations, and this includes (where put forward by an applicant), re-visiting extant permissions and seeing whether they can be enhanced to provide a greater number of much needed housing units. The proposed scheme the subject of this application is the exact form of housing for which the government places a great need, and for which your Strategic Housing Market Assessment derives a significant demand. We are proposing a range of unit sizes within a sustainable and accessible location. Moreover, we are utilising an existing under-utilised storage and distribution unit, whilst replacing the lost employment generating floor space with a new and purpose built office for a small company, and providing new and policy compliant residential flats above. We contend that our proposed scheme incurs substantial public benefits.

CONCLUSION:

In the first instance, we would respectfully ask you to reconsider the concerns set out in your initial e-mail on 11 December 2019. Many of the points contained therein can be clarified and / or resolved without the need for them to become a permanent obstruction to permission being granted and which would only necessitate wasted time and resources at an appeal. Secondly, and after due consideration is given to the merits of the proposed scheme, you still feel unable to support the application in its present form, we would ask that a meeting take place between ourselves in the new year in which we can explore alternative design issues that may overcome the concerns. We are happy to provide the Local Planning Authority with additional time under an extension of time limit to facilitate this meeting, and consider the results of the same, before issuing a decision on the application.

If you feel able to meet with us to discuss the proposed scheme, or you would like to discuss any of the contents of this letter in more detail, please do not hesitate to contact me.

Yours sincerely,

James Hutchison

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