



Planning Committee

Wednesday 16 January 2013 at 7.00 pm

Committee Rooms 1, 2 and 3, Brent Town Hall, Forty Lane, Wembley, HA9 9HD

Membership:

Members

Councillors:

Ketan Sheth (Chair)
Daly (Vice-Chair)
Aden
Baker
Cummins
Hashmi
John
CJ Patel
RS Patel
Krupa Sheth
Singh

first alternates

Councillors:

Thomas
Long
J Moher
Kansagra
Ms Shaw
Cheese
Van Kalwala
Hopkins
Gladbaum
Oladapo
Hossain

second alternates

Councillors:

R Moher
Naheerathan
Moloney
HB Patel
Sneddon
Beck
Ogunro
Lorber
Harrison
Powney
Mashari

For further information contact: Joe Kwateng, Democratic Services Officer
020 8937 1354, joe.kwateng@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

www.brent.gov.uk/committees

The press and public are welcome to attend this meeting

Members' briefing will take place at 5.30pm in Committee Room 4

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

ITEM	WARD	PAGE
1. Declarations of personal and prejudicial interests Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.		
2. Minutes of the previous meeting - 12 December 2012		1 - 6
Extract of Planning Code of Practice		
NORTHERN AREA		
3. 10 Rushout Avenue, Harrow, HA3 0AR (Ref. 12/3022)	Northwick Park	11 - 22
SOUTHERN AREA		
4. 141-153 High Street, London NW10 (Ref. 12/2920)	Kensal Green	23 - 34
WESTERN AREA		
5. Land next to Stonebridge Park Hotel, Hillside, Stonebridge, London NW10 (Ref.12/3026)	Stonebridge	35 - 56
6. Former Guinness Brewery Site, Rainsford Road, Park Royal, NW10 (Ref. 12/2862)	Stonebridge	57 - 76
SPECIAL ITEM		
7. Updated Barnhill and Queens Park Conservation Design Guide This report provides an update on a review of Brent's Conservation Area Design Guides currently being undertaken. New versions of Design Guides for Barn Hill Conservation Area (Northern Area) and Queens Park Conservation Area (Southern Area) have been produced and are now at a stage where they are ready for public consultation.	Barnhill; Queens Park	77 - 80
PLANNING APPEALS		
8. Any Other Urgent Business Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.		

SITE VISITS – SATURDAY 12 JANUARY 2013

Members are reminded that the coach leaves Brent House at **9.30am**

REF.	ADDRESS	ITEM	WARD	TIME	PAGE
12/3026	Land next to Stonebridge Park Hotel, Hillside, Stonebridge, London NW10	5	Stonebridge	9:35	35 - 56
10/3221	141-153 High Street, London London NW10	4	Kensal Green	10.00	23 - 34

Date of the next meeting: Wednesday 13 February 2013

The site visits for that meeting will take place the preceding Saturday 9 February 2013 at 9.30am when the coach leaves Brent House.



- Please remember to ***SWITCH OFF*** your mobile phone during the meeting.
- The meeting room is accessible by lift and seats will be provided for members of the public.
 - Toilets are available on the second floor.
 - Catering facilities can be found on the first floor near The Paul Daisley Hall.
 - A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge

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LONDON BOROUGH OF BRENT

MINUTES OF THE PLANNING COMMITTEE Wednesday 12 December 2012 at 7.00 pm

PRESENT: Councillors Daly (Vice-Chair), Aden, Cummins, Hashmi, John, CJ Patel, RS Patel, Krupa Sheth and Singh

Apologies for absence were received from Ketan Sheth and Baker

1. **Declarations of personal and prejudicial interests**

None.

2. **Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 21 November 2012 be approved as an accurate record of the meeting.

3. **Alpine House, Honeypot Lane, London, NW9 9RU (Ref. 12/2612)**

PROPOSAL:

Redevelopment of the site with erection of mixed-use scheme to provide 144 residential units (Class C3), 1800sq/m of employment workspace (Class B1), 5 live/work units (Sui generis) and associated parking, amenity space, landscaping and access.

RECOMMENDATION:

- (a) Grant Planning Permission, subject an appropriate form of Agreement in order to secure the measures set out in the Section 106 Details section of this report and referral to the Mayor, incorporating revisions to Section 106 Heads of Terms, amendments to conditions 5, 7, 9, 10, 15, 19 and proposed additional conditions as set out in the supplementary report or
- (b) If within a reasonable period the applicant fails to enter into an appropriate agreement in order to meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission

Rachel McConnell, Area Planning Manager, with reference to the tabled supplementary report, clarified queries raised at the site visit on the following: the proposed number of units; affordable tenure mix; parking numbers and overall amenity space. She continued that the development originally proposed 105 car parking spaces within the site and on street along Westmoreland Road and

Honeypot Lane but the number had had to be reduced to 102 spaces to accommodate footways with a minimum of 2metres. Members heard that the London Borough of Harrow had not raised objections to the scheme subject to amendments to the Section 106 Heads of Terms to ensure that funding could be put aside to control the impact of CPZ within the boundaries of Harrow. She added stated that objections raised by QARA Group of Associates (Brent) on parking had been addressed in the main report.

The Area Planning Manager drew members' attention to the comments made by the GLA and officers' clarifications as set out in the supplementary. In reiterating the recommendation, she referred to a number of amendments to the Heads of Terms of the Section 106 agreement, conditions 5, 7, 9, 10, 15 and 19 19 and proposed additional conditions as set out in the supplementary report.

Mr Robert Dunwell, Chairman of QARA Group of Associates (Brent) in objecting to the scheme expressed concerns about the fact that not all cars expected to be generated by the development would be accommodated within the site. He also re-stated his objection to the possible introduction of controlled parking zone (CPZ) to the area. He added that with the surrounding streets in both Brent and Harrow being heavily parked, the addition of a possible 77 cars would produce a general parking blight with accompanying impact on safety of pedestrians and motorists. Mr Dunwell therefore requested the Committee to defer the application until the matters raised by QARA had been resolved.

Mr David Ayre, the applicant's agent stated that the scheme which was a culmination of 12 months' design work and consultation with officers and interested persons reflected the architectural aspirations and the overriding vision to respond to residential needs. He added that the scheme which provided generous amenity spaces would be a significant improvement to the area would ensure that car parking was contained on site. In his view the scheme would serve as a catalyst for future development in the area.

In response to members' enquiry on landscaping, Mr Ayre stated that the main thrust would be the provision of communal landscaped communal areas for children and adequate tree planting, working in close association with Brent's tree consultants.

Rachel McConnell added that in order to mitigate parking overspill, which would equate to approximately 34 cars accommodated on site or by other newly created spaces, waiting restrictions would be reviewed to allow night time parking in Westmoreland Road, in addition to car club and residential cycle parking. These would significantly exceed parking standards. The Head of Area Planning added that there was some limited scope for parking overspill but was unlikely to be a severe problem and on balance considered the scheme acceptable.

DECISION: Planning permission granted as recommended.

4. Atlantic Electronics, 295-297 High Road, London, NW10 2JY (Ref. 12/1685)

PROPOSAL:

Demolition of derelict building and the construction of a four storey building comprising 9 residential units on the upper three floors with a commercial unit on the ground floor.

RECOMMENDATION:

Grant planning permission subject to a new condition on treatment of balconies, amended condition 1 as set out in the supplementary report and the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning or other duly authorised person to agree the exact terms thereof on advice from the Director of Legal Services and Procurement.

With reference to the supplementary report, Andy Bates, Area Planning Manager clarified the issues raised during the site visit. In respect of the relationship of the proposal with No. 299, he stated that owing to the siting of the proposed building, the dual aspect nature of the bedroom and the window located in the recess benefiting from only a limited degree of light and outlook, officers were not of the view that the proposed development would have a detrimental impact on the amenity of residents at No 299. He informed Members that no complaints had been made from existing residents about noise and furthermore, there were a number of similar relationships within other developments in the Borough where an acceptable standard of noise insulation had been achieved, drawing attention to condition 4 which sought to prevent noise nuisance. In order to restrict outlook to non-residential uses and minimise noise intrusion, he recommended an additional condition requiring the applicant to submit further details of balcony treatment including specification of ventilation and glazing to all balconies.

Andy Bates drew members' attention to amendments to condition 1 as set out in the supplementary report to secure further details of landscaping including raising planting beds. He added that 3 of the flats failed to meet internal floor space requirements by about 1sq m and to compensate for the shortfall, the applicant had agreed to contribute £10,000 toward public realm improvements. In respect of disabled parking, he submitted that due to site constraints in this location on a distributor road, it was not considered possible to insist on a disabled parking bay at the site. However, as in other similar cases, there was an option to provide an on-street disabled bay in an appropriate location, via an application to Highways. He also added that officers in Environmental Health had confirmed that no complaints had been received regarding the neighbouring flue.

In response to a Member's enquiry, Mr Martin Ledger the applicant's agent confirmed the contribution of £10,000 to compensate for the shortfall of 1sq m for each of the 3 flats would be acceptable and that due to site constraints, it was not possible to provide disabled parking space.

DECISION: Planning permission granted as recommended and subject to further amending condition 1 to require 'tree planting' and a new condition on the treatment of balconies.

5. Allotments R/O 1-31 odd, Wembley Hill Tennis Club Grounds, Sports and Social Club, Vivian Avenue, Wembley, HA9 (Ref. 12/2653)

PROPOSAL:

Redevelopment of site including the demolition of the former Wembley Hill Sports and Social Club building and the erection of 40 residential extra care units in two blocks (1 x two storey and 1 x three storey block), the provision of a new community open space, landscaping, and car parking with vehicle access gained via Corsham House (as amended by revised plans).

RECOMMENDATION:

Grant planning permission subject to additional conditions on vehicle access barrier and visibility as in the supplementary, the completion of a satisfactory Section 106 or other legal agreement with amended Heads of Terms and as set out in the supplementary and delegate authority to the Head of Area Planning or other duly authorised person to agree the exact terms thereof on advice from the Director of Legal Services and Procurement.

Steve Weeks, Head of Area Planning, in reference to the tabled supplementary report, informed members that Transportation officers had confirmed they were satisfied that adequate visibility would be achieved in either direction for vehicles crossing the footpath. Furthermore, measures proposed to be undertaken as part of the Section 278 agreement would reduce vehicle speed and by emphasising the presence of the footpath would give priority to pedestrians. He added that whilst the installation of a gate or barrier on the Corsham House (east side of the footpath) was welcomed in principle, further details would be secured through condition to ensure that it was appropriately sited.

In response to queries raised at the site visit, the Head of Area Planning clarified that resurfacing of the public footpath should apply to the length of the footpath adjoining the site as part of the section 278 works. He added that the grass verges along Victoria Court did not form part of the application as it was outside of the application site. In order to ensure the applicant agreed the condition of the highway before commencement of works, he recommended an amendment to condition 19 for submission of a Construction Method Statement.

Members heard that a sustainability checklist with a self-assessed score of 50.3% had been submitted but that it had been re-assessed by officers to have a slightly lower score of 48.3%. The development had also been designed to include a Combined Heat and Power Unit (CHP). On site renewable technology had been considered and photovoltaic (PV) systems which were in line with London Plan policy 5.7 were proposed.

He added that the Landscape Officer considered the measures proposed to compensate for the loss of vegetation, habitats and nature conservation value to be relatively good however, the Section 106 financial contribution had been amended slightly to secure £63,000 to compensate for the losses. Furthermore, an additional clause was proposed requiring the applicants, prior to a material start, to submit and have approved an Allotment Management Strategy. He drew members' attention to the revised landscaping strategy submitted which confirmed

that additional trees would be planted with new trees proposed along the northern edge of the site to help provide screening of the buildings for adjoining gardens.

Mrs Bridie Ahmed a local resident expressed her support for the proposed development particularly as it would provide care units. She however sought the Committee's clarification and assurance on condition 19 as set out in the main report.

Mr Mark Connell, the applicant's agent expressed gratitude for the residents' support and confirmed the applicant's intention to work in partnership with the residents. He drew attention to the financial contribution under the Section 106 agreement and added that the applicant would not propose alternative uses for the site, confirming that the site would remain for allotment uses only.

During question time, Mr Connell was asked to indicate the extent of help that Willow Housing was prepared to give to allotment holders and whether community elements would be preserved. The agent confirmed that the applicant would develop and manage the site according to guidelines as well as organise meetings with the community.

During discussion, Councillor Cummins expressed concerns about the proposal in that the allotments would be tenanted by Willow Housing to the community via a legal agreement with a local residents group (yet to be set up) who would act as landlord for the allotment, manage the space and pay an annual rent in line with Brent's allotment charges. He also noted with some concern a break clause that would allow Willow to terminate the lease and implement another acceptable use and urged for a degree of flexibility to be applied. The Chair remarked that the rent to be charged should be affordable to the allotment holders.

Councillor Cummins observed that the path was in a poor state of repair to be resurfaced and put forward an amendment for a condition requiring the applicant to resurface the entire pathway so as to make it safe for the elderly. Prior to voting, the Head of Area Planning advised that the amendment, which had cost implications, had not been previously put to the applicant. The amendment was however put to the vote and declared carried.

DECISION: Agreed as recommended with additional conditions, revised condition 19 to agree condition of highway and revised Heads of Terms requiring the applicant to prepare the allotment site and to carrying out repairs to the whole of the pathway.

6. Government Consultation on Proposed Changes to Permitted Development

Members received a report that detailed Government's consultation on proposals to increase permitted development (PD) rights for extensions to houses and business premises in non-protected areas (e.g. outside Conservation Areas) in England. The proposed amendments to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) were also intended to streamline the regime covering the installation of broadband infrastructure.

Steve Weeks, Head of Area Planning, in explaining the proposals stated that the impact on both the adjoining properties and the extended house was considered excessive in conjunction with existing PD rights for outbuildings. He explained that the proposals were likely to result in creating an overbearing relationship and a loss of outlook and light as well as detrimental visual impact in relationship with adjoining properties. He added that level changes between properties and the associated impact on adjoining properties had been overlooked in the proposals. He continued that the proposals would not only reduce the size of gardens but would also reduce soft landscaping and significantly increase water run-off. Members heard that by allowing detached garages to be converted into habitable dwellings could raise enforcement issues. Steve Weeks suggested the use of garage for incidental purposes only provided a proportion of the front garden soft landscaping of say 25% was retained. He sought Members' endorsement of the draft response attached as an appendix to the report to be sent to the DCLG by the deadline date of 24 December 2012.

During discussion, Members were unanimous in expressing that the proposals, which they considered to be ill-thought out, would have a disastrous impact on the borough and contrasted with the Government's policy on backland development. In endorsing the draft response, members requested the Head of Area Planning to submit it to the DCLG in the strongest possible terms.

DECISION

That the comments set out on the DCLG's response form (attached as an appendix to the report) be agreed as recommended and that the Head of Area Planning's covering letter should emphasise the Planning Committee's strong concerns about the impact of the proposals on Brent residents and businesses.

7. Any Other Urgent Business

None raised.

8. Date of next meeting

The next meeting will take place on Wednesday 16 January 2013 at 7:00pm.

The meeting ended at 8:25pm

COUNCILLOR M DALY

Vice Chair (in the chair)

EXTRACT OF THE PLANNING CODE OF PRACTICE

Purpose of this Code

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is in addition to the Brent Members Code of Conduct adopted by the Council under the provisions of the Local Government Act 2000. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members making such decisions are, and are perceived as being, accountable for those decisions. Extracts from the Code and the Standing Orders are reproduced below as a reminder of their content.

Accountability and Interests

4. If an approach is made to a Member of the Planning Committee from an applicant or agent or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the Member shall:
 - a) inform the person making such an approach that such matters should be addressed to officers or to Members who are not Members of the Planning Committee;
 - b) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered.
7. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a Member shall disclose the fact he/she has been in contact with the applicant, agent or interested party if this be the case.
8. When the circumstances of any elected Member are such that they have
 - (i) a personal interest in any planning application or other matter, then the Member, if present, shall declare a personal interest at any meeting where the particular application or other matter is considered, and if the interest is also a prejudicial interest shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the application or other matter.
11. If any Member of the Council requests a Site Visit, prior to the debate at Planning Committee, their name shall be recorded. They shall provide and a

record kept of, their reason for the request and whether or not they have been approached concerning the application or other matter and if so, by whom.

Meetings of the Planning Committee

24. If the Planning Committee wishes to grant planning permission contrary to officers' recommendation the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.

25. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the Minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the Minutes of the Meeting.

29. The Minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
 - (i) on any resolution of "Minded to Grant or minded to refuse contrary to Officers Recommendation";
 - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.


STANDING ORDER 62 SPEAKING RIGHTS OF THE PLANNING COMMITTEE

- (a) At meetings of the Planning Committee when reports are being considered on applications for planning permission any member of the public other than the applicant or his agent or representative who wishes to object to or support the grant of permission or support or oppose the imposition of conditions may do

so for a maximum of 2 minutes. Where more than one person wishes to speak on the same application the Chair shall have the discretion to limit the number of speakers to no more than 2 people and in so doing will seek to give priority to occupiers nearest to the application site or representing a group of people or to one objector and one supporter if there are both. In addition (and after hearing any members of the public who wish to speak) the applicant (or one person on the applicant's behalf) may speak to the Committee for a maximum of 3 minutes. In respect of both members of the public and applicants the Chair and members of the sub-committee may ask them questions after they have spoken.

- (b) Persons wishing to speak to the Committee shall give notice to the Democratic Services Manager or his representatives prior to the commencement of the meeting. Normally such notice shall be given 24 hours before the commencement of the meeting. At the meeting the Chair shall call out the address of the application when it is reached and only if the applicant (or representative) and/or members of the public are present and then signify a desire to speak shall such persons be called to speak.
- (c) In the event that all persons present at the meeting who have indicated that they wish to speak on any matter under consideration indicate that they agree with the officers recommendations and if the members then indicate that they are minded to agree the officers recommendation in full without further debate the Chair may dispense with the calling member of the public to speak on that matter.

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	Planning Committee Map
Site address: 10 Rushout Avenue, Harrow, HA3 0AR	
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This map is indicative only.

RECEIVED: 13 November, 2012

WARD: Northwick Park

PLANNING AREA: Wembley Consultative Forum

LOCATION: 10 Rushout Avenue, Harrow, HA3 0AR

PROPOSAL: Demolition of detached garage and erection of a four storey four bedroom dwellinghouse including basement, formation of 1 off street parking space and associated landscaping.

APPLICANT: Mr A Shah

CONTACT: Construct 360 Ltd

PLAN NO'S:
See Condition 2.

RECOMMENDATION

To:

- (a) Resolve to Grant Planning Permission, subject to an appropriate form of Agreement in order to secure the measures set out in the Section 106 Details section of this report, or
- (b) If within a reasonable period the applicant fails to enter into an appropriate agreement in order to meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission

SECTION 106 DETAILS

The application requires a Section 106 Agreement, in order to secure the following benefits:-

- a) Payment of the Councils legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance
- b) A contribution of £3,000 per bedroom (totalling £12,000) index-linked from the date of committee and due on Material Start for Transportation, Education, Air Quality and Open Space in the local area.

EXISTING

The application site is located between number 10 and number 12 Rushout Avenue; No. 10 Rushout Avenue to its north, a detached inter-war two storey dwellinghouse with a hipped roof, and No. 12 Rushout Avenue to its south, also a detached two storey dwellinghouse with a hipped roof of a similar age to No. 10. The site measures approximately 8 metres in width and 50 metres in depth and contains a single storey dual pitched garage. The garage and associated land previously part of the curtilage of 10 Rushout Avenue and has been subdivided as a separate plot.

The wider area of Rushout Avenue comprises predominantly of inter-war semi detached and detached properties of varied architectural form and detailing. The original plot of number 10 Rushout Avenue, including the subject site, has previously had planning approval for an additional infill dwellinghouse (see planning history for more information).

The site is not located within a Conservation Area, and there are no Listed Buildings within the vicinity of the site.

DEVELOPMENT SCHEDULE

The table(s) below indicate the existing and proposed uses at the site and their respective floorspace and a breakdown of any dwellings proposed at the site.

Floorspace Breakdown

USE

Number	Primary Use	Sub Use
1	dwelling houses	housing - private

FLOORSPACE in sqm

Number	Existing	Retained	Lost	New	Net gain
1	0	0	0	240	240

TOTALS in sqm

Totals	Existing	Retained	Lost	New	Net gain
	0	0	0	240	240

Mayoril CIL multiplier is £35 per SQM of total net gain floorspace, therefore Amount Payable is £8,400.00.

PROPOSAL

This application seeks to erect one four bedroom, four storey dwellinghouse with one off-street car parking space including a basement.

The new dwelling would have a total maximum depth of 14.71m and a width of 5.97m. It would be set off the northern boundary with No. 10 Rushout Avenue by 1m and also set off the southern boundary with No. 12 Rushout Avenue by 1m. It would have a similar property line to No. 12 Rushout Avenue to the south, and would project approximately 1.4m beyond the front wall of No 10 Rushout Avenue when including the proposed open porch; not including the porch, it would have the same property line as number 10 Rushout Avenue to the north.

The dwellinghouse would have four storeys with a basement level which would cover the footprint of the proposed dwellinghouse.

One parking space is proposed to the front elevation which would include bin storage and a proportion of soft landscaping.

HISTORY

11/2832: Demolition of detached garage and erection of a four storey five bedroom dwellinghouse including basement, formation of 2 off street parking spaces within garage and driveway to front, associated landscaping and reposition of vehicle crossover - application withdrawn, 24/02/2012

09/0626: Demolition of detached garage and erection of a two storey dwellinghouse, formation of 1 off street parking space to front and associated landscaping and subject to a Deed of Agreement dated 18th May 2009 under Section 106 of the Town and Country Planning Act 1990, as amended – Granted, 19/05/2009

08/0679: Demolition of existing 2 storey dwelling and detached garage and erection of 3 storey building comprising 8 self contained flats with balconies at front and rear at 2nd floor level and balcony to rear at 1st floor level, installation of vehicle crossover and hardstanding with 1 car park to front, 7 car parks and cycle store to rear, refuse storage to side and associated landscaping to site – refused and dismissed at appeal, 19/11/2008

POLICY CONSIDERATIONS

National Planning Policy Framework (NPPF)

- *Delivering a wide choice of quality homes*
- *Requiring good design*

Brent Core Strategy 2010

CP17 Protecting and Enhancing the Suburban Character of Brent

Brent UDP 2004

BE2	Townscape: Local Context and Character
BE3	Urban Structure: Space & Movement
BE7	Public Realm: Streetscape
BE9	Architectural Quality
BE12	Sustainable Design Principles
BE29	Areas of Distinctive Residential Character
H12	Residential Quality – Layout Considerations
H13	Residential Density
H22	Protection of Residential Amenity
TRN2	Public Transport Integration
TRN3	Environmental Impact of Traffic
TRN11	The London Cycle Network
TRN23	Parking Standards – Residential Developments
PS14	Parking Standards – Residential Developments
CF6	School Places

Supplementary Planning Guidance

SPG17	Design Guide for New Development
SPG5	Altering and Extending your Home

CONSULTATION

Northwick Park Ward Councillors and fifteen residents were consulted by letter on 13/11/2012 alongside the Council's Landscape, Transportation, Design and Environmental Health departments.

Four residents have objected to the scheme on the following grounds:

- A contemporary design would be out of character with the existing dwellings and wider area;
- Lack of car parking on site, resulting in on-street parking and exacerbating congestion;
- The new dwellinghouse is too deep and would result in loss of light and outlook at the adjoining properties;
- The top floor rear window would result in high level overlooking adjoining the gardens of 12 and 10 Rushout Avenue;
- The house is set too close to either boundary with 10 and 12 Rushout Avenue and should maintain a gap either side of the boundary by 1.8m to allow side access and maintenance;
- The dwellinghouse fails to respect the front property lines of its adjoining dwellings;
- The guttering is not contained within the site boundary and would overhang its neighbouring properties;
- Any construction works should not result in any impacts to neighbouring boundaries, fences or walls as this would compromise security to these properties;
- The application is for a house however the proposed layout could easily lead to a future change of use to flats;
- The design fails to comply with SPG17 and SPG5;
- Noise insulation which exceeds current Part E of Building Regulations should be conditioned;
- The proposal would result in the re-location of the crossover and the loss of a street tree;
- The proposed building proposes to have a balcony at the rear resulting in overlooking and privacy to the property's adjoining gardens;
- The construction of the basement would cause subsidence at the adjoining properties

Environmental Health

No objections raised subject to conditions; see remarks section for further details.

Transportation

No objections raised subject to the retention of the existing crossover and a proportion soft landscaping retained to the front boundary.

Landscape

No objections raised subject to the following being provided:

- A good proportion of soft landscaping is retained to forecourt.
- Provision for covered cycle storage meeting the council's cycle parking standards, screened as necessary.
- A bin store, suitably and attractively screened.
- All plant species, pot size, numbers and location to be provided across all elevations.
- All hard materials and boundary treatments including types, colours and finishes to be provided.

Permeable paving.

REMARKS

Key considerations

The key considerations are as follows:

1. Principle of Development;
2. Massing, form, design and materials;
3. Standard of proposed accommodation;
4. Impact on neighbouring residents;
5. Trees and landscaping;
6. Transportation and highway safety;
7. Other considerations;
8. Response to objections;
9. Conclusion.

1. Principle of Development

The site has been the subject of three previous planning applications, two of which were to erect a new dwellinghouse and one of which was to erect flats. The proposal for 8 flats (LPA Ref: 08/0679) was refused by the Council and subsequently dismissed at appeal in 2009.

The most recent application for a new dwellinghouse was withdrawn because of detailed design issues (LPA Ref: 11/2832). However, the principle of a new dwellinghouse on the site has been accepted by the extant planning permission for a two storey five bedroom dwellinghouse with the formation of one off-street parking space in 2009 (LPA Ref: 09/0626). The proportions of the plot were considered to replicate the general pattern of development in the area in compliance with Policy CP17 of the Core Strategy which seeks to protect the suburban character of Brent.

2. Massing, form, design and materials

The proposed dwellinghouse would be four storeys in height including the basement level. It would sit on the same property line as No. 12 Rushout Avenue providing sufficient front garden space to allow for a parking space, bin storage, path to the front entrance and the provision of soft landscaping.

The proposed house is of a modern design but does take reference from the more traditional character of neighbouring dwellings. The proposed dwellinghouse comprises a dual pitched roof which would match the height of its neighbouring dwellings at both eaves and ridge height. The front elevation is stepped with the projecting element comprising flashed black brick continuing around the southern flank of the property to a depth of 2.3m. Beyond this, the house would be white rendered. Within the front elevation of the dwellinghouse, two large windows at ground and first floor are proposed. To the right hand side of the house at ground floor, the modern front door would be entirely glazed and framed by a cedar clad timber porch. The porch would project slightly beyond the forward projecting element of the house but would not appear disproportionate. Above this, the right hand first floor part of the dwellinghouse would be white rendered. To the front elevation at second floor, triangular shaped glazing, appearing almost as part of the roof, is proposed.

Although the proposed dwellinghouse has three storeys of residential accommodation above ground level, it has the proportions of a two storey property with additional accommodation provided in the gable roof. The design of the dwellinghouse would not replicate that of its neighbours but is well considered, and is an appropriate balance between respecting the existing character of the area whilst proposing attractive contemporary features. This is considered acceptable in the locality. The timber cladding proposed to the

porch can age quickly and appear unsightly; a material should be secured through condition which is durable and high quality. In addition, full section and elevation details will be required of the new dwelling's constructional junctions to ensure appropriate quality is maintained.

The original plans proposed a separation distance of 1m and 300mm between the new dwelling and No. 12 and No. 10 respectively. Amendments have been received and the dwelling has been reduced in width, maintaining a distance of 1m between the boundaries of both No. 10 and No. 12.

3. Standard of proposed accommodation

The proposed unit has a gross internal floor area of 240.15sqm, which is in excess of the minimum required for a 4-bed three storey plus house as set out in the London Plan (113 sqm), and it is noted all of the rooms meet the minimum floorspace standards as required within the Interim London Housing Design Guide.

The additional dwellinghouse would be dual east/ west aspect with no north facing rooms and its sunlight would therefore be of an acceptable level. It is noted the basement contains no habitable rooms and would have a 2.4m deep, 5.73m wide lightwell to its rear and is therefore considered acceptable. To the habitable room windows on the upper floors, the outlook at the new dwellinghouse would be acceptable as it allows for a minimum of 10m between the rear wall of the dwellinghouse and site boundary as required in SPG17, and more than 20m to two directly facing habitable rooms.

The proposed amenity space would significantly exceed the Council's minimum requirements as set out within SPG17, totalling more than 200sqm located to the rear of the property.

4. Impact on Neighbouring Residents

The proposed house has been designed to ensure that the impact on the neighbouring properties is within reasonable limits. The single storey element of proposed house will extend 3.2m rearwards of the neighbouring dwelling at 10 Rushout Avenue and 4m rearwards of 12 Rushout Avenue; this is a relationship generally accepted when single storey rear extensions to detached properties are proposed and is considered appropriate as a guide in this context. The single storey rear element would have a height of 3.8m sloping to 2.65m at its eaves and would be just over an average of 3m in height and therefore acceptable in terms of its impact on amenity. The covered lightwell extends further rearwards into the garden though is not considered to give rise to any amenity impacts.

The first and second floors of the new dwelling would project 1.4m beyond the rear wall of number 12, thus complying with SPG5's 2:1 guideline in consideration that the nearest *sole* habitable room window is over 4.5m away from the side of the second floor element of the new dwelling (N.B. flank windows which are not sole habitable room windows are not considered). On the northern boundary, the dwelling would project 0.55m beyond the rear wall of number 10 with the middle of the nearest habitable room window being more than 3m away and as such complies with SPG5's 2:1 guideline.

SPG17 states that the building envelope of proposed new development should be set below a line of 30 degrees from the nearest rear habitable room window of an adjoining existing property, measured 2m above ground level, and that where the proposed development adjoins private amenity/ garden areas the height of new development should normally be set below a line of 45 degrees at the garden edge, measured from a height of 2m. It is noted these policies are complied with to the front and rear elevations.

5. Trees and landscaping

The site currently contains a good proportion of soft landscaping and there is a large tree lying on the boundary No. 12 Rushout Avenue to the south. A condition will be included to ensure that this tree is retained.

Suitable replacement hard and soft landscaping will also be required to be provided including permeable paving, a screened bin store, hard landscaping materials and soft landscaping including plant species, pot sizes, numbers and locations are provided alongside a bin store that is suitably and attractively screened. Although this detail has been included, a revised front landscaping plan is required to allow for the retention of the existing crossover. An amended front landscaping plan, therefore, will be required by condition.

6. Transportation and highway safety

Rushout Avenue, a local access road, is unrestricted and as such there is resident parking along both sides of the road. Night time parking on the road is low, but the road has high daytime on-street parking as a result

of its proximity to stations and consequent commuter parking.

The site has good access to public transport services (Public Transport Accessibility Level 4), with close access to Kenton station (London Overground and Bakerloo lines) and Northwick Park station (Metropolitan line). There is also close access to the bus routes Nos. 114, 183, 223, H9/H10 and H18/H19 on Kenton Road. Rushout Avenue is enroute to bus route No H9.

Car parking allowances for dwellinghouses are given in standard PS14 of the UDP. Policy BE7 and Brent's Crossover Policy are also applicable. The parking allowance for the new 4 bedroom house is up to a maximum of 2 spaces. One off-street parking space is proposed to be provided on a new driveway on the southern side of the front garden.

In consideration that Rushout Avenue is a wide road that can safely accommodate on-street parking along both sides and as is not heavily parked at night, the second space can be acceptably provided on-street. Transportation have raised concerns over the re-location of the crossover which would result in the loss of an existing street tree, contrary to Brent's crossover policy. A condition has therefore been included to ensure the existing crossover is retained and that hard and soft landscaping details and bin storage details are submitted to the council.

Two cycle parking spaces are proposed within a shed to the rear of the dwelling which is acceptable. Further details will be required to be submitted to the council with regard to its size and height.

7. Other considerations

The case officer has consulted the Environmental Health department on the proposal, who have requested that some additional conditions are included in consideration that the site is in an Air Quality Management Area and that part of the site may be contaminated. The requests include:

- Measures to mitigate dust and fine particles to be submitted
- A site investigation to determine the nature and extent of any soil contamination
- An appraisal of remediation options should any contamination be found that presents an unacceptable risk to future site users.
- A verification report shall be provided to the Local Planning Authority, stating that remediation has been carried out in accordance with the approved remediation scheme and the site is permitted for end use.

These conditions will be included as part of any approval.

8. Response to objections

The Officer has responded to each of the objections as set out in the table below:

Objection	Officer's response to objection
A contemporary design would be out of character with the existing dwellings and wider area	See Section 2. 'Massing, form, design and materials' above. Conditions will be included to ensure that high quality materials are used.
There is a lack of car parking on site which would result in more on street parking, exacerbating congestion	See Section 6. 'Transportation and highway safety' above.
The new dwellinghouse is too deep and would result in loss of light and outlook at the adjoining properties	The house has been reduced in depth and width to comply with the general principles of SPG5 "Altering and Extending your Home" (used as a guide as this is for residential extensions) and SPG17 "Design Guide for new Development". The council uses these policies to assess applications to ensure no unacceptable loss of light and outlook occurs to neighbouring properties.
The top floor rear window would result in high level overlooking adjoining the	The second floor of the new dwelling complies with the requirements of

gardens of 12 and 10 Rushout Avenue	SPG5's 2:1 rule and it is not considered to result in any additional impact on amenity that would normally be expected from an extension, such as a rear dormer window
The house is set too close to either boundary with 10 and 12 Rushout Avenue and should maintain a gap either side of the boundary by 750mm to allow side access and maintenance	The house has now been set in from either boundary by 1m.
The dwellinghouse fails to respect the front property lines of its adjoining dwellings	The dwellinghouse is set slightly forward from No. 10 Rushout Avenue but is on the same property line as No. 12 and is therefore considered acceptable.
The guttering is not contained within the site boundary and would overhang its neighbouring properties	The house has now been set in from either boundary by 1m.
Any construction works should not result in any impacts to neighbouring boundaries, fences or walls as this would compromise security to these properties	The house has now been set in from either boundary by 1m and the owner of the site will be reminded of their Party Wall Act requirements within an informative.
The application is for a house, however the proposed layout could easily lead to a future change of use to flats	Any change of use from one single family dwellinghouse to flats would require planning permission.
The proposed building proposes to have a balcony at the rear resulting in overlooking and privacy to the property's adjoining gardens	No balcony is proposed to the second floor, and it is not considered that a three storey dwellinghouse would result in any additional problems than a rear dormer window would.
The construction of the basement would cause subsidence at the adjoining properties	The excavation of any basement would have to comply with Building Regulations and is outside the control of the planning system. However, the applicant will be reminded of the Party Wall Act as an informative.

9. Conclusion

Subject to conditions and a signed S106 agreement, approval is recommended in accordance with the above policies of the UDP, Core Strategy and relevant SPGs.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

(1) The proposed development is in general accordance with policies contained in the:-

Brent Unitary Development Plan 2004
 Brent Council's Supplementary Planning Guidance 17 - Design Guide for New Development
 Brent Council's Supplementary Planning Guidance 5 - Altering and Extending your Home

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment
 Housing: in terms of protecting residential amenities and guiding new development

Transport: in terms of sustainability, safety and servicing needs

CONDITIONS/REASONS:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

RA10A-1001B received 03/01/2013
RA10A-1002B received 03/01/2013
RA10A-1003B received 03/01/2013
RA10A-1004A received 03/01/2013
RA10A-1005A received 03/01/2013
RA10A-1006 received 03/01/2013

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) No further extensions or buildings shall be constructed within the curtilage of the dwellinghouse(s) subject of this application, notwithstanding the provisions of Classes A & B of Part 1 Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995, as amended, (or any order revoking and re-enacting that Order with or without modification) unless a formal planning application is first submitted to and approved by the Local Planning Authority.

Reasons: To prevent an over development of the site and undue loss of amenity to adjoining occupiers.

- (4) No windows, rooflights or glazed doors (other than any shown in the approved plans) shall be constructed in the flank walls of the building as extended without the prior written consent of the Local Planning Authority. Those window(s) shown in the approved plans shall be glazed with obscure glass and the window(s) shall open at high level only (not less than 1.8m above floor level) and top hung and shall be so maintained unless the prior written consent of the Local Planning Authority is obtained.

Reason: To minimise interference with the privacy of the adjoining occupiers.

- (5) Except as may be agreed in writing by the Local Planning Authority, there shall be no obstruction over 850 mm in height within the site within a visibility splay either side of the vehicular access defined by lines joining points on the edge of the public highway at a distance of 2.4m from the edge of the access to a point on the centre line of the access way 2.4m back from the public highway.

Reason: To ensure that the front boundary treatment and landscaping does not prejudice conditions of safety for pedestrians on the public highway.

- (6) Notwithstanding the approved plans, further details of materials for all external work, including samples and elevations/sections of the constructional junctions of the property, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The work shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (7) Notwithstanding any details of landscape works referred to in the submitted application, a scheme for the landscape works and treatment of the front garden of the proposed development (including species, plant sizes and planting densities) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any site clearance, demolition or construction works on the site. Any approved planting, turfing or

seeding included in such details shall be completed in strict accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. Such a scheme shall include:-

- (a) the identification and protection of existing trees and shrubs not directly affected by the building works and which are to be retained, in particular the tree in the south-east corner of the site adjacent to the boundary with No. 12 Rushout Avenue;
- (b) proposed means of enclosure (e.g. walls, fences) indicating materials and heights to include the boundary of No. 10 Rushout Avenue;
- (c) screen planting along the west, east and south boundary to include the boundary with the garden of No. 10 Rushout Avenue;
- (d) areas of hard landscape works including permeable paving and proposed materials including samples where necessary;
- (e) details of the proposed arrangements for the maintenance of the landscape works;
- (f) details of the proposed rear shed to accommodate the two cycle spaces, including materials, plans and elevations;
- (g) the retention of the existing crossover to be maintained to the north of the site boundary with the existing street tree to be retained.

Any planting that is part of the approved scheme that within a period of *five* years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season and all planting shall be replaced with others of a similar size and species and in the same positions, unless the Local Planning Authority first gives written consent to any variation.

Reason: To ensure a satisfactory appearance and setting for the proposed development and ensure that it enhances the visual amenity of the area.

- (8) The development is within an Air Quality Management Area and construction and demolition works are likely to contribute to background air pollution levels. The applicant must employ measures to mitigate the impacts of dust and fine particles generated by the operation, the details of which must be submitted to the Local Planning Authority for approval, prior to commencement of the development.

Reason: To minimise dust arising from the operation.

- (9) a) Prior to the commencement of building works, a soil contamination report shall be submitted to and approved in writing by the local planning authority. The site investigation shall be carried out by competent persons to determine the nature and extent of any soil contamination present. The investigation shall be carried out in accordance with the principles of BS 10175:2011 and include the results of any research and analysis undertaken as well as an assessment of the risks posed by any identified contamination, and an appraisal of remediation options should any contamination be found that presents an unacceptable risk to future site users. Any remediation measures required by the Local Planning Authority shall be carried out in full accordance with the approved details.

b) A verification report shall be provided to the Local Planning Authority, stating that remediation has been carried out in accordance with the approved remediation scheme and the site is permitted for end use (unless the Planning Authority has previously confirmed that no remediation measures are required) prior to occupation of the development.

Reason: To ensure the safe development and secure occupancy of the site

INFORMATIVES:

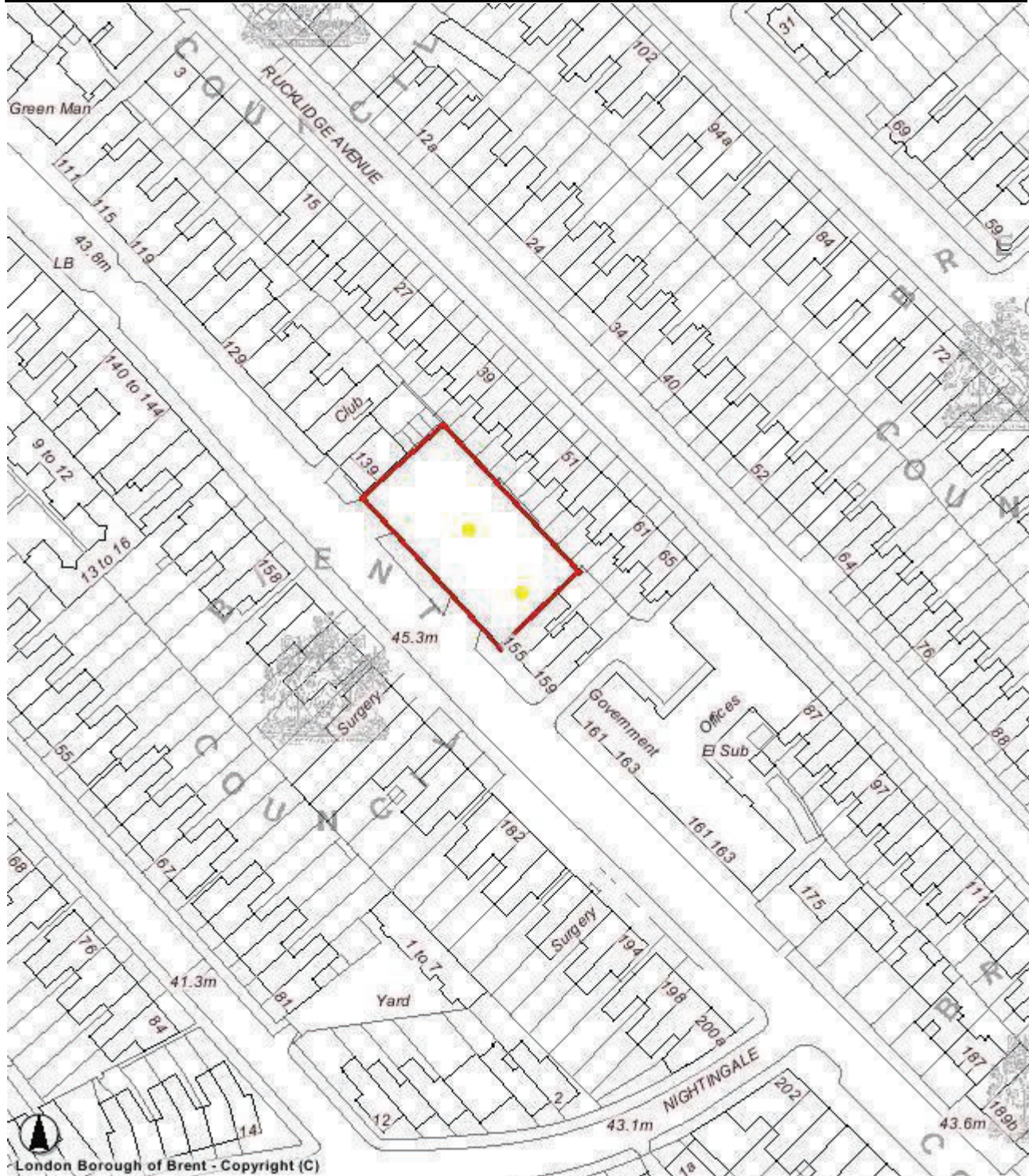
- (1) The provisions of The Party Wall etc. Act 1996 may be applicable and relates to work on an existing wall shared with another property; building on the boundary with a neighbouring

property; or excavating near a neighbouring building. An explanatory booklet setting out your obligations can be obtained from the Communities and Local Government website www.communities.gov.uk

Any person wishing to inspect the above papers should contact Laura Jenkinson, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5276

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 **Planning Committee Map**
Site address: 141-153 High Street, London
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London Borough of Brent - Copyright (C)
This map is indicative only.

RECEIVED: 31 October, 2012

WARD: Kensal Green

PLANNING AREA: Harlesden Consultative Forum

LOCATION: 141-153 High Street, London

PROPOSAL: Erection of 3 storey building to provide 13 affordable flats, consisting of 4 one-bedroom, 7 two-bedroom and 2 three-bedroom units.

APPLICANT: Origin Housing Group

CONTACT: Jones Lang LaSalle

PLAN NO'S:
Please see condition 2

RECOMMENDATION

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning or other duly authorised person to agree the exact terms thereof on advice from the Director of Legal Services and Procurement.

SECTION 106 DETAILS

The application requires a Section 106 Agreement, in order to secure the following benefits:-

- (a) Payment of the Councils legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance
- (b) 100% Affordable Housing – to be agreed by the Council
- (c) A contribution £57,600 (£2,400 per additional AH bedroom), due on material start and, index linked from the date of committee for Education, Sustainable Transportation, Open Space & Sports in the local area.
- (d) Sustainability - submission and compliance with the Sustainability check-list ensuring a minimum of 50% score is achieved and Code for Sustainable Homes level 4, with compensation should it not be delivered. In addition to adhering to the Demolition Protocol.
- (e) Offset 20% of the site's carbon emissions through onsite renewable generation. If proven to the Council's satisfaction that it's unfeasible, provide it off site through an in-lieu payment to the council who will provide that level of offset renewable generation.
- (f) Join and adhere to the Considerate Contractors scheme.
- (g) The Removal of the rights of residents to apply for parking permits.

And, to authorise the Head of Area Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the Unitary Development Plan and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

The Development is not mayoral CIL liable as affordable housing is exempt.

EXISTING

The application relates to a vacant site situated on the northeast side of High Street, Harlesden. The site was most recently in use as a petrol filling station but has since been demolished and cleared. The application forms indicate that the use ceased in 2006. The site is not located within a conservation area or an area of distinctive residential character, and is not within any designated centre. The High Street is a London Distributor Road.

PROPOSAL

Please see above.

HISTORY

Members will be aware that there have been a number of applications seeking redevelopment of this site, all of which were refused and two of which were subsequently dismissed at appeal.

10/0569

This was dismissed at appeal on 28 September 2010, proposing Outline application for erection of 3- and 4-storey building with basement to provide 20 affordable flats, consisting of 1 one-bedroom, 12 two-bedroom and 7 three-bedroom flats (matters to be determined: access, appearance, layout and scale). The Inspector concluded:

'...that the proposal would be harmful to the character and appearance of the area and the living conditions of the occupiers of nearby dwellings and the proposed flats. In addition, in the absence of a legal agreement regarding financial contributions, the development would result in unreasonable pressure on existing services and infrastructure.'

09/2240

This was refused at Planning Committee on 17th December 2009, for "Outline application (matters included: access, appearance, layout and scale) for erection of a 4-/5-storey building (with basement) comprising 23 affordable flats (2 one-bedroom, 9 two-bedroom and 12 three-bedroom)

The reasons for refusal were:

"The proposed four- and five-storey building (with basement), by reason of its overall height, width, bulk, and proximity, relates poorly with properties on Rucklidge Avenue and would have an unacceptable impact on the amenities of neighbouring occupiers to the rear of the site, by reason of the creation of an overbearing impact on existing properties, impacting on privacy and outlook. The proposal would thus result in a development that is out of character with the existing and adjoining buildings to the detriment of the visual character and appearance of the area. As a result, the proposal would be contrary to policy BE9 of the adopted Brent Unitary Development Plan 2004 and Supplementary Planning Guidance SPG17: "Design Guide for New Development"

"The proposed flats are located in an area which is deficient in public open amenity space and, by reason of the limited amenity value of the private external space of some of the large family units, the development would be contrary to policies H9 and H18 of the Unitary Development Plan 2004 and Supplementary Planning Guidance No. 17: "Design Guide for New Development"

"The proposed treatment of the rear elevation, by reason of its poor use of materials and articulation, does not succeed to break the overall bulk and width of the development, while resulting in a building which fails to add a positive contribution to the street-scene, and is thus contrary to policies BE2 and BE9 of the Unitary Development Plan 2004"

"The proposed internal arrangement of the proposed flat units do not provide satisfactory living conditions, in terms of the duplex units on the ground and lower ground floors. All units should be arranged to achieve acceptable levels of natural daylighting and ensure natural street surveillance. The proposed fails this by placing bathrooms at the front elevation on the ground floor with centrally based kitchens, and is thus contrary to policies BE5 and BE9 of the Unitary Development Plan 2004"

Other reasons for refusal related to the absence of legal agreements to control matters of: contributions; sustainable development; car free agreements; and affordable housing.

07/2829

This was refused at Planning Committee 19th December 2007, for the "Erection of four-storey building comprising 449m² retail floor space (Use Class A1) on ground floor and 14 self-contained flats on upper floors, consisting of 3 x one-bedroom flats, 9 x two-bedroom flats, and 2 x three-bedroom flats.

The applicants subsequently appealed the Council's decision, but the appeal was dismissed on 28th July 2008. The main issue highlighted by the appeal inspector was:

"the effect of the proposal on the living conditions of neighbours".

POLICY CONSIDERATIONS

National Planning Policy

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaces Planning Policy Guidance and Planning Policy Statements with immediate effect. It includes a presumption in favour of sustainable development in both plan making and decision making. It is considered that the saved policies referred to in the adopted UDP and core Strategy are in conformity with the NPPF and are still relevant. The NPPF states that good quality design and a good standard of amenity for existing and future occupants of land and buildings (page 15) are required. In addition, the NPPF refers to the role of Supplementary Planning Documents where they can help applicants make successful applications (par 153)

Accordingly, the policies contained within the adopted SPG's, London Borough of Brent Unitary Development Plan 2004 and Core Strategy 2010 carry considerable weight in the determination of planning applications and appeals.

Brent Unitary Development Plan 2004

STR11 – The quality and character of the Borough's built and natural environment will be protected and enhanced; and proposals which would have a significant harmful impact on the environment or amenities of the Borough will be refused.

STR14 – New development will be expected to make a positive contribution to improving the quality of the urban environment in Brent by being designed with proper consideration of key urban design principles relating to townscape (local context and character), urban structure (space and movement), urban clarity and safety, the public realm (landscape and streetscape), architectural quality and sustainability.

STR20 – Where suitable and practical, housing development on sites capable of accommodating 15 or more units, or 0.5 hectares or over, should include the maximum reasonable proportion of affordable housing consistent with the Plan's affordable housing provision levels.

BE2 - Design should have regard to the local context, making a positive contribution to the character of the area. Account should be taken of existing landform and natural features, the need to improve the quality of existing urban spaces, materials and townscape features that contribute favourably to the area's character, or have an unacceptable visual impact on Metropolitan Open Land. Proposals should not cause harm to the character and/or appearance of an area. Application of these criteria should not preclude the sensitive introduction of innovative contemporary designs.

BE3 – Relates to urban structure, space and movement and indicates that proposals should have regard for the existing urban grain, development patterns and density in the layout of development sites.

BE5 - Development should be understandable, free from physical hazards and to reduce opportunities for crime, with a clear relationship between existing and proposed urban features outside and within the site. Public, semi-private and private spaces are clearly defined in terms of use and control, informal surveillance of public and semi-private spaces through the positioning of fenestration, entrances etc., front elevations should address the street with, where possible, habitable rooms and entrances, with private areas to the rear and significant areas of blank wall and parking should be avoided on back edge of pavement locations, entrances should be overlooked by development with good lighting and visible from the street, rear gardens should not adjoin public space, parking spaces are provided within view and if not made safe in other ways and are not normally accessible via rear gardens of residential properties and accessways are through or adjoining a site are overlooked by development, provided with good lighting, set away from cover, provide clear sightlines and not run next to rear gardens.

BE6 - High standard of landscaping required as an integral element of development, including a design which reflects how the area will be used and the character of the locality and surrounding buildings, new planting of an appropriate species, size, density of planting with semi-mature or advanced nursery stock, new integrally designed structural landscaping on appropriate larger sites, boundary treatments which complement the development and enhance the streetscene and screening of access roads and obtrusive development from neighbouring residential properties.

BE7 – A high quality of design and materials will be required.

BE9 – Creative and high-quality design solutions (for extensions) specific to site's shape, size, location and development opportunities Scale/massing and height should be appropriate to their setting and/or townscape location, respect, whilst not necessarily replicating, the positive local design characteristics of adjoining development and satisfactorily relate to them, exhibit a consistent and well considered application of principles of a chosen style, have attractive front elevations which address the street at ground level with well proportioned windows and habitable rooms and entrances on the frontage, wherever possible, be laid out to ensure the buildings and spaces are of a scale, design and relationship to promote the amenity of users providing satisfactory sunlight, daylight, privacy and outlook for existing and proposed residents and use high quality and durable materials of compatible or complementary colour/texture to the surrounding area.

BE11 – Proposals for higher densities than that prevalent in the surrounding area will be encouraged in appropriate locations, which will include town centre locations in Areas of Very Good & Good Public Transport Accessibility (as defined in the Transport Chapter section 6.7), and transport interchanges (Policy TRN6). Proposals in these areas are encouraged to include a mix of compatible land uses.

BE12 – Proposals should embody sustainable design principles.

EP6 – When development is proposed on or near a site suspected of being contaminated an investigation of the hazards posed and any necessary remedial measures will be required from the developer.

H4 – Where affordable housing is appropriate this should be provided “in-situ”, other than in exceptional circumstances.

H9 – On developments capable of 10 or more dwellings, or residential sites of 0.5 ha or more, irrespective of the number of dwellings, a mix of family and non-family units will be required, having regard to local circumstances and site characteristics. Exceptions may be made for developments of sheltered or supported housing, housing in or adjoining town centres or where the site is unsuited to family occupation. Special regard will be had to affordable housing developments designed to meet the needs of a particular priority group.

H11 - Housing will be promoted on previously developed urban land which the Plan does not protect for other land uses.

H12 – The layout and urban design of residential development should comply with the policies in the Built Environment Chapter, and in addition they should have a site layout which reinforces or creates an attractive and distinctive identity, have housing facing onto streets and defining roads, have access to and layout which achieves traffic safety, have appropriate car parking, and avoid excessive coverage of tarmac or hard landscaping.

H13 – The primary consideration in determining the appropriate density of new residential development will be achieving an appropriate urban design which makes efficient use of land and meets the amenity needs of potential residents. The most dense developments will be appropriate in those parts of the borough with good or very good public transport accessibility.

TRN11 – Developments should comply with the plan’s minimum Cycle Parking Standard (PS16), with cycle parking situated in a convenient, secure and, where appropriate, sheltered location.

TRN23 – Residential developments should not provide more parking than the levels as listed in standard PS14 for that type of housing, with its maximum assigned parking levels. Lower standards apply for developments in town centres with good and very good public transport accessibility. Where development provides or retains off-street parking at this level then on-street parking will not be assessed. Car-free housing developments may be permitted in areas with good or very good public transport accessibility where occupation is restricted by condition to those who have signed binding agreements not to be car owners. Such persons will not be granted residents’ parking permits.

Supplementary Planning Guidance

SPG17 – Design Guide For New Development

SPG19 - Sustainable Design, construction and pollution control

SPD - S106 Planning Obligations

SUSTAINABILITY ASSESSMENT

Members will be briefed on matters relating to Sustainability in the Supplementary Report

CONSULTATION

Consultation letters, dated 21 November 2012, were sent to 94 neighbouring owners/occupiers. Seven letters of objection were received, the following comments were made:

- Overlooking into rear garden areas,
- Loss of light
- Cycle storage will be used as a means for climbing onto the boundary wall. and gaining access into rear gardens of Rucklidge Avenue
- Intruders could climb onto the roof of the single storey flat 1 and access No 139
- Despite the presence of a 1.8m high fence between No 139 and the application site, climbing on the roof of neighbouring garages could still take place.
- The proposed building will be constructed forward of the established building line.

The issues highlighted above are discussed in detail below. It should be noted that there have been changes to the proposed scheme since its submission in an attempt to take account of officer and residents' comments.

Internal Consultation:

The issues raised by: Transportation, Environmental Health and Housing Officers are included within the remarks section below.

REMARKS

The site is currently vacant and has been cleared. To the rear there are gardens of houses in Rucklidge Avenue which are above the level of the site. Members will be aware that it is this relationship that has caused most difficulties in previous attempts to develop the site.

Principle of Development

The loss of the petrol filling station use is acceptable as the Council does not seek to protect petrol stations as local employment sites. The site is not designated within any centre and therefore the principle of residential development is considered acceptable. While normally policy would have allowed a commercial ground floor, this scheme is 100% residential and this is considered to be acceptable, subject to detailed design/amenity considerations as set out below.

Main alterations from previous refusals

As indicated earlier in this report, two schemes were dismissed at appeal. As a result of these decisions, a critical consideration here is to assess how this revised proposal takes account of the Inspectors decision letters of July 2008 and September 2010.

The 2008 Inspector stated that the proposal was overbearing "as a result of the height, width, and proximity of the proposal" upon neighbouring properties at Rucklidge Avenue. The 2010 Inspector concluded that the proposal would be harmful to the character and appearance of the area and the living conditions to the occupiers of nearby dwellings and the proposed flats.

In comparison to the previously dismissed appeals and refused application at Planning Committee (2009), the current proposal has been reduced in height, width and proximity to the properties to the rear which has resulted in a reduction of units from 21 (2010) to 13. There is no longer any ground floor commercial use and a different residential mix is proposed. These changes will be discussed in detail below.

Housing Mix

In terms of the mix of units proposed, these are summarised in the table below.

Bedroom Size	Number	Percentage
1	4	30
2	7	54
3	2	16

The proposal consists of 13 affordable flats. It comprises 4 x 1-bed flats (Affordable Rent), 7 x 2-bed flats (Affordable Rent) and 2 x 3-bed flats (Social Rent). Housing Officers are supportive of the principle of 100%

affordable housing in this location.

Residential Quality for Future Residents

The Mayors London Plan 2011 indicates minimum unit sizes for flats. The current standards seek the following:

- 1-bedroom flat – 50 square metres.
- 2-bedroom (3-person) flat – 61 square metres.
- 2-bedroom (4-person) flat – 70 square metres.
- 3-bedroom flat (5/6 person) – 86 square metres.

All flats proposed either meet, or are in excess of, the minimum guidelines for internal floorspace. In addition, all units are now dual-aspect, with windows to front and back, providing a further improvement to previous iterations. Previously, concerns were raised in relation to the internal arrangement of the duplex units where natural street surveillance was restricted at the ground floor. This arrangement has been subsequently altered and deemed acceptable in relation to policy BE5 of the UDP 2004.

Although there are instances where habitable rooms are 'stacked' above one another, which can cause noise problems between bedrooms and kitchens/living rooms, this is a new build that provides opportunities for appropriate sound insulation during construction.

In previous applications, officers raised concerns with the quality of daylighting into front and rear light wells into the duplex bedrooms and the Inspector (2010) took particular issue with the provision of basements, lightwells, walkways and railings being unacceptably prominent. For clarity, lightwells are areas of excavated ground in front of habitable room windows which serve to provide natural daylighting. Basement and lightwell features have been removed from this proposal.

The scheme requires 320m² of external amenity space to meet SPG17 guidelines. All units located on the upper floors have access to private balconies (total of 138m²) as well as a communal rear garden of approximately 290m². The total sum of external amenity space proposed is 428m², thereby meeting the Councils requirements. The communal garden would be located immediately adjacent to the private external amenity space (patios), which also doubles as a privacy buffer for the ground floor units. These patios are not as generous as officers would have liked, given depths varying between 1 and 2m, but they do provide some private outside space. Railings will secure the area (to be conditioned) and given that the patios do prevent views into living space they are, on balance, considered to be acceptable. Obviously, an alternative would be to give all the ground floor outside space, in the form of sizeable gardens, to the ground floor units and invite upper floor units to rely solely on their own balconies. However, the applicants consider the combination of private and communal space to be their preference and Officers do not consider the arrangements so poor so as to withhold consent on this ground alone.

Design and Appearance

The applicant has designed the proposed three storey building in context to the natural street rhythm of High Street. The width and general mass of the proposed structure is broken by using varied materials. The scale and height is sympathetic to local context and coordinates well with the streetscape, the front elevation has been broken down to reinforce the historic rhythms which further adds to the neighbourly feel of the scheme. The site and ground floor plan shows a conventional historic footprint proposed for the site, the plan depth is somewhat deeper than local context but the designers have been encouraged to provide a privacy buffer at ground level. The front setting is of a sufficient depth to maintain an acceptable separation between private space and the back of pavement. The distinctive appropriately scaled entrance foyers will give the building legibility in the street-scape, but the plan scale should be reflected in the elevations. To this end, details of more defined communal entrance features shall be secured by condition.

The existing street-scene of High Street consists of two, three, and four storey buildings and as such the proposed three storey building is in character with the locality. In terms of surrounding building heights, Number 155 High Street is 7.8m and Number 139 is 8.7m in height and although these are below the proposed building height, Number 161-163 (Job Centre) is 16.4m and significantly larger than the proposal. The elevations are clean and simple but the use of breaks within the upper floor, varied materials, glazing and balconies to provide further interest successfully break up the massing of the proposed three storey building.

The side elevation to the west needs some modelling to break down the very large incongruous flat plane. The scale could be broken through changes in materials or modelling of the brick work into panels or planes similar to that of the front elevation. A green wall may be more interesting to the existing neighbours at 139. Details of which shall be secured by condition.

Impact upon neighbouring properties

Size and scale

In assessing the impact of size and scale of the proposed, the properties likely to be affected by this application are those on Rucklidge Avenue and adjoining properties at Numbers 155 and 139 High Street. The appeal inspectors considered this was the main issue and as a result much work has been undertaken on trying to respond to this specific point. The Design and Access statement submitted with this application illustrates how the current proposal has reduced the impact upon neighbouring residents and also how it complies with the guidance in SPG17.

Both appeal inspectors noted that the rear gardens of Rucklidge Avenue were shorter than most properties, partly as a result of this the proposal was deemed overbearing. The current proposal will not have a negative impact upon the rear gardens of Rucklidge Avenue; where the proposed building is significantly clear of the 45° degree line when measured at a point of 10m from the rear of the two storey rear projections at Rucklidge Avenue which is something the appeal inspector considered to be the right approach. This is also illustrated in the 'worst case' at Number 49 Rucklidge Avenue. Furthermore, the building height has been reduced by one floor from the 2010 appeal and the depth of the building has been reduced from 12.6m to 11.2m (at first floor). This in combination with the fact that the building has moved away from the rear of the site and broken in width, has significantly reduced impacts upon neighbouring rear gardens at Rucklidge Avenue and is thus deemed acceptable with adopted policy and design guidance SPG17.

Objections have been raised in relation to the impact of the proposed building upon obstructing the side flank of Number 155 High Street. Although it is noted that there is a forward projection of the building at this corner of approximately 1.4m the appeal inspector did not feel that it was a sufficient reason, in itself, for withholding planning permission.

Privacy and Outlook

Members will be aware that Council guidance for certain aspects of residential development are:

- 10m separation between habitable windows on the rear of the development and the rear boundary;
- 20m distance between habitable rooms which face each other.

The distance between windows on the rear elevation and the rear boundary at ground floor level are proposed to be an average of 9.5m. This shortfall is not considered unacceptable providing that further detail is submitted in relation to the quality of the rear garden space. All other windows above ground floor level are over 10m from the rear boundary..

In relation to directly facing habitable room windows, previous proposals have fallen short of the required 20m separation distance, which added to the unacceptable impact of the proposals. It should be noted that SPG17 does indicate that in Urban areas such as this, there is some flexibility as far the application of the guidance is concerned. However, in this instance such is the likely impact on residents that full adherence to the guidance is required and this has been an approach supported at appeal. There will be no directly facing windows or balconies that are less than the 20m separation distance from nearest neighbours. Whilst neighbouring residents have made specific reference to the proposed second floor balcony as causing a loss of privacy, your officers consider the balcony to be appropriately positioned at 20m away from neighbouring gardens and indeed habitable room windows. The 20m separation has been long sought after here and the fact that it is now achieved means mitigation measures in the form of obscured or toughened glass is not a requirement and would be difficult to insist upon.

Objection has been raised with the fenestration proposed to the rear elevations of flat 12 and 13 (top floor), in that the floor plans propose windows, with no access to the lower floor flat roof, whilst the elevations appear to indicated doors. A restrictive condition prohibiting the use of the flat roof as a terrace and further details of the window that would physically prevent access shall be secured by condition.

Daylight & Sunlight

Objections have been raised in relation to the impact of the proposed structure upon residential flat units at Number 139 High Street, that have kitchen windows in their flank. The previous scheme envisaged an additional floor with a separation varying between 5-6m. There has been much debate about the quality of the internal space of these small rooms and the existing levels of daylight and sunlight enjoyed by them are unlikely to comply with British standards. Nevertheless, the Inspector found the 2010 submission to be unacceptable as the proposal would have appeared visually obtrusive, resulting in a poor outlook to residents. In the scheme, that is the subject of this report the new building will be located 6.5m away from No 139 with a reduced height of one floor and a building less deep.

Officers have always considered that in urban design and streetscene terms having a large gap between buildings here would be the worst approach to take. However, the Inspector picked up on the amenity impact of the new building and so it does need to be considered as explained above. That said, Officers feel that the issues do however need to be carefully balanced.

The applicant has submitted a technical daylight and sunlight report which has assessed the impact of the proposed building upon neighbouring residents. The calculations for the windows in the flank of No.139 shows a reduction of 5% in the acceptable level Vertical Sky Component (VSC). However, BRE 209 suggests that in urban areas small decreases over the standard should not prevent development.

It is also noted that in terms of daylight for windows in Rucklidge Avenue, the proposal fully satisfies the (VSC) Daylight Distribution and Average Daylight Factor Guidelines'. (VSC) measures daylight striking the window and the Average Daylight Factor (ADF) value provides a measure of overall internal lighting conditions. The report concludes that "there will be no material impact on daylight received by Rucklidge Avenue properties".

It reaches a similar conclusion on sunlight. In cases such as this, light is one assessment that needs to be considered, but compliance with a Daylight & Sunlight report does not, in itself, demonstrate that a particular relationship is acceptable. As important are, the size and scale tests contained within SPG17, which are used to assess the impact of new development upon the living conditions of neighbouring occupiers. These, by reason of the increased separation between the proposed building and No 139 and the reduced height and width of the new building demonstrate that the proposal meets these guidelines, whilst also providing for an acceptable design of development in streetscene terms. Overall, based on the information submitted in the supporting report; the impact of this scheme on daylight and sunlight to neighbours will be relatively low and is, therefore, on balance considered to be acceptable.

Highway Considerations

Transportation Officers note that the subject site is located in an area with very good access to public transport and is located within a Controlled Parking Zone. As previously discussed in the 2009/2010 applications though, there is no scope to safely accommodate any overspill parking from the site on either the major traffic route that is Harlesden High Street or on the nearby heavily parked residential side streets. It is therefore again essential that such parking is precluded through a 'car-free' agreement, removing the right of future residents of the building to on-street parking permits, in accordance with Policy TRN23.

As before, disabled "Blue Badge" holders would be exempt from any 'car-free' agreement secured for the site, allowing them to park freely on the High Street frontage of the site and so addressing the requirements of standard PS15.

Standard PS16 requires at least one secure bicycle storage space per unit and the proposed provision of 18 such spaces within the rear shared amenity space is more than sufficient to meet requirements. The only concern is to ensure that the spaces have adequate protection from the elements and further details of the type of provision (incl. details of the shelter) are sought through a condition. Residents have raised an objection that the cycle storage will be used as a means for climbing onto the boundary wall and gaining access into rear gardens of Rucklidge Avenue. It is noted that only residents of the proposed building will have access to the cycle storage and consequently, it is not considered that the store should be removed on this basis. Details of the covered and secured cycle storage will be secured by condition.

Contaminated Land

The site, a former petrol station, has the potential to be contaminated. The site has already been cleared and all the buildings and surface materials removed. The contamination report provided is deemed satisfactory with Environmental Health officers. A condition requiring a site investigation focusing on sensitive areas

(proposed rear gardens) with soil samples analysed for a full suite of potential contaminants will be requested via condition.

Fear of Crime

Neighbouring residents raised concerns in respect of the prevention of crime specifically due to the proximity of the roof of the proposed development to the flank windows of their properties, specifically No 139 High Street. Similar issues were raised in the previous applications. The Inspector (2010) found a restrictive condition preventing access to the roof would overcome the concerns raised.

Section 106 Contributions

On this particular application, the proposed Heads of Terms, including the total financial contribution required to comply with the Council's adopted SPD on the subject has been agreed, in principle and is set out at the start of this report.

Sustainability measures to achieve 20% renewables have been agreed to be secured by a legal S106 agreement.

Conclusion

The principle of residential development at the site is acceptable. The negative impacts of the proposal dismissed at appeal have been resolved, in that the size and scale of the building has been reduced and the siting amended. The small nature of rear gardens at Rucklidge Avenue have been fully taken into account and the scale and massing of the proposed building would comply with adopted SPG17 guidance. The proposed development seeks to provide 13 affordable housing units (which is supported by the Council's Housing Service) which provide acceptable levels of internal living space. Although the areas of external amenity are limited, as explained above, this is considered acceptable, on balance, taking into account the constraints of the site.

Members are informed that if the S106 contributions and staging of payments were not to be agreed this would make this scheme unacceptable.

RECOMMENDATION: Grant Consent subject to Legal agreement

(1) The proposed development is in general accordance with policies contained in the:-

- Brent Unitary Development Plan 2004
- Council's Supplementary Planning Guidance 17 - Design Guide for New Development.

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

- Built Environment: in terms of the protection and enhancement of the environment
- Housing: in terms of protecting residential amenities and guiding new development

CONDITIONS/REASONS:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

002
003
004
005
006
007
008
3839/1

Remedial Implementation and verification Report
Energy, Efficiency and Renewable Energy Assessment
Geotechnical Assessments
Phase II Environmental Report
Planning Statement
Daylight and Sunlight Report
CSH Pre-assessment
Phase I Desk Top Study Report
Design and Access Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) No access shall be provided to the external roofs of the building by way of window, door or stairway and the external flat roof areas of the building hereby approved shall not be used as a balcony or sitting out area.

Reason: To preserve the amenity and privacy of neighbouring residential occupiers.

- (4) No access to the single storey flat roof adjacent to No 139 is permitted at any time.

Reason: To protect the privacy and amenity of neighbouring properties.

- (5) All areas shown on the plan and such other areas as may be shown on the approved plan shall be suitably landscaped with trees/shrubs/grass in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to commencement of any demolition/construction work on the site. Such landscaping work shall be completed prior to occupation of the building(s).

Such a scheme shall also indicate:-

Proposed walls and fencing, indicating materials and heights, and areas of hardsurfacing.

Adequate physical separation, such as protective walls and fencing, between landscaped and paved areas.

Provisions for the satisfactory screening

Details of the proposed arrangements for maintenance of the landscaping.

Any trees and shrubs planted in accordance with the landscaping scheme which, within 5 years of planting are removed, dying, seriously damaged or become diseased shall be replaced in similar positions by trees and shrubs of similar species and size to those originally planted unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory standard of appearance and setting for the development and to ensure that the proposed development enhances the visual amenity of the locality in the interests of the amenities of the occupants of the development and to provide tree planting in pursuance of section 197 of the Town and Country Planning Act 1990.

- (6) Prior to the commencement of building works, an appraisal of remediation contaminated land remediation options shall be carried out by competent persons. The written report is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the safe development and secure occupancy of the site

- (7) Any remediation measures required by the Local Planning Authority shall be carried out in full. A verification report shall be provided to the Local Planning Authority, stating that remediation has been carried out in accordance with the approved remediation scheme and the site is permitted for end use (unless the Planning Authority has previously confirmed that no remediation measures are required).

Reason: To ensure the safe development and secure occupancy of the site

- (8) Details of secure cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on site. The development shall not be occupied until the cycle parking spaces have been laid out in accordance with the details as approved and these facilities shall be retained.

Reason: To ensure satisfactory facilities for cyclists

- (9) Further details of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development shall be carried out and completed in all respects in accordance with the details so approved before the building(s) are occupied. Such details shall include:-

(a) the external appearance of the west flank wall

(b) the design treatment of the main entrance features

Reason: These details are required to ensure that a satisfactory development is achieved.

- (10) Details of materials for all external work, including samples, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. Windows located on the rear elevation of flat 12 and 13 must be designed so far as to physically restrict access to external flat roof. The work shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

INFORMATIVES:

- (1) The provisions of The Party Wall etc. Act 1996 may be applicable and 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. An explanatory booklet setting out your obligations can be obtained from the Communities and Local Government website www.communities.gov.uk
- (2) The applicant is advised that the quality of imported soil must be verified by means of in-situ soil sampling and analysis. The Local Authority will not do not accept soil quality certificates from the soil supplier as proof of soil quality.
- (3) Whoever carries out the works is reminded of their obligation to comply in full with s60 of the Control of Pollution Act 1974 and the British Standard Codes of practice 5228:1997 Parts 1 to 4 which states that Construction/refurbishment and demolition works and ancillary operations which are audible at the site boundary shall be carried out only between the hours of: Monday to Friday 08:00 to 18:00, Saturday 08:00 to 13:00 and at no time on Sundays or Bank Holidays.

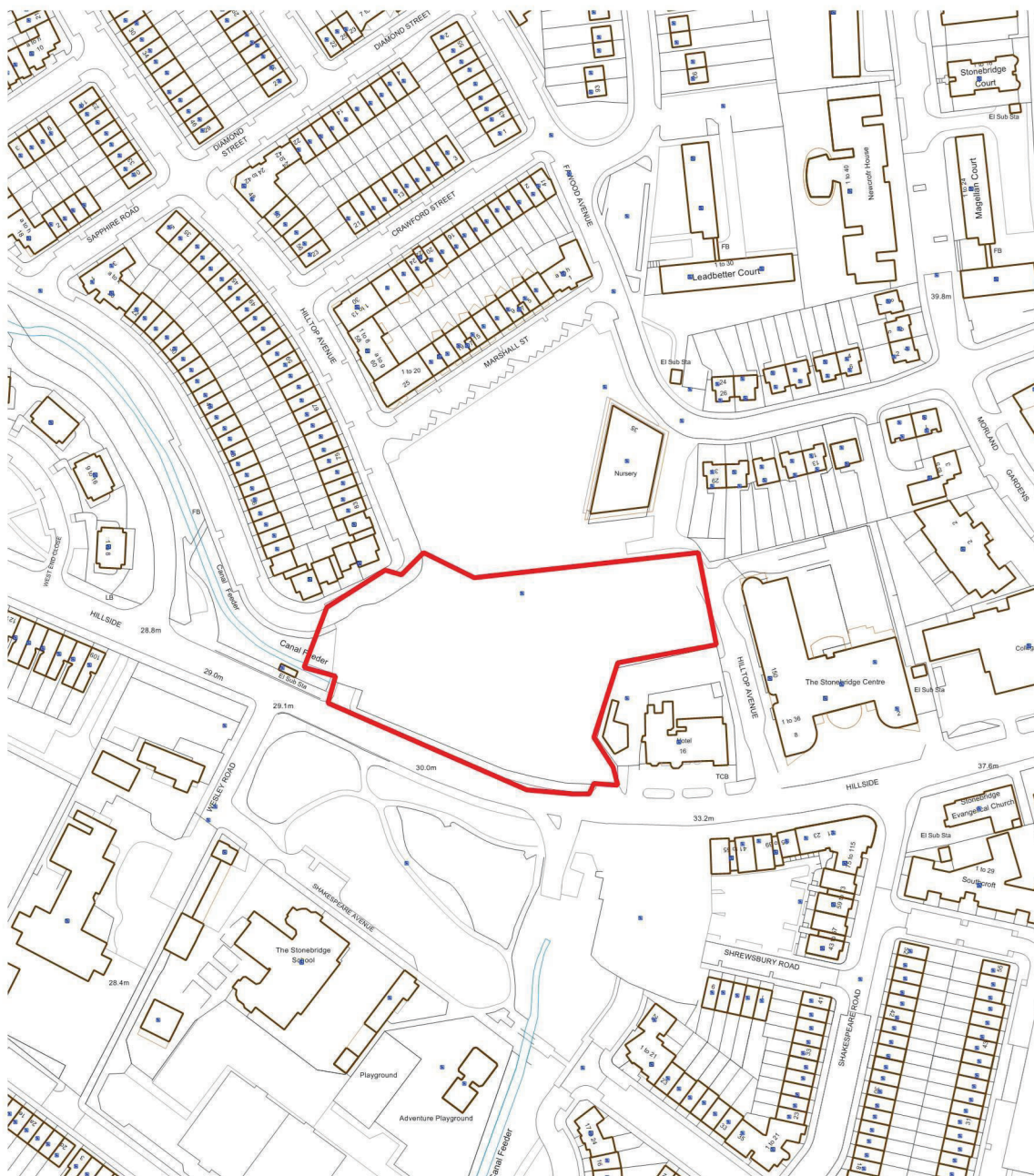
Any person wishing to inspect the above papers should contact Tanusha Naidoo, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5245



Planning Committee Map

Site address: Land next to Stonebridge Park Hotel, Hillside, Stonebridge, London

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This map is indicative only.

RECEIVED: 13 November, 2012

WARD: Stonebridge

PLANNING AREA: Harlesden Consultative Forum

LOCATION: Land next to Stonebridge Park Hotel, Hillside, Stonebridge, London

PROPOSAL: Redevelopment of site to provide 117 dwellings comprising 1 studio flat, 41 one-bedroom flats, 51 two-bedroom flats, 8 three-bedroom flats, 12 three-bedroom houses and 4 three-bedroom duplex maisonettes within 1- to 9-storey buildings and associated works including basement (incorporating plant and car park), new access pedestrian and vehicle accesses, amenity space, reconfiguration and works to existing canal feeder, public realm and other ancillary development.

APPLICANT: The Hyde Group

CONTACT: Terence O'Rourke PLC

PLAN NO'S:
Please see condition 2.

RECOMMENDATION

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning or other duly authorised person to agree the exact terms thereof on advice from the Director of Legal Services and Procurement.

SECTION 106 DETAILS

The application requires a Section 106 Agreement, in order to secure the following benefits:-

- a) Payment of the Council's legal and other professional costs in a) preparing and completing the agreement and b) monitoring and enforcing its performance
- b) A contribution of £324,000 (£3,000 per additional bedroom), index-linked from the date of committee and due on Material Start for Transportation, Education, Air Quality, Environmental improvements, Open Space and sports in the local area. This is to be reduced to £2,400 per additional bedroom if units are delivered as Affordable Housing and details of the Affordable Housing units are submitted to and agreed by the Council prior to commencement.
- c) A detailed 'Sustainability Implementation Strategy' shall be submitted to the Local Planning Authority and approved in writing prior to the piling of foundations for the development hereby approved. This shall demonstrate:
 1. How the development will achieve a minimum of Code for Sustainable Homes Level 4 (submission of a design stage assessment by a BRE approved inspector);
 2. How the indicated Brent Sustainability Checklist measures will be implemented within the scheme (or other such measures approved by the Council which meet a level of at least 50%).
 3. How the scheme will achieve the CO2 reduction measures set out within the Sustainability and Energy Strategy, or other such revised measures as approved by the Council which achieve the target levels set out within the Strategy;
- d) The applicant shall include/retain appropriate design measures in the development for those energy and water conservation, sustainable drainage, sustainable/recycled materials, pollution control, and demolition/construction commitments made within Brent's Sustainability Checklist and other submitted documentation (or agreed by further negotiation), and adopt adequate procurement mechanisms to deliver these commitments.
- e) On completion, independent evidence (through a BRE Post-Construction Review) shall be submitted on the scheme as built, to verify the implementation of these sustainability measures on site, and the achievement of at least a Code for Sustainable Homes Level 4.
- f) If the evidence of the above reviews shows that any of these sustainability measures have not been implemented within the development, then the following will accordingly be required:
 1. the submission and approval in writing by the Local Planning Authority of measures to

- remedy the omission; or, if this is not feasible,
2. the submission and approval in writing by the Local Planning Authority of acceptable compensatory measures on site; or otherwise pay to the Council a sum equivalent to the cost of the omitted measures to be agreed by the Local Planning Authority, to be used by the Council to secure sustainability measures on other sites in the Borough.
- g) The submission and approval in writing of a revised Residential Travel Plan and to implement this plan, the purpose of the plan being to manage the transport needs of the Development so as to minimise car usage and promote alternative modes of transport.

And, to authorise the Head of Area Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the London Plan 2011, Local Development Framework Core Strategy 2011, Unitary Development Plan 2004 and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

EXISTING

The subject site was previously occupied by Gardiner Court and the Orange Tree Public House. Gardiner Court comprised a series of three 6-storey residential buildings which formed part of the previous Stonebridge Estate. The Orange Tree Public House was a three storey building which fronted Hillside.

The majority of the application site falls within the Stonebridge Regeneration Area. However, the Orange Tree Public House fell outside of the regeneration area due to its previous ownership.

To the South of the site lies Hillside, the primary road running through the Stonebridge Regeneration Area. A 4-storey residential block which was delivered as part of phase 3 of the Stonebridge Regeneration lies to the North-west of the site and a new open space and the Fawood Nursery are directly north of the site. The Fawood Nursery was opened in 2004 as part of the Stonebridge Regeneration project.

To the East of the site lies the grade II listed Stonebridge Park Public House and the Hillside Hub. The Hillside Hub, which provides a community centre and hall, cafe, PCT clinic, shop and a number of residential units. Opposite the Hillside Hub and therefore in close proximity to the subject site lies Stonebridge Site 22, a mixed use site comprising town centre uses (retail, some food and drink and an office) and residential units. That site together with the Hillside Hub comprise the local needs shopping and community offer for Stonebridge.

Directly opposite the site lays another area of public open space and the two local primary schools, the Stonebridge and Our Lady of Lourdes Primary Schools.

A Canal and Riverside Trust (previously known as British Waterways) Canal feeder runs through the site. The majority of this runs below ground through the site. However, the far western element of the feeder is above ground within the site. The upstream element of the canal feeder (west of the site) is above ground. The feeder flows from West to East before running under Hillside.

The ground level increases from west to east and from south to north within the site. The ground level increases significantly to the east of the site.

DEVELOPMENT SCHEDULE

The table(s) below indicate the existing and proposed uses at the site and their respective floorspace and a breakdown of any dwellings proposed at the site.

Floorspace Breakdown

USE

Number	Primary Use	Sub Use
1	dwelling houses	housing - private

FLOORSPACE in sqm

Number	Existing	Retained	Lost	New	Net gain
1	0	0	0	11916	11916

TOTALS in sqm

Totals	Existing	Retained	Lost	New	Net gain
	0	0	0	11916	11916

Mayoril CIL multiplier is £35 per SQM of total net gain floorspace, therefore Amount Payable is £417,060.00.

PROPOSAL

See above.

HISTORY

Planning permission was granted in September 1997 for the redevelopment of the Stonebridge Estate on both the North and South sides of Hillside. The permission allows for the erection of approximately 1604 houses and flats in buildings that are 2, 3 and 4 storeys high. It also looked to provide replacement shops fronting Hillside and community facilities and open space. The outline permission envisaged replacement of the Stonebridge tower blocks with low-rise developments within a more traditional street layout with better connectivity between dwellings and the adjoining streets, good levels of natural surveillance of public spaces and adequate levels of parking. It sought to diversify the tenure of homes by introducing a proportion of private dwellings (up to 25 %).

All of the tower blocks have now been demolished and all but a handful of sites have been delivered and the development has won a number of awards which highlight the success of the regeneration process. Only sites 10, 22B, 24C, 27, 29 and 30 are yet to be redeveloped. Almost all of the parks and all of the community facilities have been provided, including the Hillside Hub (PCT Clinic, Community Hall, etc) and the nursery that adjoin this site, and the shops on the opposite side of Hillside. The majority of housing has been provided as social rented units in order to accommodate the tenants of the "old" Stonebridge tower blocks. The remaining sites are accordingly likely to include a high proportion of private housing to achieve this tenure balance. The London Plan now expects higher densities of housing than those set out within the 1997 Outline Planning Consent which only allowed up to 247 Habitable Rooms per Hectare and the remaining sites are accordingly likely to come forward as new full or outline applications. This also allows the inclusion of other elements of land that were not within the 1997 planning application site, such as the Orange Tree Public House site that is included within this application.

Outline planning consent for the redevelopment of this site to provide 122 flats was granted in 2007 and renewed in 2012. That consent can still be implemented. However, the applicant is now looking at a different form of development and mix of units.

Relevant history (this site only)

97/0131 – Granted 4 September 1997

Comprehensive redevelopment of the entire site with the provision of a new road network, approximately 1,604 residential units in 2-, 3- and 4-storey blocks, new open space, shops and community facilities.

07/3309 – Granted 2 December 2007

Outline application for the demolition of Gardiner Court, Brett Crescent, NW10, and the erection of 3 buildings comprising 122 self-contained flats, comprising 3 x studio units, 63 x 1-bedroom units, 45 x 2-bedroom units and 11 x 3-bedroom units, formation of new vehicular access, pedestrian access and associated landscaping (matters to be determined: layout, scale & access) as accompanied by Urban Design Code, Arboricultural Impact Appraisal and Method Statement dated 23 August 2007, Design and Access statement and Analysis of Daylight and Sunlight for the proposed Stonebridge Development Part 1, dated 25th October 2007 and subject to a Deed of Agreement dated 2nd December 2008 under Section 106 of the Town and Country Planning Act 1990, as amended.

11/3054 – Granted 30 March 2012

Extension to time limit of outline planning permission 07/3309 dated 02/12/08 for outline application for the demolition of Gardiner Court, Brett Crescent, NW10, and the erection of 3 buildings comprising 122 self-contained flats, comprising 3 x studio units, 63 x 1-bedroom units, 45 x 2-bedroom units and 11 x 3-bedroom units, formation of new vehicular access, pedestrian access and associated landscaping (matters to be determined: layout, scale & access) as accompanied by Urban Design Code, Arboricultural Impact Appraisal and Method Statement dated 23 August 2007, Design and Access statement and Analysis of Daylight and Sunlight for the proposed Stonebridge Development Part 1, dated 25th October 2007 and subject to a Deed of Agreement dated 30th March 2012 under Section 106 of the Town and Country Planning Act 1990, as amended.

POLICY CONSIDERATIONS

NATIONAL

National Planning Policy Framework

REGIONAL

The Mayor of London

The London Plan 2011

The revised London Plan was adopted in July 2011 and sets out an integrated social, economic and environmental framework for the future development of London. Relevant Policies include:

- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.6 Children and Young People's Play and Informal Recreation Facilities
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 3.11 Affording Housing Targets
- 3.12 Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes
- 3.13 Affordable Housing Thresholds
- 5.1 Climate Change Mitigation
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.6 Decentralised Energy in Development Proposals
- 5.7 Renewable Energy
- 5.9 Overheating and Cooling
- 5.10 Urban Greening
- 5.11 Green Roofs and Development Site Environs
- 5.12 Flood Risk Management
- 5.15 Water Use and Supplies
- 5.21 Contaminated Land
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.13 Parking
- 7.1 Building London's Neighbourhoods and Communities
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.14 Improving Air Quality

Supplementary Planning Guidance – Sustainable Design and Construction (May 2006)

Supplementary Planning Guidance – Accessible London: Achieving an Inclusive Environment (April 2004)

Supplementary Planning Guidance – Housing (2012)

Supplementary Planning Guidance – Shaping Neighbourhoods: Play and Informal Recreation (2012)

LOCAL

Brent Local Development Framework Core Strategy 2010

- CP 1 Spatial Development Strategy
- CP2 Population and Housing Growth
- CP5 Placemaking
- CP6 Design and Density in Placemaking
- CP15 Infrastructure to Support Development
- CP17 Protecting and Enhancing the Suburban Character of Brent
- CP18 Protection and Enhancement of Open Space, Sports and Biodiversity
- CP19 Brent Strategic Climate Mitigation and Adaptation Measures
- CP21 A Balanced Housing Stock

Brent Unitary Development Plan 2004

Policies

BE2 Local Context & Character

BE3 Urban Structure: Space & Movement

BE4 Access for disabled people
BE5 Urban clarity and safety
BE6 Landscape design
BE7 Streetscene
BE8 Lighting and light pollution
BE9 Architectural Quality
BE12 Sustainable design principles
EP3 Local air quality management
EP6 Contaminated land
EP12 Flood protection
EP15 Infrastructure
H12 Residential Quality – Layout Considerations
H13 Residential Density
H14 Minimum Residential Density
TRN2 Public transport integration
TRN3 Environmental Impact of Traffic
TRN4 Measures to make transport impact acceptable
TRN9 Bus Priority
TRN10 Walkable environments
TRN11 The London Cycle Network
TRN15 Forming an access to a road
TRN23 Parking Standards – Residential Developments
TRN34 Servicing in new developments
TRN35 Transport access for disabled people & others with mobility difficulties
Appendix TRN2 Parking and Servicing Standards

Brent Council Supplementary Planning Guidance and Documents

SPG3 Forming an access to a road
SPG12 Access for disabled people
SPG17 Design Guide for New Development
SPG19 Sustainable design, construction and pollution control
SPD Section 106 Planning Obligations

SUSTAINABILITY ASSESSMENT

The applicant has submitted a Sustainability & Energy Strategy, a Code for Sustainable Homes pre-assessment and the Council's TP6 Sustainability Checklist.

The Sustainability & Energy Strategy incorporates information regarding the Code for Sustainable Homes, the Sustainability Checklist and the Energy Strategy.

With regard to the Energy Strategy, the proposal sets out the “Be lean” (fabric) measures and confirms that the scheme will achieve a 10.8% reduction in carbon levels when compared to Building Regulations 2010 TER levels.

The feasibility of District Heating and a Site Wide heat network powered by a CHP engine has been evaluated, with District Heating ruled out due to the distance to the nearest network (South Kilburn). With regard to Site Wide network, the statement sets out that the heat efficiency levels for this system (i.e. the proposal itself) is only 52 % whilst SAP assumes a flat rate of 95 % efficiency irrespective of the geometry of the site wide heat network in the scheme itself. With such low efficiency levels, the inclusion of CHP would result in higher levels of CO2 than those that would be apparent if the units have individual boilers. They also examine the financial feasibility of a site-wide system with CHP, and conclude that the use of CHP significantly increases the on-going costs to residents and that the costs are much closer to the “fuel poverty” threshold for the projected income levels than for conventional combi-boilers.

With regard to on-site renewables (the “be green” measures), a 694 square metre array of PV (solar) panels is proposed, which will reduce CO2 levels associated with the development by 29.8 %, taking the total CO2 reduction down to 40.6 % from 2010 Building Regulations TER. This is well in excess of both the 25 % overall CO2 reduction target and the 20 % target for on-site renewables as set out within the London Plan.

When examining the heat loss associated with the site wide heat network itself (i.e. the 52 % efficiency figure referenced above), the Energy Strategy looks at the feasibility for the provision of a heat network to serve the Rotunda and the Villa blocks. These represent a moderate to high density of dwellings, with those homes situated in close proximity to each other. Technical calculations have been provided to support this.

However, it is surprising that the levels of heat loss are this significant as CHP has been incorporated in a number of schemes with similar density levels and this would render CHP un-feasible for a very large number of major developments. The factors associated with the ongoing costs of the system (which are passed on to owners/occupiers) would also be applicable to other developments. If correct they would result in such systems not being feasible within other developments which would also be surprising given that this policy has been reviewed recently by the Mayor. This matter is likely to require further evaluation which could not be undertaken within the life of this application due to the time this would take.

Nevertheless, the proposal achieves levels of CO2 reduction that are better than those required by Planning Policy even without the incorporation of CHP and a site wide heat network and there is no real scope for the provision of a district heat network in the future as there are only a limited number of sites that are still to come forward in Stonebridge. Furthermore, the applicant is proposing that the homes will achieve Code for Sustainable Homes Level 4 when the requirement outside of Growth areas is Level 3.

On balance, your officers consider that the energy proposals are acceptable as they go beyond the standard policy requirements in all other respects aside from CHP. So, in terms of reducing carbon dioxide emissions and the associated impacts of the proposal, the proposal goes beyond the expectations of the Mayor of London.

TP6 Sustainability Checklist

The applicants have scored the development at 51.4 % using the Sustainability Checklist. Your officers agree with the points that have been awarded and actually consider that three sub-sections of the Checklist are not applicable to this development, which increases the percentage score to 55.6%. This is above the minimum level of 50 % and the submitted checklist is accordingly considered to be acceptable. Further information is required to demonstrate how the measures are to be implemented within the scheme. This can be appropriately captured through the standard Section 106 requirement regarding the submission, approval and implementation of a Sustainability Implementation Strategy.

CONSULTATION

Letters sent: 15 November 2012

Site Notices: 16 November 2012

Press Notice: 29 November 2012

Letters were sent to 265 adjoining and nearby owners and occupiers.

A 195 signature petition was received citing the following objections to the proposal:

- The Stonebridge Area has become overly congested and the proposal will exacerbate this.
- The proposal does not allow free access through the development and results in segregation within Stonebridge, which has always been an open community.
- This will happen because there is no indication whether the space between the mews terrace and the east bookend duplex flats (within the Hillside frontage) will allow access for existing Stonebridge residents and further information is required;
- Also, the design of the Villas (along the northern side of the site) does not allow movement from west to east on the south side of the building. The argument that this area is required for private garden space is not acceptable to existing Stonebridge residents. Currently in Stonebridge there are 30 blocks of flats and only the ground floor residents have access to a private garden and the residents of the upper floors only have balconies.
- Insufficient levels of parking, when there are significant problems with parking in Stonebridge already;
- The increase in traffic and congestion will lead to health issues;
- The Rotunda will be a grotesque anomaly on the landscape. Specific reference is made to its height (9 storeys) and the light the residents of Wood Road and Hilltop Avenue currently enjoy.
- Granting consent will not benefit Stonebridge Residents

The covering form for the petition specified that there were 205 signatories. However, 195 letters were enclosed, some of which were signed by more than one signatory. Whether 195 or 205, this represents a significant number of signatories given the scale of the proposal and number of residents in the vicinity.

Internal consultees:

Safer Streets / Environmental Health:

Further information has been requested regarding noise and air quality. If this information is not provided prior to the completion of the Committee report then it will be discussed in the Supplementary report.

Conditions are recommended regarding noise, air quality and contamination.

Highways:

Transportation do not object to the proposal subject to conditions regarding landscaping, traffic signals at the top and bottom of the basement car park ramp, details of electric vehicle charging points, amendments to the site layout to provide 3 additional parking spaces, the reinstatement of two existing redundant crossovers and the completion of the works and adoption of the proposed roads and footways around the perimeter of the site. An Informative is also recommended regarding the stopping up of a 10 yard length of public highway.

The comments from Highways are set out in more detail in the Remarks section of this report.

Landscape Design:

No formal comments received yet.

External consultees:**Canal and Riverside Trust (CRT, previously British Waterway)**

We are supportive of the principle of the development, and the proposed de-culverting of part of the Feeder, which we hope will help to enhance its amenity value and support its important function. We would be pleased to see this extended across the whole site.

Our Enterprise and Regeneration team are in the early stages of a feasibility proposal to look at the canal feeder as a strategic greenway for walking and cycling between Brent Reservoir and Neasdon/Park Royal. We are therefore keen that developments along the feeder should aim to facilitate this where possible. It appears that the proposal would allow some public access along the feeder, but we would also ask that consideration be given to the connections along the feeder at the edges of the site – for example, it is not clear as you exit the site to the south as a pedestrian, how you reconnect to the feeder, and a pedestrian crossing over Hillside would facilitate this in the future. We accept that improving this access to the length of the feeder is a long term project, but would request that consideration be given to how this can be incorporated into the development.

They also highlight the need to approve various engineering and landscape details to be secured through condition, and highlight the requirement for a commercial agreement.

The Environment Agency (The EA)

We welcome the de-culverting of a section of the canal feeder in biodiversity terms, however we do have some concerns over the straight lines and corners in the drawings submitted and therefore we request the following condition be placed on any planning permission granted to ensure appropriate buffer zones are in place and native planting is undertaken on site to soften any hard edges.

Conditions are recommended by The EA.

Thames Water

A number of conditions and informatives are recommended.

REMARKS

This application represents a revised scheme for the redevelopment of this site following the approval of outline consent for a scheme in 2007 and the renewal of that consent in 2012. Hyde Housing were initially looking to gain permission to assist the sale of the site to address the funding shortfall associated with the regeneration of Stonebridge. Hyde have now indicated that they wish to bring the site forward themselves and have accordingly revised the mix of units and the elements of the form of the development.

The general principle of the development remains comparable with the extant consent. The scheme provides strong frontages to the north and south, with a taller element situated at the western end of the site, the reinstatement of the canal feeder and an access through the development that is accessible to the general public.

Within the Hillside frontage, the approved consent allowed a terrace of 4-storey terrace of flats with elements of that terrace dropping to 2-storeyes in height to provide relief in the roofline and allow some sun into the site. This application now proposes a 3-storey terrace of townhouses with 4-storey “bookend” buildings comprising 2 maisonettes within each bookend.

The publicly accessible access through the site has been moved further east and a publicly accessible “mews street” is now proposed along the northern side of the terrace of townhouses.

Where the previous scheme proposed a terrace of flats running north-south along the access through the site the current scheme proposes buildings along the street frontages to the north and south.

Along the northern frontage of the site, this application proposes 5-storey “Villa” blocks where the previous consent allowed the building to be predominantly 6-storeys in height, with an element being 4-storeys in height.

The taller building within the scheme has the same storey height as that previously approved (9 storeys). However, the actual height that is now proposed is slightly lower than that consented. The form of the building is different, with a round building now proposed.

This application proposes 71 parking spaces within the site and 26 new parking spaces in the street that is to be provided as a part of the development. The application is accompanied by a parking survey which looks at on-street capacity and the Council’s Highways officers have made some recommendations for the provision of some additional spaces. These matters are discussed in the Transportation section of this report.

General principle of development

The principle of the redevelopment of this site for residential purposes has been accepted previously within the 2007 consent and 2012 renewal. The principle was also captured within the 1997 consent for the regeneration of Stonebridge in relation to the elements of the site that were in the original Regeneration scheme (i.e. excluding the Orange Tree Public House site). As such, your officers consider that the provision of homes represents an appropriate use of the site.

The applicant proposes that there are no restrictions are put in place regarding the tenure of the dwellings. So, all of the units could be provided as private homes. Nevertheless, they have indicated that they are likely to deliver a mix of tenures within the site.

The principle of the provision of private homes was approved within the 1997 outline consent and the 2007 and 2012 consents. The 1997 consent allowed up to 25 % of the homes to be delivered within Stonebridge to be provided as Private units (i.e. not Affordable) to diversify the tenure of homes within Stonebridge. The “Conclusory Statement” to the Stonebridge Masterplan which was endorsed by the Planning Committee in 2007 set out that this proportion may be increased to 33 % and that densities may be higher to reflect current policy requirements, but that this would need to come forward in separate new planning applications rather than Reserved Matters applications pursuant to the original Outline Consent.

At the time of submission of this application, 1,327 homes had been delivered within the Stonebridge Regeneration area. Of these, 1,268 had been delivered as Social dwellings and 59 as private or Intermediate homes. The high proportion of Social Rented homes that have been delivered to date reflects the need to re-house the tenants of the previous Stonebridge estate.

The original 1997 Outline application granted consent for the construction of approximately 1,604 homes. The delivery of 1,268 Social Rented homes has already exceeded the requirement for a minimum of 75 % (1,203) of these homes to be Affordable. At present, 95.6 % of the homes that have been delivered are Social. If all of the homes proposed within this application are private, then 87.8 % of the 1,444 homes within the Stonebridge Regeneration Area will be Social and the remainder Intermediate or private. This is still well above the 75 % minimum level. It should also be noted that Intermediate homes are also considered to be Affordable and contribute towards the 75 %, thus increasing the proportion of Affordable homes above this level.

As such, the proposal to potentially allow a 100 % private scheme is considered to be acceptable.

With regard to the mix of units, the proposal will provide the majority as either 1- or 2-bedroom flats, with 91 of the 117 units falling within this category. This approach is fairly typical for a private led scheme. However, the proportion of family homes (24 of 117, or 20.5%) is higher than what is often provided and this is viewed favourably.

Layout

The proposal follows similar principles to the extant consent. Strong active frontages are provided to all street frontages, increasing natural surveillance of the surrounding streets. The proposal delivers the road along the southern side of the park to the north of the site in accordance with the 1997 Masterplan. The proposal also provides accesses through the site to increase the permeability, and also allows public access to the mews street which runs alongside the canal feeder which is opened up and made a feature of the development. Aside from improving access for current and future residents, this helps to promote an inclusive environment where other residents of Stonebridge are able to travel through the development. Within Stonebridge, the provision of accesses through the various plots has been related to “desire lines” and

the need to improve walking routes. For example, a pedestrian walkway has been provided from West End Close, across the canal feeder to Wood Road. This connects to Sapphire Road and allows pedestrian access through the area. However, other blocks do not include pedestrian access ways. For example, the existing block that adjoins this application site situated between Wood Road, Hillside Avenue and Sapphire Road (originally known as Site 2) is approximately 150 m long, with no public access through it or to the gardens at the rear of the buildings. In comparison, the application site is approximately 130 m long and has a publicly accessible pedestrian access through the site and public access to the centre of the site, within the mews street. As such, the public access to and through this development is much greater than that through the adjoining block (Site 2).

Objection has been raised to the level of public access through the site, which they consider to be insufficient and that this results in segregation within Stonebridge. They say that access should also be provided between the eastern bookend and the mews terrace (fronting Hillside) and along the south side of the Villa blocks.

At present, the space between the bookend and terrace is proposed to be closed off and would not be either communally or publicly accessible. During pre-application discussions, Hyde Housing proposed pedestrian access between the eastern bookend and the mews terrace. However, your officers had concerns regarding the width of this access and the associated level of natural surveillance. Adjustments were made to the width of this access, but it remained narrow and would have required the removal of one of the houses from the scheme to significantly increase its width.

The area to the south of the Villa blocks is proposed as communal gardens for the residents of the adjoining blocks. The inclusion of a public route along the southern side of the Villa blocks is likely to either result in a narrow route adjacent to the proposed communal gardens or that the communal gardens must become publicly accessible spaces.

The Police typically advise against accesses that are overly narrow or the inclusions of too many routes through developments in order to ensure the security and safety of residents. With regard to the latter, they consider that the number of routes should be chosen to ensure that they are adequately used having regard to the usefulness of that route and the number of routes. While your officers consider that permeability through sites is often beneficial, this plot already offers significantly greater levels of public access than most other plots that have been delivered as part of the Stonebridge regeneration and the additional routes would be very close to existing routes and are unlikely to follow "desire lines".

With regard to a potential change from a communal garden to a publicly accessible space, objectors have specified that they do not consider that communal gardens are necessary and they specify that the existing flatted blocks in Stonebridge have private gardens at ground floor level which serve the adjoining flats while the upper floor flats only have a balcony. This approach typically occurs where there is very little garden depth and it is not possible to provide communal gardens while ensuring the privacy of ground floor residents. The ground floor residents benefit from very good gardens while the upper floor residents must make do with balconies. The Stonebridge Regeneration Area has been redeveloped to ensure that there are parks that are reasonably close to all residents. However, your officers consider that it is much better to provide an adequate amount of amenity space for all residents rather than to rely on parks to supplement balconies for upper floor flats. It is also considered that a mix of amenity space should be provided for such schemes, with private space for all units (gardens, balconies and terraces), communal gardens for those which have low levels of private space, and adequate access to parks and open space.

Your officers agree that permeability through a site often helps to achieve integration between the current residents and those who will occupy the new dwellings. Whilst the changes to the scheme would be relatively easy to make in design terms through changes to fences, walls and landscaping within the site, this may result in issues of security and safety and the provision of the suggested accesses is unlikely to result in routes which provide significant benefit.

Design and massing

As with the general principles of the layout, the massing represents the evolution of the extant consent rather than a completely new approach. The majority of the southern terrace is lower than the previously approved scheme, with 3 storey houses with 4-storey maisonettes at either end being typical of the regenerated Stonebridge.

The 5-storey "Villa Blocks" which forms the northern frontage of the development again is lower than the majority of the buildings in this location within the extant consent which were predominantly 6-storeys in height. Furthermore, the breaks between the "Villa Blocks" help to break down the visual mass of the

buildings within this frontage. The building at the eastern end of this terrace, which is also 5-storeys tall, are 1-storey higher than those approved within the extant consent. However, this is adjacent to the Fawood Nursery and the Hillside Hub and the height accordingly does not appear to be out of place.

Objectors have raised concern regarding the 9-storey “Rotunda” building which is proposed at the western end of the site, fronting Wood Road. This building is lower in physical height than that approved through the extant consent and has a smaller visual mass due to its form, although the number of storeys is the same as previously approved. This end of the plot was highlighted as the potential location of a “landmark / taller building” within the Stonebridge Masterplan (pursuant to the 1997 outline consent). In design terms, there are long views to this end of the site from Hillside to the west and also views from the open space to the north of the site. Your officers accordingly continue to consider that a taller building is acceptable in design terms in this location.

The design of most of the buildings is relatively simple relying on the material (bricks) and strong geometric shapes. In your officers opinion this could be successful if the materials are of a very high quality. The applicant proposes a brick that has been used successfully in a number of other developments, including homes within the highly acclaimed Accordia estate.

The taller building, the “Rotunda”, is a round building with significant recessed elements to highlight the form of the building. The signatories to the petition object strongly to this building, describing it as a “grotesque anomaly on the landscape” and objecting to it in terms of its design, height and the impact on nearby homes. In terms of the design, the proposal does differ from the core Stonebridge buildings, which typically comprise 2- to 3-storey houses with 4-storey blocks of flats on the corners and junctions. However, a number of landmark buildings have been delivered within Stonebridge, such as the Hillside Hub, the green copper clad building opposite the Hub, the white rendered block to the north of this application site and the Fawood nursery. All of these buildings except the nursery use curved walls as a strong element of their design and curved buildings are not foreign to this area.

At 9-storeys, the “Rotunda” is taller than others within Stonebridge which reach a maximum of 7-storeys. However, your officers consider that the height does not appear incongruous in this location given the historical designation (landscape/taller builder), the extant consent and the long views to the site. And, as discussed above, the proposal is slightly lower than the extant consent relating to this site. In summary, your officers consider the design of the “Rotunda” to be acceptable as a “landmark” building subject to the quality of materials and detailing.

Landscaping

Formal comments have not been received from the Landscape Design Team. However, the scheme has been discussed with the Landscape Officers. The landscaping proposals are considered to be acceptable in principle. However, conditions should be attached to secure the full details of the landscaping. This should include (but not necessarily be limited to) hard and soft landscaping, sub-surface treatments (e.g. root management systems), details of play equipment and a management plan for the landscaped areas.

Quality of Accommodation

Internal floorspace

The proposed units meet or exceed the standards for internal floorspace that are set out within the London Plan.

Light and outlook

The applicant has submitted a daylight assessment which examined levels of light that will be received by key rooms within the development. The rooms that were assessed were selected to represent the worse cases in terms of daylight into the development.

The assessment concludes that most rooms will meet or exceed the BRE guidance levels regarding Daylight, but that a proportionately small number of rooms within the development will fall below these standards.

The majority of habitable rooms enjoy an outlook toward a site frontage or across the communal garden and mews terrace within the development. The “Villa Blocks” include bedrooms that have windows within the relatively narrow space between each block. However, these have the form of a bay window with views to the front or back of the block to ensure that the associated rooms enjoy an outlook between the buildings which your officers consider to be acceptable given that the other habitable rooms within the units benefit from longer views to the north and south.

Some units within “Rotunda” also have views across the pedestrian access to the flank wall of the “Villa

Blocks”, with those views across a distance of approximately 8 m to 13 m. However, given the shape of the “Rotunda”, those views are typically from bedrooms and the associated flats also have longer views from the living/kitchen rooms. As such, this is considered to be acceptable.

External amenity space and play space

The subject units are provided with balconies, terraces or gardens which average 11 sqm in size and range from 4.5 sqm to 35 sqm. This is supplemented by the area of communal garden space and the publicly accessible play area which total 963 sqm. Whilst this falls approximately 730 sqm below the level set out within SPG17, the publicly accessible mews terrace has been designed as a shared surface which may also be used for amenity purposes and incorporates seating along the edge of the canal feeder and trees planted along its length. As such, your officers consider that the provision of external amenity space within the development is acceptable.

Your officers have calculated the child yield of the development using the Mayor’s calculator which has been designed for the purpose of estimating play space requirements for new developments. This results in the requirement for 150 square metres (sqm) of play space, comprising 90 sqm for under 5 year olds, 40 sqm for 5-11 year olds and 20 sqm for those aged 12+. The applicant has designated an area of 150 sqm for use as play space for under 5 year olds. They highlight that the regeneration of Stonebridge has delivered a number of new open spaces and that this includes a play area adjacent to the Canal Feeder to the north-west of the site.

Your officers consider that this approach is acceptable subject to details of the play equipment being secured through condition. The amount of play space meets the Mayor’s standards whilst the provision of the entire space for under 5s rather than including small elements of play space for the other age bands is considered to be an acceptable approach given that this play area is in a publicly accessible location.

Potential impact on adjoining homes

The “Rotunda” building is situated in the north-western corner of the site and is opposite homes that front Wood Road and objectors are concerned that the proposal will have an impact on the light enjoyed by those dwellings. This application has not been accompanied by an assessment on the impact of the “Rotunda” on the daylight received by those homes. However, the impact is likely to be similar to that of the previous (extant) consent which was considered to be at an acceptable level. The daylight report submitted with that application set out that the impact on the light enjoyed by those dwellings was within the limits set out within the BRE guidance. The facing façade of the taller building that was previously approved was broader than that currently being considered. However, the “Rotunda” is situated closer to those homes in some places. Whilst your officers consider that the impact is likely to be similar (if not lower), further information has been sought from the applicant and this will be set out in the Supplementary Information

Adjacency to Listed Building

The proposed development adjoins the Stonebridge Park Public House, a Grade II listed building. English Heritage have commented that they do not wish to make any comments on this proposal.

The proposal has been discussed with the Council’s conservation officer. It is considered that the relationship between the proposed development and the Listed Building is acceptable and that there are no objections to the proposal with regard to the potential for impact on that building.

Transportation

The comments from Transportation are as follows:

As previously stated, the moderate access to public transport services and the lack of a CPZ in the area mean that the full car parking allowances set out in standard PS14 of the UDP apply to this site, giving a total allowance of 141.6 spaces for these proposed 117 flats. The proposed provision of 71 off-street spaces would therefore comply with standards.

However, consideration again needs to be given to the impact of any overspill parking from the site on traffic flow and road safety in the area, with car ownership estimated to typically total about 75% of the maximum allowance (i.e. about 107 spaces). This would leave a surplus of 36 cars seeking on-street parking.

Fourteen new parallel parking spaces are proposed along the new length of Hilltop Avenue and Wood Road fronting the site, with a further twelve spaces alongside the open space opposite, which is sufficient to accommodate much of the estimated demand. This would leave an overspill of about ten cars needing to park further afield and under the terms of Policy TRN23, the resultant impact of this needs to be considered.

The applicant therefore undertook an overnight survey of parking bay occupancy along Wood Road and

Hilltop Avenue in July 2012, to gain an understanding as to whether existing on-street bays close to the site are able to accommodate additional demand from the development. However, the results of the survey showed fairly high existing demand for parking in the area, with Wood Road being 78% parked and with little available space in Hilltop Avenue either.

It is therefore only considered reasonable to count three existing unused spaces in the area (two on the eastern side of Hilltop Avenue adjacent to the open space and one opposite the site in front of 68 Wood Road) as being close enough to the site to meet demand from this development – any more being likely to unduly inconvenience existing residents in the area. This would still leave an estimated seven cars seeking parking space close to the site.

That said, there are small stretches of road (particularly Wood Road) where no inset parking bays are proposed, but where the carriageway is just wide enough to accommodate kerbside parking along the site frontage. These lengths could accommodate 3-4 cars.

To accommodate the remainder, it is suggested that three perpendicular parking bays be provided in the south-western corner of the site, on an area of land between Wood Road and the canal feeder that has not been identified for any other purpose. Provision of spaces in this area would be particularly useful for the two blocks of four flats book-ending the terrace of townhouses, which otherwise have no convenient off-street parking space. A condition is recommended to this effect.

The layout of the basement car park is generally fine, but the access ramp is too narrow to allow cars to pass one another and being relatively steep with a kink at its lower end, would not allow drivers to easily see one another when entering and leaving the basement. To address this safety issue, the applicant proposed a traffic signal system at the pre-application stage, with sufficient width provided at the top and bottom of the ramp to allow cars to wait clear of the public highway. No details of this system have been provided with the application though and it is suggested that further details be provided as a condition of any approval.

The ramp is also fairly steep at 16%, but does include transition lengths at either end to eliminate the risk of vehicles grounding and is therefore acceptable. The headroom within the basement is also fine and includes additional height at its western end above the disabled parking spaces, to allow access by high-top conversion vehicles. The provision of four wide, marked disabled spaces is sufficient to meet the requirement of standard PS15 that one space in twenty is reserved for disabled drivers.

The design of the access from Wood Road is also generally fine, with the proposed tight radii suiting its use solely by cars and vans and adequate sightlines available. The only comment is that a raised entry table should be provided across the access.

Current TfL guidelines recommend that at least 10% of spaces be provided with electric vehicle charging points and that a further 10% are able to be easily provided with charging points in the future. No details of this have been provided at present and further details should therefore be sought as a condition of approval.

One on-street space is intended to be reserved for the use of a Car Club vehicle, which is welcomed, although this will be contingent upon a Traffic Regulation Order being made for the space, which will in turn require a commitment by a Car Club operator to base a vehicle at the site.

Standard PS16 requires at least one secure bicycle parking space per flat, giving a total requirement for 105 spaces. A total of 168 spaces have been shown in secure, covered locations for the flats, which is more than sufficient to satisfy this requirement. Each house is also provided with two bicycle parking spaces within its garage.

Refuse storage for all of the flats and houses has been shown within 10 metres of either Hillside or Hilltop Avenue to allow easy collection by refuse operatives, without vehicles needing to enter the site. Similarly, fire access requirements (45m hose distance) can be easily met from the surrounding highway without fire appliances needing to enter the site.

As such, the mews area for the terraced houses needs only accommodate vehicular access to the garages for the twelve houses and has therefore been laid out as a shared surface. Suitable surface treatment (i.e. block paving) will be required to indicate that the area is shared between vehicles and pedestrians. The proposed width of the mews is 6.4m, which is less than is generally required to manoeuvre into and out of garages. However, the width of the garages, at 3.2m, is sufficient to overcome this concern.

The provision of a pedestrian link across the site between Hillside and the new length of Hilltop Avenue is

particularly welcomed. Ramp gradients along the link have been kept to a maximum of 7%, with level platforms every 5 metres where the gradient exceeds 1:15, to assist with access by wheelchair users.

The proposed road layout of the new length of Hilltop Avenue is fine, with a 5.5m carriageway, 2m wide x 5.5m long parking bays and 2m footways shown, along with suitable horizontal alignment for the two bends in the road. It is noted that provision is made for widening of the parking spaces to accommodate disabled parking in future if demand justifies it, which is not ideal in that it impinges on the footway width. However, any requests for additional disabled parking would be dealt with on a case-by-case basis and this concern may not therefore even arise.

The design of the junction between Wood Road and Hilltop Avenue is also fine, with 6m kerb radii shown and a speed table which extends eastwards to provide a level platform for pedestrians crossing between the link across the development and the open space opposite. Tactile paving will need to be added on the final detailed design drawings, in accordance with the Masterplan layout.

This new length of road will need to be adopted as highway maintainable at public expense through an Agreement under Section 38 of the Highways Act 1980 and even though this forms part of the overall masterplan for the estate, a condition is nevertheless recommended requiring these works to be substantially completed and the road to be offered for adoption prior to occupation of this building. It is also recommended that occupation of this building be tied by condition to substantial completion of S278 junction works at Hilltop Avenue/Hillside, to ensure the junction is able to safely accommodate the additional traffic engendered by the opening of this through route into the wider estate.

As before, the two existing crossovers onto Hillside will no longer be required if this development is pursued and they must both be reinstated to footway at the developer's expense prior to occupation of any of the units as a condition of any approval.

One of these (just west of the former Orange Tree P.H.) was formerly Brett Road, with a 10 yard length being still adopted as highway (although it is now redundant following the demolition of the Orange Tree). It will therefore need to be formally stopped up as public highway under Section 247 of the Town & Country Planning Act 1990 once planning permission is issued to enable the development to proceed and it is recommended that an informative be attached to any planning permission to this effect.

With regard to traffic impact, a Transport Statement has been produced by Mayer Brown Ltd., giving estimates of likely car movements into and out of the site across the course of a typical weekday, based upon comparisons with seven other similar developments across London. On this basis, the development is estimated to generate car movements totalling 5 arrivals/20 departures in the morning peak hour (8-9am) and 14 arrivals/8 departures in the evening peak hour (5-6pm).

These flows are not considered to be large enough to warrant any particular further junction assessment and are within the range of flows used by Brent Council when analysing the operation of the future junction of Hillside and Hilltop Avenue.

The Transport Statement also includes a draft Travel Plan for the site, setting out a range of measures to be managed by a Travel Plan Co-ordinator, aimed at reducing the percentage of journeys made by car by 155 over the course of five years.

The Travel Plan has been assessed as being of reasonable quality, but needs to provide more information on the funding of the survey programme, Travel Plan Co-ordinator's post and the proposed Travel Plan measures. In particular, no reference has been made to establishing a Car Club on the site, including measures to promote it and provide incentives for future residents to join it. This is a major shortcoming for a residential Travel Plan.

Finally, a standard financial contribution of £1,000 per 1-/2-bed unit and £1,500 per 3-bed unit is sought, based upon the additional accommodation now proposed on the site over and above that identified within the approved Masterplan. This would give a sum of £54,000 (including the Orange Tree PH site which was already required to provide £7,000 towards non-car access improvements).

Transportation do not object to the proposal subject to conditions regarding landscaping, traffic signals at the top and bottom of the basement car park ramp, details of electric vehicle charging points, amendments to the site layout to provide 3 additional parking spaces, the reinstatement of two existing redundant crossovers and the completion of the works and adoption of the proposed roads and footways around the perimeter of the site. An Informative is also recommended regarding the stopping up of a 10 yard length of public highway.

Objectors have expressed concern regarding the proposal in terms of overspill parking, traffic and congestion and the associated impacts on the health of local residents. The Council's Highways Officers consider that the likely level of parking will be much lower than the levels that are expected by objectors who believe that the development may result in around 175 cars for the homes (average of 1.5 cars per home) and an additional 234 spaces for friends and family members, resulting in a total requirement for 409 spaces (3.5 cars per home). The average level of parking that has been delivered within Stonebridge to date is approximately 0.7 spaces per unit. However, the majority of the homes that have been built have been Affordable which are typically associated with lower levels of parking. The Highways officers consider that the likely parking demand is 107 spaces and that this can be accommodated providing three more spaces are provided. Whilst a condition has been recommended by the Highways officers, revised drawings have been requested and this will be discussed further within the Supplementary Report.

In terms of the amount of traffic associated with the development, the maximum number of trips per hour as set out within the comments from Highways (which refer to the Transport Assessment) is 25 and this is therefore unlikely to have a significant impact on air quality. The information provided within Transport Assessments provides estimates of the potential impacts of a development and it is always possible that actual levels may be higher or lower. However, these estimates are based on surveys of actual developments and therefore should provide a sound basis for the assessment of potential impacts. As such, your officers consider that the proposal is acceptable on Transport grounds subject to the amendments set out by the Highways officers above.

Air Quality

The proposal is accompanied by an Air Quality Assessment which examines the potential impact of the development and the impacts of existing air quality on future residents.

It sets out that the impacts of traffic associated with the development is likely to be insignificant. Information regarding vehicle movements was set out in the Transport Assessment and discussed in the Highways section of this report.

The Air Quality Assessment highlights the potential adverse effects of air quality on the proposed homes that front Hillside, but sets out that this can be addressed through the incorporation of mechanical ventilation for the affected homes with appropriately sited intake vents.

It also sets out the potential air quality issues during construction can be addressed through the incorporation of appropriate mitigation measure.

Safer Streets have requested further information regarding the homes fronting Hillside to establish the location of vents and whether windows in inappropriate locations will be fixed closed. They have also recommended that conditions are attached regarding details of the Combi-boilers and the mitigation measures to be implemented during construction.

Noise

The applicant has submitted a noise assessment which examines the potential impact on noise from Hillside on the proposed homes. It highlights the potential impacts of noise on the southern, eastern and western facades of the homes that front Hillside. However, it sets out that this will be addressed through the incorporation of mechanical ventilation systems which will mean that windows do not need to be opened to ventilate the houses and that this will result in internal noise being at acceptable levels.

Whilst this approach is acceptable, the assessment does not look at the potential noise associated with the proposed ventilation systems and Safer Streets have sought clarification that these levels will be at least 10dB below background noise levels. Conditions have also been recommended regarding internal noise and the full specification of the ventilation systems.

Contamination

Due to the historic use of the land and the sensitivity of the end use, Safer Streets have recommend that conditions are attached to the consent to ensure that the soil quality is suitable for use.

Residential Density

The current proposal represents a reduction in the number of units from that previously approved, from 122 down to 117. However, the number of habitable rooms has increased from 311 to 337 due to the increased size of a number of the dwellings.

The density of the scheme has reduced to 188 units per hectare but increased to 542 Habitable rooms per hectare.

This is above the London Plan range of 70 – 170 units per hectare and 200 – 450 Habitable Rooms per hectare. However, is considered to be acceptable given the location of the site adjacent to the new Stonebridge centre incorporating shops and community facilities and between two open spaces. Furthermore, the presence of frontages on most sides of the site typically increases the density of development as buildings are normally close to a street frontage than they are to boundaries with private residential gardens.

Objectors have expressed concern that Stonebridge has become overly congested and that this will exacerbate this. In terms of the number of homes within Stonebridge, there were 1,776 homes within the 1960s estate that has now been demolished. However, given that the estate comprised high-rise blocks, there existed a lot of space around the buildings and a significant number of large trees. These homes have typically been provided as 2- to 3-storey houses and 4-storey blocks of flats and as such, the amount of land covered by buildings and streets has increased significantly. This has resulted in the loss of openness. However, it has had a significant benefit with regard to security and safety where almost all streets and public spaces are overlooked by windows and benefit from good levels of natural surveillance. As such, the police often use Stonebridge as an example of the reduction in crime through good design.

The proposal, if constructed, would result in a total of 1,444 homes within the Stonebridge Regeneration Area, still below the previous total of 1,776 homes within the 1960s estate. However, there are still sites situated to the south of Hillside that are yet to be developed out which would be the subject of future planning applications. It is likely that the total number of homes within Stonebridge will exceed the number that were in the 1960s estate and Hyde Housing previously estimated this to be around 1,900 homes.

As discussed above, the form and density of the development of the development is higher than within many of the Stonebridge sites. However, for the reasons set out previously in this report, your officers consider this to be acceptable. The density is also comparable to the extant consent.

Summary

The proposal represents the evolution of the previous (extant) consent for the redevelopment of site which results in a decrease in the number of units but an increase in the number of habitable rooms to be provided within the site.

A large number of objections have been received in the form of a petition, with concern raised regarding congestion (of people), access and segregation, design of the buildings, traffic congestion and parking and associated health impacts, the height of the “Rotunda” building and the impact on the light enjoyed by residents and the lack of benefits for existing Stonebridge Residents.

It is considered that whilst further public access could be provided through the site, that this would affect the quality of the scheme for future residents, may result in security and safety issues and this scheme already provides greater access through the site than most other sites in Stonebridge. Highways officers believe that an appropriate level of parking can be provided through minor amendments to the layout and that the number of vehicle trips will be relatively low. The proposal will affect the light of some nearby homes. However, the impact is likely to be within nationally accepted levels and further clarification has been sought from the applicant. The number of homes in Stonebridge will still be below the levels associated with the 1960s estate, but further sites remain to be developed to the south of Hillside which may increase this total by around 130 units (subject to future planning applications).

The proposal is considered to be acceptable having regard to current planning policies and guidance and your officers recommend that consent is granted.

REASONS FOR CONDITIONS

RECOMMENDATION: Grant Consent subject to Legal agreement

(1) The proposed development is in general accordance with policies contained in the:-

National Planning Policy Framework

CONDITIONS/REASONS:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

STB10_P_050 Rev A	STB10_P_117 Rev A
STB10_P_051 Rev A	STB10_P_120 Rev A
STB10_P_052 Rev A	STB10_P_121 Rev A
STB10_P_100	STB10_P_122 Rev A
STB10_P_105 Rev A	STB10_P_130 Rev B
STB10_P_109	STB10_P_131 Rev A
STB10_P_110 Rev A	STB10_P_900 Rev A
STB10_P_111 Rev A	STB10_P_901
STB10_P_112 Rev A	STB10_P_902 Rev A
STB10_P_113 Rev A	STB10_P_903 Rev A
STB10_P_114 Rev A	110094L01 Rev G
STB10_P_115 Rev A	110094L03 Rev B
STB10_P_116 Rev A	110094Y05A Rev A

Brent Canal Feeder Diversion Hydraulic Assessment-Comparison
Design & Access Statement Rev B
Planning Supporting Statement ref 154036B dated Nov2012

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) The areas approved by the Local Planning Authority for car parking, loading, unloading and parking of service vehicles; vehicle turning space; and parking and access provision for disabled persons shall be used only for those purposes.

Reasons: To ensure that these areas are permanently retained for these uses in compliance with the Council's parking and servicing standards, in the interests of the general amenities of the locality and in the interests of the free flow of traffic and conditions of highway safety within the site and on the neighbouring highways.

- (4) Following completion of the development, the routes coloured red and orange within section 7.3.1 of the Design and Access Statement hereby approved shall be made available for free public access for pedestrians except when it is required for maintenance purposes, or for other purposes providing the closures for non-maintenance purposes do not occur on more than five days per annum, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an inclusive development and in the interest of the permeability of the surrounding area.

- (5) All existing crossovers rendered redundant by this proposal shall be reinstated to footway at the applicant's own expense and to the satisfaction of the Council's Director of Transportation prior to first occupation of the new development.

Reason: In the interests of traffic and pedestrian safety.

- (6) The dwellings hereby approved shall not be occupied until such time as Certificates of

Substantial Completion have been issued for the construction and adoption of the length of Hilltop Avenue within the site boundary under an Agreement pursuant to Section 38 of the Highways Act 1980 and for the construction of improvement works at the junction of Hilltop Avenue and Hillside pursuant to Section 278 of the Highways Act 1980, including the provision of new radius kerbs and re-siting of the adjacent pedestrian crossing, in broad accordance with drawing no. 9451/101/P2, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory development in the interest of highway flow and safety and amenity.

- (7) Details of materials for all external surfaces of the building and all other external works, including samples, shall be submitted to and approved by the Local Planning Authority before any work is commenced and the works shall be carried out in full accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (8) All areas shown on the approved plans shall be suitably landscaped in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority in consultation with the Canal and River Trust and the Environment Agency prior to commencement of any demolition/construction work on the site and the approved details shall be implemented in full. Such landscaping work shall be completed prior to first occupation of the development hereby approved and thereafter maintained.

The submitted scheme shall include details of:

- a) the planting scheme for the site, which shall include species, size and density of plants, sub-surface treatments (or planters where applicable), details of the extent and type of native planting, any new habitats created on site and the treatment of site boundaries and buffers around water bodies;
- b) walls, fencing and any other means of enclosure, including materials, designs and heights;
- c) treatment of areas of hardstanding and other areas of hard landscaping or furniture, including materials;
- d) details of levels and contours within and adjoining the site;
- e) children and young persons play and recreational space and facilities;
- f) a landscaping maintenance strategy, including details of management responsibilities;

Any trees and shrubs planted in accordance with the landscaping scheme and any plants which have been identified for retention within the development which, within 5 years of planting, are removed, dying, seriously damaged or become diseased, shall be replaced to the satisfaction of the Local Planning Authority, by trees and shrubs of similar species and size to those originally planted.

Reason: To ensure a satisfactory standard of appearance and to ensure that the proposed development enhances the visual amenity of the locality.

- (9) Detailed drawings which show the siting and layout of cycle storage areas shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works and the development shall be carried out in full accordance with the approved details and thereafter permanently retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory development that makes adequate provision of cycle storage.

- (10) A drainage strategy detailing any on- and/or off-site drainage works shall be submitted to and approved by the Local Planning Authority prior to the commencement of works and the development and the development shall be carried out in full accordance with the approved details.

Reason : To ensure an adequate and appropriate means of dealing with surface and foul

drainage from the site is provided in the interests of the water environment and the environment of the locality.

- (11) Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Canal and River Trust, prior to the commencement of any works on site and the approved details shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority. This shall include details of the lighting fixtures, luminance levels through the site and luminance levels at sensitive receptors within and adjoining the site.

Reason: In the interests of safety and the amenities of the area.

- (12) Details of the extract/ventilation equipment for the basement parking area, including ducting, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. The development shall be carried out in full accordance with the approved details and the equipment shall be operated at all times when the car park is in use and maintained in accordance with the manufacturer's instructions unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of the adjoining dwellings and future residents of the proposed dwellings.

- (13) Prior to the commencement of building works, a site investigation shall be carried out by competent persons to determine the nature and extent of any soil contamination present. The investigation shall be carried out in accordance with the principles of BS 10175:2011. A report shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of development that includes the results of any research and analysis undertaken as well as an assessment of the risks posed by any identified contamination, and an appraisal of remediation options should any contamination be found that presents an unacceptable risk to future site users.

Reason: To ensure the safe development and secure occupancy of the site.

- (14) Any remediation measures required by the Local Planning Authority pursuant to condition No. 13 shall be carried out in full. A verification report shall be provided to the Local Planning Authority, stating that remediation has been carried out in accordance with the approved remediation scheme and the site is permitted for end use (unless the Planning Authority has previously confirmed that no remediation measures are required).

Reason: To ensure the safe development and secure occupancy of the site

- (15) Prior to the occupation of the residential units, details of all domestic boilers to be installed shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the rated emissions of Oxides of Nitrogen (NO x) do not exceed 20 mg/kWh. The approved details shall be implemented.

Reason: To protect local air quality.

All residential premises shall be designed in accordance with BS8233:1999 'Sound insulation and noise reduction for buildings-Code of Practice' to attain the following internal noise levels:

Criterion	Typical situations	Design range	LAeq, T
Reasonable resting conditions	Living rooms	30 – 40 dB (day: T =16 hours 07:00 – 23:00)	
Reasonable sleeping conditions	Bedrooms	30 – 35 dB (night: T = 8 hours 23:00 – 07:00) LAmax 45 dB (night 23:00 – 07:00)	

Prior to the occupation of the dwellings fronting Hillside, the applicant shall submit in writing to the Local Planning Authority the results of post-completion testing undertaken to show that the above internal noise levels have been achieved.

Reason: To obtain required sound insulation and prevent noise nuisance.

(16)

- (17) The development is within an Air Quality Management Area and construction and demolition

works are likely to contribute to background air pollution levels. The applicant must employ measures to mitigate the impacts of dust and fine particles generated by the operation, the details of which must be submitted to and approved in writing by the Local Planning prior to commencement of the development.

Reason: To minimise dust arising from the operation.

- (18) Details of any air-conditioning, ventilation and flue extraction systems including particulars of noise levels and any associated noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority before any works commence on site. The approved details shall thereafter be fully implemented.

Reason: To safeguard the amenities of the existing or future residents.

- (19) No impact piling shall take place unless a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the details of the piling method statement.

- (20) Development should not be commenced until an impact study of the existing water supply infrastructure have been submitted to and approved in writing by the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

- (21) Details of the traffic signal system for the access ramp to the basement car park, including associated signage, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works and the approved details shall be implemented in full and maintained for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the safety of users of the basement car park.

- (22) Prior to the commencement of the development hereby permitted, detailed designs and specifications for the proposed realigned Brent Feeder, a risk assessment and method statement for all works adjacent to the water, and details of the on-going maintenance regime for the feeder, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Canal & River Trust.

Reason: To ensure the satisfactory operation of the canal feeder.

- (23) Prior to first occupation of the development, confirmation that all dwellings have been built to the Lifetime Homes standard and 12 of the dwellings have been constructed as Wheelchair Accessible Housing (or are easily adaptable to Wheelchair Accessible Housing) shall be submitted in writing to the Local Planning Authority.

Reason: To ensure a development that is sufficiently accessible.

INFORMATIVES:

- (1) The loading and transfer of all materials shall be carried out so as to minimise the generation of airborne dust with all material kept damp during handling. Road vehicles loaded with crushed material shall be sheeted or otherwise totally enclosed before leaving the site. In order to prevent dust nuisance to neighbouring properties / residents, there should be

adequate screening and damping down during all demolition activities, sandblasting, clearance work and other site preparation activities.

Reason: To minimise dust arising from the operation and safeguard the amenity of neighbouring residences.


- (2) During construction on site:-
- (a) The best practical means available in accordance with British Standard Code of Practice B.S.5228: 1984 shall be employed at all times to minimise the emission of noise from the site.
 - (b) The operation of site equipment generating noise and other nuisance-causing activities, audible at the site boundaries or in nearby residential properties, shall only be carried out between the hours of 0800 - 1700 Mondays - Fridays, 0800 - 1300 Saturdays and at no time on Sundays or Bank Holidays.
 - (c) Vehicular access to adjoining and opposite premises shall not be impeded.
 - (d) All vehicles, plant and machinery associated with such works shall at all times be stood and operated within the curtilage of the site only.
 - (e) No waste or other material shall be burnt on the application site.
 - (f) All excavated topsoil shall be stored on the site for reuse in connection with landscaping.
 - (g) A barrier shall be constructed around the site, to be erected prior to demolition.
 - (h) A suitable and sufficient means of suppressing dust must be provided and maintained.

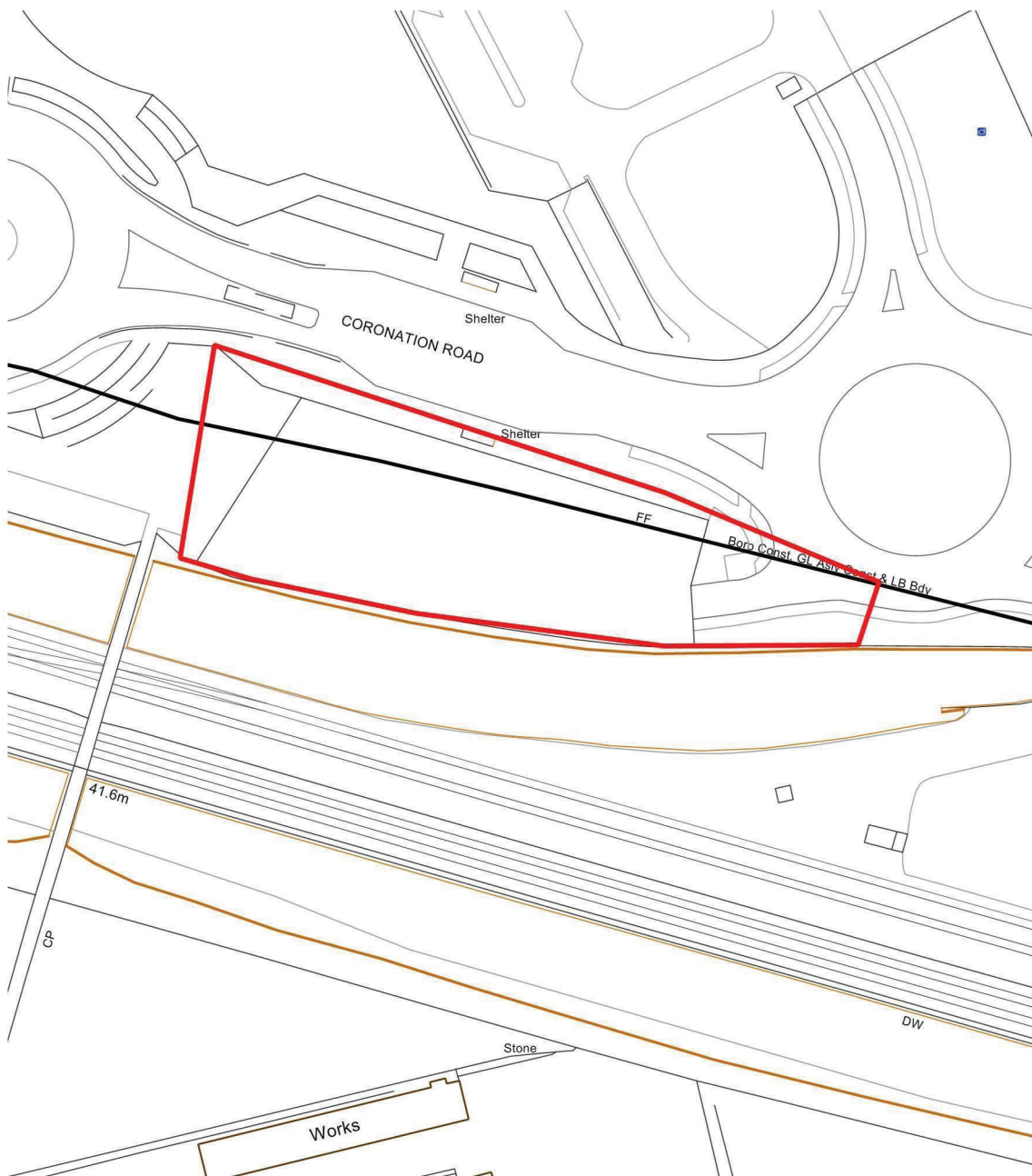
Reason: To limit the detrimental effect of construction works on adjoining residential occupiers by reason of noise and disturbance.

- (3) Thames Water requests that the Applicant should incorporate within their proposal, protection to the property by installing for example, a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.
- (4) With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
- (5) There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.
- (6) The applicant is advised that a 10 yard length of public highway within the site formerly known as Brett Road will need to be stopped up under S247 of the Town & Country Planning Act 1990 in order to implement the development.
- (7) The owner must enter into an appropriate commercial agreement regarding the Brent Feeder before development commences. Please contact Jonathan Young in the Canal & River Trust's Estates team on 07766 992935 for further information.
- (8) The applicant/developer should refer to the current Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained, and should contact the Trust's Third Party Works Engineer, Andrew Coonan, at Andrew.coonan@canalrivertrust.org.uk or on 07771 862 640 (<http://canalrivertrust.org.uk/about-us/for-businesses/undertaking-works-on-our-property>)

REFERENCE DOCUMENTS:

Any person wishing to inspect the above papers should contact David Glover, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5344

	Planning Committee Map
Site address: Former Guinness Brewery Site, Rainsford Road, Park Royal, NW10	
© Crown copyright and database rights 2011 Ordnance Survey 100025260	



This map is indicative only.

RECEIVED: 29 October, 2012

WARD: Stonebridge

PLANNING AREA: Harlesden Consultative Forum

LOCATION: Former Guinness Brewery Site, Rainsford Road, Park Royal, NW10

PROPOSAL: Hybrid planning application comprising:

Full planning application for Plot 1 for the erection of 3 buildings providing a total of 14,704sq.m. (GEA) of B1c, B2 and B8 floorspace, including a new access onto Cumberland Avenue and associated car parking, landscaping and ancillary works.

Outline application for Plot 2 for the development of up to 28,111 sq.m. (GEA) of B1c, B2 and B8 floorspace with all matters reserved except the first phase of landscaping.

APPLICANT: Brixton (Origin) Limited (c/o SEGRO Plc)

CONTACT: Drivers Jonas Deloitte

PLAN NO'S:
See condition 2.

RECOMMENDATION

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning or other duly authorised person to agree the exact terms thereof on advice from the Director of Legal Services and Procurement.

SECTION 106 DETAILS

The application requires a Section 106 Agreement, in order to secure the following benefits:-

- (a) *Payment of the Councils legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance.*
- (b) *contribution of £1,070,375 with payments to be made on a phased basis, commensurate with the quantum of floorspace brought forward with each phase. Payments would be made on commencement of each phase*
- (c) *Sustainability - submission and compliance with the Sustainability check-list ensuring a minimum of 50% score and BREEAM Excellent rating is achieved, with compensation should it not be delivered. In addition to adhering to the Demolition Protocol.*
- (d) *A minimum 10% on site renewable generation, unless it is proven to the Council's satisfaction that it is not practically feasible to do so on-site. To achieve 25% improvement on the 2010 Building Regulations Carbon Dioxide Target Emission Rates, this to be demonstrated through the submission of a revised Energy Strategy to be submitted to the Council. Acceptable evidence for which must be submitted before Material Start and post construction validation of this. Where it is clearly demonstrated that this cannot be achieved on-site, any shortfall may be provided off-site or through an in-lieu contribution to secure the delivery of carbon dioxide savings elsewhere in the Borough.*
- (e) *Notify Brent 2 Work of forthcoming job and training opportunities associated with the development.*
- (f) *Submission and approval in writing of a Travel Plan approved by the Council, (or as amended by agreement of the Council and the Owner in writing) on first occupation of any of the units.*
- (g) *the provision of the 'Pocket Park', to be open to the public not less than 350 days a year, during daylight hours, maintained at the owners expense.*

And, to authorise the Head of Area Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the Unitary Development Plan and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

EXISTING

This 11.0 hectare site forms part of Guinness's former Park Royal Brewery and forms part of the PR5 Guinness Brewery Site Specific Allocation. It is bounded to the east by Rainsford Road, the remnants of a former railway siding and Cumberland Business Park; to the south by Coronation Road and beyond that the Central Line; to the west by the First Central development site; and to the north by residential properties in the London Borough of Ealing.

The site has been cleared of all buildings and is surrounded by hoardings.

DEVELOPMENT SCHEDULE

The table(s) below indicate the existing and proposed uses at the site and their respective floorspace and a breakdown of any dwellings proposed at the site.

Floorspace Breakdown

USE

Number	Primary Use	Sub Use
1	shops	
2	financial and professional services	
3	restaurants and cafes	
4	drinking establishments (2004)	
5	hot food take away (2004)	
6	businesses and offices	
7	businesses / research and development	
8	businesses and light industry	either of B1 / B2 / B8
9	general industrial	
10	storage and distribution	
11	hotels	
12	residential institutions	
13	non-residential institutions	
14	assembly and leisure	

FLOORSPACE in sqm

Number	Existing	Retained	Lost	New	Net gain
1	0		0	0	
2	0		0	0	
3	0		0	0	
4	0		0	0	
5	0		0	0	
6	0		0	0	
7	0		0	0	
8	0		0	42815	42815
9	0		0	0	
10	0		0	0	
11	0		0	0	
12	0		0	0	
13	0		0	0	
14	0		0	0	

TOTALS in sqm

Totals	Existing	Retained	Lost	New	Net gain
	0		0	42815	42815

Mayoril CIL multiplier is £35 per SQM of total net gain floorspace, therefore Amount Payable is £1,498,525.00.

PROPOSAL

Hybrid planning application comprising:

Full planning application for Plot 1 for the erection of 3 buildings providing a total of 14,704sq.m. (GEA) of B1c, B2 and B8 floorspace, including a new access onto Cumberland Avenue and associated car parking, landscaping and ancillary works.

Outline application for Plot 2 for the development of up to 28,111 sq.m. (GEA) of B1c, B2 and B8 floorspace with all matters reserved except the first phase of landscaping.

HISTORY

Formerly the Guinness Park Royal Brewery, brewing ceased in 2005 and the site has now been cleared.

In July 1999 outline planning permission was granted for a mixed-use development of the whole of the 22.18-hectare Guinness site comprising the existing brewery, playing fields, laboratories, head office buildings and other ancillary development. The proposal included the retention of the brewery and the development of 116,100m² of offices (Use Class B1); 61 residential units; an underground station including ancillary retail; 150-bed hotel; indoor leisure facilities and open space; with associated access/servicing, landscaping and car-parking and the creation of new access roads. There have been a number of applications since for reserved matters and for details pursuant to various conditions imposed upon the outline planning permission. Further reserved matters applications for later phases of the development have been approved. Last year a revised masterplan was approved under reference 10/3221.

Not long after the grant of the original masterplan in 1999 the decision was made to close the Park Royal Brewery and the main brewery building was subsequently demolished and now forms a separate planning unit to which the following planning history relates.

07/1293 – Granted 24.01.2008

Erection of 8 buildings providing 49,797m² of B1(c), B2 and B8 floor space and including a cafe, gatehouse, creation of new vehicular and pedestrian access points, 332 car-parking spaces, servicing, landscaping, the creation of a pocket park, installation of CCTV security cameras and provision of external lighting and subject to a Deed of Agreement dated 10th January 2008 under Section 106 of the Town and Country Planning Act 1990, as amended.

10/3310 – Granted 30.03.2012

Extension to time limit of full planning permission 07/1293 dated 24/01/08 for the erection of 8 buildings providing 49,797m² of B1(c), B2 and B8 floor space and including a cafe, gatehouse, creation of new vehicular and pedestrian access points, 332 car-parking spaces, servicing, landscaping, the creation of a pocket park, installation of CCTV security cameras and provision of external lighting and subject to a Deed of Agreement dated 30th March 2012 under Section 106 of the Town and Country Planning Act 1990, as amended.

POLICY CONSIDERATIONS

National Policy Context

The National Planning Policy Framework (NPPF) was published on 27th March last year and replaced the existing framework of Planning Policy Guidance and Planning Policy Statements. Saved policies from the adopted UDP will have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. Core Strategy policies will also need to be in conformity with both the London Plan and the NPPF and have considerable weight.

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless it would result in adverse impacts that would significantly outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

The National Planning Policy Framework provides a set of twelve core land-use planning principles that should underpin both plan-making and decision-taking. These principles are that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and

neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in the NPPF;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations; actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

Regional Policy Context

The London Plan Spatial Development Strategy for Greater London (July 2011)

The following London Plan Policies are considered to be particularly relevant to this application:

2.13; Opportunity Areas & Intensification Areas

2.17; Strategic Industrial Locations: - The Mayor will, and boroughs and other stakeholders should, promote, manage and where appropriate, protect the strategic industrial locations.

4.1; Developing London's Economy: - Promote and enable the continued development of a strong, sustainable and increasingly diverse economy across all parts of London.

4.4: Managing Industrial Land & Premises

5.1; Climate Change Mitigation.

5.2 Minimising Carbon Dioxide Emissions: - Development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy.

5.3; Sustainable Design & Construction:

5.7; Renewable Energy:

5.11: Green Roofs & Development Site Environs

5.12; - Flood Risk Management

5.13; - Sustainable Drainage

5.21; - Contaminated Land

6.3; - Assessing Effects of Development on Transport Capacity

6.5; - Funding Crossrail & Other Strategically Important Transport Infrastructure

6.9; - Cycling

6.13; - Parking

7.5; - Public Realm

- 7.14; - *Improving Air Quality*
- 7.15; - *Reducing Noise & Enhancing Soundscapes*
- 7.21; - *Trees & Woodlands*

Sub-Regional Context

Park Royal Opportunity Area Framework (OAPF) – This is a non-statutory planning framework document issued by the Mayor of London as Park Royal has been identified as an opportunity area within the London Plan. Although non-statutory this is considered to be a material consideration to a development of this size.

Park Royal is identified by the Mayor as an Opportunity Area with a target to accommodate 11,000 new jobs over the next 20 years. It will remain a Strategic Employment Location, exploiting its potential to meet modern logistics and waste management requirements, making good use of its access to Heathrow and the West End, strategic road and rail connections and seeking to develop its potential for water freight.

The Opportunity Area Planning Framework sets out a shared vision for the coherent development of Park Royal. It is intended to achieve the following:

- assist with the co-ordination and delivery of cross-borough projects and improvements;
- provide clarity to developers and investors as well as guidance to the Boroughs when drawing up their development plans and making planning decisions;
- build on Park Royal's importance as one of London's key industrial locations, especially its potential to meet modern logistics and waste management requirements;
- address the need to improve local access to open space;
- take account of London's future road, rail and water freight requirements together with their land use implications and the scope for improvements in strategic rail accessibility;
- propose mixed-use intensification mainly in areas outside the Strategic Employment Location where there is good public transport accessibility.

Local Policy Context

Brent UDP 2004

- BET** *Townscape: Local Context & Character*
- BE3** *Urban Structure: Space & Movement*
- BE4** *Access for Disabled People*
- BE5** *Urban Clarity & Safety*
- BE6** *Public Realm: Landscape Design*
- BE7** *Public Realm: Streetscape*
- BE8** *Lighting & Light Pollution*

- BE9** *Architectural Quality*
- BE12** *Sustainable Design Principles*
- BE13** *Areas of Low Townscape or Public Realm Quality*
- BE33** *Tree Preservation Orders*

- EP2** *Noise & Vibration*
- EP3** *Local Air Quality Management*
- EP6** *Contaminated Land*
- EP12** *Flood Prevention*

- TRN1** *Transport Assessment*
- TRN2** *Public Transport Integration*
- TRN3** *Environmental Impact of Traffic*
- TRN4** *Measures to Make Transport Impact Acceptable*
- TRN10** *Walkable Environments*
- TRN11** *The London Cycle Network*
- TRN22** *Parking Standards Non-Residential Development*
- TRN31** *Design and Land Take of Car Parks*
- TRN34** *Servicing in New Development*
- TRN35** *Transport Access for Disabled People*
- PS6** *Parking Standard*
- PS16** *Cycle Parking Standards*
- PS19** *Servicing Standards*

EMP5 Designation of Strategic Employment Areas
EMP8 Protection of Strategic Employment Areas
EMP10 The Environmental Impact of Employment Development
EMP11 Regeneration of Employment Areas
EMP12 Public Realm Enhancements in Employment Areas
EMP18 General Industrial Developments
EMP19 Warehouse Developments

PR1 Major Developments in Park Royal
PR3 Public Realm Improvements in Park Royal

LDF Brent Core Strategy 2010

CP3 Commercial Regeneration
CP12 Park Royal
CP14 Public Transport Improvements
CP15 Infrastructure to Support Development
CP19 Brent Strategic Climate Change Mitigation & Adaptation Measures
CP20 Strategic Industrial Locations

Brent DPD Site Specific Allocations PR1:-

This allocation supports industrial and warehousing development. Regard is to be had to the business park development occurring to the west. Development proposal should have regard for the possible Fast Bus route through Park Royal and provide east/west cycle route and pathway at the north of the site. Proposals should seek to conserve and enhance the adjacent Nature Conservation designation.

Supplementary Planning Guidance (SPG) 17 - "Design Guide for New Developments".

SPG 17 sets out the Councils minimum design standards to ensure that development does not prejudice the amenities of the occupiers of neighbouring properties or the occupiers of the application site.

Supplementary Planning Guidance (SPG) 18 - "Employment Development".

SPG 18 sets out design guidance for employment uses to ensure that the proposed development does not prejudice against the employment land and to minimise impact to the nearby residential uses.

Supplementary Planning Guidance (SPG) 19 - "Sustainable Design, Construction & Pollution Control".

SPG 19 complements existing design and planning guidance on urban design, transportation, economic and community issues. It focuses on the principles and practice of designs that save energy, sustainable materials and recycling, saving water and controlling pollutants.

Guinness Brewery Supplementary Planning Document & Planning Position Statement -

This seeks to secure the prompt redevelopment of the former Guinness Brewery site for employment related uses.

Supplementary Planning Document – "Section 106 Planning Obligations"

Main Considerations;

- (a) Principle of use
- (b) Employment and regeneration benefit
- (c) Layout and visual impact
- (d) Scale and quantum of development
- (e) Impact on transport network
- (f) Sustainability credentials and climate change mitigation
- (g) Environmental impacts of development
- (h) Impact on surrounding users

CONSULTATION

Date site notices erected: 10 December 2012

Advertised in the press on 06 December 2012

Public

448 letters were sent to adjoining residences and nearby businesses on 08 Nov 2012. This included some 209 properties in the adjoining London Borough of Ealing.

One objection has been received from a neighbouring business raising concerns regarding traffic congestion, highway safety, noise and disturbance.

Ward Councillors consulted (no responses received).

Statutory Consultees

London Borough of Ealing:-

No response received.

The Greater London Authority (GLA) and Transport for London:

The application is referable under Category 1B, 2C and 3F of the Schedule to the Order 2008. An email was received from the GLA on the 19th December advising the Council that there was likely to be a delay in responding to the Council's Stage I referral. Rather than hold up the determination of the application and miss the Statutory 13 week target for determining major planning applications it is decided to seek a committee resolution and ask members to delegate agreeing any amendments to the scheme recommended by the Mayor to the Head of Area Planning. The application is in any case referable back to the GLA for the Mayor's Stage II decision. It should be noted that the Mayor has supported the last two applications for this site and that the extant permission is for a broadly similar development. It is therefore not anticipated that the Mayor or GLA would have any fundamental objections to the current proposal.

Transport for London:

To summarise, TfL requests that full travel plans, including delivery and servicing measures, for individual occupiers of the development and construction logistics plans be secured. TfL also requests further information to justify the level of car parking proposed to ensure that the proposal is consistent with London Plan policy objectives, and that the allocation of the s106 contributions to be secured towards sustainable transport be discussed further prior to determination.

Environment Agency:-

Initially raised an **objection** to the proposal but following further discussions with the applicants and their consultants have lifted the objection in a letter dated 21 December 2012 subject to the agreed revised drainage details and suggested conditions.

Other non-statutory Consultees

HS2 Ltd

The site has been identified as a potential works site for the construction of the proposed High Speed Rail Link 2 (HS2) between London and Birmingham. HS2 Ltd are currently undertaking a consultation of various landowners and other stakeholders along the route of the proposed HS2 over land that may be safeguarded as part of the project. The former Guinness Brewery Site to which this application relates is identified as a potential safeguarded area and HS2 Ltd object to this application.

Internal

Landscape Design:

No objection to development is raised, although conditions are requested. One of these is to secure further details of a comprehensive landscaping scheme.

Highways & Transport Delivery:

Comments will be reported in a supplementary report.

Environmental Health:-

No objection.

A condition is recommended, this relates to validation of any soil imported, including the 'pocket park'.

REMARKS

Background

Brewing production on the Guinness Brewery site in Park Royal ceased at the end of June 2005 and

clearance of the site has commenced. The Council needs to consider the future use of this key 11 Ha (25 acre) site in Park Royal in the light of current London Plan and Brent UDP policy and also the need to maximise the potential that such a significant opportunity site has in the regeneration of Park Royal. It is essential that guidance is brought forward now so that this site does not lie vacant nor be re-developed without its significant opportunities being maximised; this needs to be done in a manner that looks at the entire area.

The site is located in Park Royal, London's largest industrial and Business Park. Approximately 40% of the Park Royal estate is within Brent, 50% in Ealing and 10% in Hammersmith and Fulham. The site is designated as Strategic Industrial Land and is also subject to a Major Opportunity Site designation; PR1 – *Former Guinness Brewery site in the LDF Core Strategy Site Specific Allocations (DPD)* in the Brent LDF Core Strategy, and is identified as within an Opportunity Area in the London Plan (2011).

The new Rainsford Road Link road, Cumberland Avenue Roundabout and the realignment of the existing Rainsford Road, along with a new bus lane have been delivered since the previous grant of planning permission. These road works were originally agreed as part of the First Central Redevelopment.

Existing Permission

The site has an existing full planning permission granted in March of last year for the erection of 8 buildings providing 49,797m² of B1(c), B2 and B8 floor space. (Reference: 10/3310). The applicant has until March 2015 to begin this development.

Current Proposal

The current submission is a hybrid application comprising a full application on part of the site (Plot 1) for the erection of 3 buildings providing a total of 14,704 sq.m. (GEA) of B1c, B2 and B8 floorspace, including a new access onto Cumberland Avenue and associated car parking, landscaping and ancillary works. Outline planning permission is sought on the remainder of the site (Plot 2) for a further 28,111 sq.m. (GEA) of B1c, B2 and B8 floorspace.

The total amount of floor space being sought is 42,815 sq.m. (GEA) which is less than the 49,797 sq.m that the site already has planning permission for.

Reserved matters application(s) will be brought forward for the outline element of the proposed development on Plot 2 in due course.

Plot 1 Layout

Plot 1 is designed around three large units which provides individual secure service yard elements, parking for 134 cars (inc 7 disabled) and 30 cycle spaces. Ancillary offices are proposed at ground and first floor in all three units. The offices for Units 2 and 4 face onto Rainsford Road to provide an active frontage to the site. The offices for Unit 3 face onto the new access road within the site. Such accommodation is best located at the front of the building. This is because it offers direct access for staff from car parks, allowing safe and direct access for staff and visitors, it provides good outlook, and ensures the best outlook from the working areas. It also provides added architectural interest to the most visible part of the building.

A Pocket Park is proposed to be located in the north-east of the site to ensure preservation of the Site of Borough (Grade II) Listed Importance within the site.

All units are provided with a bin store for the sorting and storage of general refuse and recycling of waste materials. The stores are enclosed by black painted perforated metal screens and are sized to accommodate standard wheeled bins. Bin stores are located in discrete and convenient areas as appropriate. The collection from each bin store will be managed by individual tenants.

Plot 1 Scale

The scale of the buildings has been determined to achieve 12 metres clear internal height for the warehouse. The applicants consider this height critical in achieving the total volume needed to accommodate the required storage capacity through high bay racking and mezzanines.

Plot 1 Appearance

Detailed elevations of the proposed development have been submitted in support of the application. The elevations of the proposed buildings are to be faced in metallic cladding. The profiled cladding will be broken down into bays to break up the elevations. The metal sheeting will be alternated between vertically and horizontally clad profiled cladding to create visual interest. By contrast, the offices are clad

in a curtain walling system which accommodates glazed areas to allow natural lighting and natural surveillance. Solid, insulated, glass faced spandrel plans will be used where the external walls about the core structure, or where the requirements of thermal performance require solid walling.

The proposed colour palette will be silver and white cladding. Glazing to the offices is in a contrasting green shade. The northern elevations of Units 3 and 4 are not glazed. This is to avoid any overlooking of adjacent residential properties to the north.

Plot 1 Means of Access

Vehicular access into the site is directly from the Cumberland Avenue Roundabout on Rainsford Road and will accommodate both cars and HGVs. Access into the car parks for all three units is located away from the service yard in order to maintain road safety and site security. Access into the car parks for all three units is located away from the service yard in order to maintain road safety and site security.

Pedestrian and cycle access will also be provided along the estate road from the entrance on Rainsford Road on footpaths in order to segregate from vehicular traffic. Vehicular access into the site is directly from the Cumberland Avenue Roundabout and will accommodate both cars and HGVs. Demarcated pedestrian crossings are provided in the car park and across the internal circulation road in order to ensure safe access to the buildings. Covered cycle parking will be provided for all units, with 30 spaces provided overall. In accordance with London Plan Policy, 20% of car parking spaces will be fitted with active electric charging points, and a further 20% will be passively adaptable.

Disabled parking spaces will be provided as 5% of the total provision in line with LBB s UDP guidance.

Plot 1 Landscaping

A detailed landscaping scheme for the site has been submitted which seeks to incorporate high quality landscaped areas wherever possible. The scheme includes a buffer around the perimeter of the site. It provides the opportunity to provide a substantial landscape screen between the scheme and residential neighbours along the north western boundary, and to provide a potentially attractive landscape setting along the sites principle road frontages. This includes a large area of landscaping to the south of the site adjacent to the Rainsford Road Link, which seeks to ensure the early delivery of landscaping which will contribute to the setting of the site and provide attractive visual amenity along the site boundary.

Additionally, a new pocket park is proposed to be provided in the north east of the site. It is considered that this area will provide habitat for local species of fauna and flora.

Plot 2 - Outline element

The outline element of this planning application seeks outline planning permission for up to 28,111 sqm of flexible floorspace (B1c, B2 and B8 Use Classes) with all matters reserved for determination at subsequent stage except for Phase 1 of the landscaping works, as detailed below.

The Phase 1 landscaping works relates to site preparatory works do also cover plot 2. These works would prepare the Site for future development in terms of certain earth moving and site re-profiling required for future development. This will enable the Applicant to react quickly to future occupier requirements and development. The proposed landscaping works for Plot 2 include cut and fill earthworks to achieve a level site and avoid the need for off-site disposal of spoil. This includes the repositioning and regrading of the existing piles of granular material from the demolition works. The insertion of retaining walls along Rainsford Road are also proposed along with the introduction of perimeter fencing.

Plot 2 Development Parameters

Except for the Phase 1 landscaping works as set out above, all other matters of the outline element of the application for Plot 2 are reserved.

In summary, the development parameters for which outline planning permission is sought includes:

- The uses proposed by the development (B1c/B2/B8);
- The maximum extent of the area to be developed;
- The maximum and minimum height, width and length of each building;
- The maximum floor area of buildings;

- The maximum car and cycle parking provision; and
- Areas for proposed landscaping and removal of landscaping.

Employment/Regeneration

The site is located within designated Strategic Industrial Land and therefore the proposed mix of B1(c), B2 and B8 uses complies with Council policy and the 2011 London Plan. The Former Guinness Brewery Combined Supplementary Planning Document & Planning Position Statement adopted 12 December 2005 set out a range of uses that might be considered acceptable within the former Guinness site. These included industrial, storage and distribution uses, but also went further setting out a more aspirational approach to the sites potential including the option for an education or health led redevelopment.

Due to its size and potential for job generation this scheme would deliver significant economic and employment benefits to the Borough.

Further details of the development of plot 2 will be considered as part of a future reserved matters application, but it is anticipated that these buildings will, in terms of their design and appearance, follow the approach proposed for plot 1.

Access/Serviceing

Secure and sheltered cycle parking will be provided in accordance with standards set in The London Borough of Brent Unitary Development Plans (2004) which states 1 'Sheffield stand to be provided per 500sqm. This equates to a cycle parking provision of 30 cycle parking spaces associated with Plot 1 and a possible future cycle parking provision of 56 cycle parking spaces associated with Plot 2.

The development proposals will include space for storage lockers for staff together with showering facilities, which will increase the attractiveness of cycling or walking to the site.

Proposed Vehicle Access

Vehicular access to the proposed development will be via the western arm of Cumberland Avenue and will tie into the existing stub on this roundabout junction.

Proposed Removal of Vehicle Accesses

The existing 'left-in' only access located approximately 70 metres from the Cumberland Avenue roundabout will be removed with new highway kerb instated and drainage gullies repositioned where necessary.

An existing drop kerb access on Rainsford Road approximately 40 metres to the north of the junction with Whitby Avenue is also proposed to be removed and new highway kerb reinstated.

Car Parking

The Brent parking standards for Park Royal permit a provision of 1:150sqm plus up to an additional 1/3 due to its designation as a 'Strategic Employment Area' within Brent's UDP. Based upon a floor area of 14,532sqm, the parking standards for Plot 1 would be 129 parking spaces. The development proposals seek to create a parking provision of 134 spaces which is less than 5% over this provision. This is to ensure that the operational management of the access roads are not put under pressure as a result of cars potential waiting to enter the car parks at times of overlapping shift change when demand for parking is potentially at its greatest.

Based upon a maximum floor area of 28,111sqm, the parking provision for Plot 2 could be up to 249 parking spaces, which is in accordance with the parking standards for Park Royal as stated above. The combined total level of parking associated with Plot 1 and Plot 2 is 383 spaces. This is a reduction of 59 parking spaces based upon the Park Royal parking standards when compared with the extant level of approved development

Disabled parking provision shall be accordance with LBB policy, which is currently contained within Brent's UDP; 'PS15 – Parking for Disabled People. This states that 5% of spaces associated with B1; B2 and B8 land use will be for disabled parking. In accordance with the 2011 London Plan 20% of all spaces will be for electric vehicles with an additional 10% passive provision for electric vehicles in future. The location of these spaces would be determined as part of any future full planning application.

Servicing

Lorry parking will be provided up to a maximum of 1:500sqm GFA in accordance with the adopted 2011 London Plan. Vehicle swept path analysis of a 16.5m Articulated Vehicle has been undertaken for the Plot 1 and the two illustrative layout options for Plot 2.

All units are provided with a bin store for the sorting and storage of general refuse and recycling of waste materials.

Framework Travel Plan

Peter Brett Associates has produced a framework travel plan for the proposals. As end users of the site are not yet known, this document provides the framework under which future occupiers will produce plans. At the moment, the document therefore sets out a site wide framework.

The primary aim of the travel plan is to minimise the occurrence of single occupancy, drive alone, vehicle trips made by staff and visitors arriving at and leaving the development. The objectives of the travel plan are:

- To implement a range of physical measures that will encourage and support alternatives to single occupancy car use i.e. cycle parking, car club provision/ parking;
- To promote alternatives to driving using a range of applicable mediums i.e. Bicycle User Groups, Personalised Journey Planning, events, maps and brochures;
- To ensure maximum opportunities exist for collective travel habits i.e. lift sharing;
- To seek the best possible cost reductions in support of alternative travel modes for staff i.e. subsidised tickets, sponsored cycle workshops; and
- To obtain robust travel information and conduct surveys in order to monitor the travel plan against targets.

A number of monitoring and review measures are proposed in order to ensure that the travel plan is implemented, including the appointment of a travel plan coordinator.

Highways Implications

Full details of the Council's Transportation & Highways Delivery Teams response to the application will be reported in a supplementary report.

The application site is located on Rainsford Road, within the western edge of the Park Royal Industrial area. It is situated to the north of the A40 Western Avenue, which provides direct access to central London to the east and Junction 1a/16 between the M40 and M25 motorways to the west, which is approximately 19 kilometres from the site. The site is also situated less than 1.5 kilometres from the Hanger Lane junction with the A406 North Circular which provides the site with strategic access to the A406 North Circular.

The development site covers approximately 11 hectares in size and has planning consent for an industrial development consisting of 49,797 sq.m of B1(c), B2 and B8 floor space and associated parking. The site is ideally located for the intended use and unusually compared to many other Greater London Estates benefits from access to alternative sustainable modes.

Sustainable Access

Pedestrian and cycle access to the site is maintained along a wide network of signed footways and cycle routes available through the local area.

Analysis of bus service provision has indicated that the site is within easy walking distance of frequent bus services linking Park Royal a number of surrounding underground and rail stations including Brent and Wembley Stadium station, Stonebridge Park station, Ealing Broadway and Willesden Junction station. The nearest underground station is Park Royal on the Piccadilly line, which is less than 1 kilometre to the south of the site.

The PTAL accessibility index is relatively strong for industrial employment areas at 7.99, representing a score of 2. The rating does also not benefit from the availability of other local bus, underground and rail services which are located between 640 metres and 2 kilometres from the site.

Highway Access

The site is well placed in relation to the strategic road network. The Western Gateway signal junction is located 250 metres south of the Cumberland Avenue/ Lakeside Drive roundabout to the south west of the site and provides access to the Park Royal area from the A40. A slip road approximately 500 metres north of this junction allows northbound traffic on the A40 to join the southbound slip road on the opposite side of the carriageway and access Park Royal via the Western Gateway signal junction. The Western Gateway junction also allows vehicles from Park Royal to access the A40 southbound.

Highway Impact

The vehicular impact of the proposals are predicted to generate 64 fewer two-way trips during the AM peak period and 57 fewer trips during the PM peak period when compared to consented level of vehicular trips at the Origin site. The total daily vehicular profile is predicted to generate a 53 fewer HGVs over a 24 period; however this is off-set by the considerable reduction in potential car and LGV trips on the highway network, which is predicted to generate 607 fewer vehicles trips.

A junction sensitivity test of the Rainsford Road/ Cumberland Avenue roundabout has demonstrated that the junction would continue to operate within capacity in 2018 based upon a worst case development scenario will all traffic entering and exiting via this connection with Rainsford Road.

Conclusion

The transport submitted transport assessment has demonstrated that the site location is appropriate for the proposed nature and scale of redevelopment and could be delivered without detriment to the local highway network and well within levels of existing consent. It is therefore considered that the application is acceptable on transportation grounds.

Contaminated Land

The site has previously been remediated to a state suitable for the proposed industrial purposes. The Pocket Park is a more sensitive end use and the Council's Environmental Health Officer recommends that a condition be applied requiring the testing of any soil imported into the site for the purpose of soft landscaping. The same condition was applied to the permission (Ref: 10/3310).

Air Quality

The assessment of the Air Quality impacts of the traffic resulting from the scheme is essentially that the traffic levels expected from this scheme are less than those proposed in the consented scheme. The current scheme does propose a more complex mix of local heating for the units - including individual micro-CHP units and top-up boilers. It is important to ensure that this additional plant does not cumulatively impact on overall air quality. As the individual pieces of plant are relatively small the best way to achieve this is to impose a condition requiring the submission of details of all boilers and CHP plant installed on a particular unit prior to its occupation demonstrating that the total rated emissions of Oxides of Nitrogen (NOx) do not exceed 40 mg/kWh.

Noise

The presented assessment of noise from vehicle movements on the site accords with that used as the basis for specifying noise mitigation at the adjacent First Central development. The applicants consultant has assumed the installation of the noise barrier at the North of the site and recommended the use of conditions to secure suitable noise levels associated with plant. The Council's Environmental Health Officer recommends that a condition be applied requiring that prior to the occupation of each unit, details shall be submitted of the noise rating levels of the units fixed plant and equipment demonstrating that it shall not exceed a level 10 dB below the typical background noise level during the day of LA90 = 49 dB (0700 to 2300 hours) and night of LA90 = 43 dB (2300 to 0700 hours). The measurements and assessment should be undertaken using the provisions of BS 4142:1997.

Lighting

The planned lighting strategy shows that light intrusion to surrounding properties is well within acceptable limits, but only indicates the lighting strategy for the phase 1 development.

In order to ensure that the installed lighting matches that described and that the further development of the site does not introduce intrusive light it is recommended that a condition be applied requiring that the submission of a lighting plan for Phase 2 of the development prior to the commencement of that phase.

Flood Risk Assessment/Sustainable Drainage Strategy

Capita Symonds have undertaken a Flood Risk Assessment and SuDS Statement for the proposed development.

The site is located in Flood Zone 1 and is at low probability of flooding from fluvial or tidal sources. Flood risk, both on and off-site, from site-generated runoff has been addressed via a surface water drainage strategy. The surface water strategy is proposed to comprise a system of attenuated below ground cellular storage, an above ground detention basin and permeable paving, with petrol interceptors, and is based on a 1 in 100 year return period plus 20% for climate change. Off-site discharge is to be restricted to the greenfield rates (89l/s into Twyford Abbey Road via Lakeside Drive and 4l/s into Rainsford Road) previously agreed for this site with the Environment Agency.

The development is considered to be at low risk from flooding from all sources and is not considered to increase such risk to others. The EA have requested some amendments to the drainage strategy which have been agreed and submitted by the applicant. Subject to these amendments and the conditions attached at their request the EA are satisfied with the proposal.

HS2

The site has been identified as a potential works site for the construction of the proposed High Speed Rail Link 2 (HS2) between London and Birmingham. HS2 Ltd are currently undertaking a consultation of various landowners and other stakeholders along the route of the proposed HS2 over land that may be safeguarded as part of the project. The former Guinness Brewery Site to which this application relates is identified as a potential safeguarded area and HS2 Ltd object to this application on the basis that it might prejudice the use of the site as a potential works site. However the safeguarding will only achieve statutory status if and when the HS2 bill is approved by parliament. At present the application must be considered against the current policy framework. It would therefore not be reasonable to refuse or delay making a decision on this application on the basis of possible future legislation. It should also be noted that the site already has planning permission for an even larger development which will remain extant until March 2015.

Plot 1 - Energy Strategy

The energy strategy for Plot 1 adopts a hierarchical approach using passive and low energy design technologies to reduce baseline energy demand and carbon dioxide emissions followed by the application of low and zero carbon technologies. This strategy follows the principles within the relevant GLA London Plan policies and the LBB Core Strategy.

The energy strategy has identified that with the provision of passive and low energy design measures and a mixture of low and zero carbon technologies being applied the regulated carbon emissions from the development will be circa 26.03 % below a Building Regulations Part L: 2010 baseline scheme, in line with Brent's Local Development Framework and the London Plan. The following Low and zero carbon technologies are proposed for each individual unit

- Micro-CHP to provide the heat input for the domestic hot water generation and part of the core area heating load. The electrical output will meet part of the daily electrical demand;
- Air source heat pumps (ASHPs) to provide heating and cooling to the office accommodation; and
- Photovoltaics (PVs) to meet part of the daily electrical demand.

The energy strategy demonstrates that the lean scheme incorporating passive and low energy design measures show a reduction of 4.02 % (12.86 tonnes CO₂/yr) in the development CO₂ emissions over the baseline requirement. With the addition of the gas operated micro-CHPs, to each unit, the lean and clean scheme shows a reduction of 3.51 % (10.80 tonnes of CO₂/yr) in the development CO₂ emissions over the energy efficient (lean) scheme with an overall improvement of 7.39 % (23.66 Tonnes CO₂/yr) against the baseline scheme.

The renewable technologies will together provide approximately 20.13 % (59.65 tonnes CO₂/yr) reduction in annual CO₂ emissions compared to the energy efficient/CHP (lean and clean) scheme, 22.93 % (70.45 tonnes CO₂/yr) reduction in annual CO₂ emissions compared to the energy efficient (lean) scheme and 26.03 % (83.31 tonnes CO₂/yr) reduction in annual CO₂ emissions compared to the baseline.

Plot 2 - Framework Energy Strategy

The Plot 2 outline planning application framework energy strategy adopts a hierarchical approach using passive and low energy design technologies to reduce baseline energy demand and CO₂ emissions followed by the application of low and zero carbon technologies. This strategy follows the principles within the relevant GLA London Plan policies and the LBB Core Strategy.

The framework energy strategy is based on the average lean, clean and green building emission rate (BER) carbon emission values calculated for the plot 1 detailed planning application element of the Origin development hybrid planning application. The energy strategy identifies that with the provision of passive and low energy design measures and a mixture of low and zero carbon technologies being applied the regulated carbon emissions from the development will be circa 26.03 % below a Building Regulations Part L: 2010 baseline scheme, in line with Brent's Local Development Framework and the London Plan.

The same low and zero carbon technologies proposed for plot 1 will be applied to plot 2.

The energy strategy demonstrates that the lean scheme incorporating passive and low energy design measures show a reduction of 4.02 % (24.83 tonnes CO₂ /yr) in the development CO₂ emissions over the baseline requirement. With the addition of the gas operated micro-CHPs, to each unit, the lean and clean scheme shows a reduction of 3.51 % (20.85 tonnes of CO₂ /yr) in the development CO₂ emissions over the energy efficient (lean) scheme with an overall improvement of 7.39 % (45.68 tonnes CO₂ /yr) against the baseline scheme.

The renewable technologies as noted above will together provide approximately 20.13 % (115.16 tonnes CO₂ /yr) reduction in annual CO₂ emissions compared to the energy efficient/CHP (lean and clean) scheme, 22.93 % (136.01 tonnes CO₂ /yr) reduction in annual CO₂ emissions compared to the energy efficient (lean) scheme and 26.03 % (160.84 tonnes CO₂ /yr) reduction in annual CO₂ emissions compared to the baseline.

BREEAM Pre-Assessment

It is stated that the development could attain an achievable score of 73.77%, which translates into an Excellent BREEAM 2011 rating. As the development is a Shell & Core project, BREEAM requires that the Fit Out related credits will be achieved by the incoming tenants. This will be secured through the s106 agreement.

Flood Risk

The Environment Agency initially raised objection in the absence of an acceptable Flood Risk Assessment (FRA), which failed to comply with the requirements of Planning Policy Statement 25 (PPS25). The basis for this objection (Feb 2011) was that (i) the FRA fails to be supported by appropriate information to demonstrate Sustainable Drainage Systems (SUDS) have been maximised on site (ii) the FRA fails to demonstrate that the proposed development layout and surface water systems can cope with storm events, and (iii) take the impacts of climate change into account.

In March 2011 the EA provided an updated response which confirms their objection still stood, this requested further information in relation to SUDS and storage volume/run-off calculations in the event of a storm.

Following the submission of further information the EA responded on 10 June 2011, still raising objections. Having been satisfied on the surface water storage they removed this part of their objection, but still maintained an objection on the basis that SUDS have not been utilised, nor has their non-inclusion been fully justified.

A further response from the EA, dated 6 July 2011 confirms that having reviewed the revised drainage scheme the EA maintains its objection.

The latest response from the EA, dated 26 October 2011 confirms they are satisfied with the principles for the revised drainage scheme (drg SS/015190-46 P7), and are able to remove their objection.

The proposed development will only be acceptable to the EA if the following measures, as detailed in the FRA, Windes Quickstorage Estimates (submitted in email dated 17 May 2011) and drawing SS015190-46-P7 submitted on 20 October 2011 are implemented and secured by way of a planning condition on any extension of time consent. Officer's recommend this through condition, which did not form part of the previous consent.

Impact on Neighbours

The site is located within Park Royal and most of its perimeter lies adjacent to existing and proposed commercial development. The majority of the perimeter will also be facing existing and proposed roads. It is not considered that the proposed scheme will have any negative impact on its commercial neighbours. Indeed the scheme will facilitate the long awaited Rainsford Link Road and the extension to Lakeside Drive which will have a beneficial impact on the operation of neighbouring occupiers.

The northern edge of the site which includes Units 3 & 4 in Plot 1 and the proposed pocket park adjoins residential properties in Brent and the London Borough of Ealing. All these properties were consulted on the application. No objections have been received from any residential neighbours.

Daylight, Sunlight and Overshadowing Report

A Daylight, Sunlight and Overshadowing Report has been prepared to assess the effects of the development on, in particular, existing residential properties surrounding the site are located to the north on Abbeyfields Close and Moyne Place. Residential apartments to the west of the Site have also been consented planning permission, as part of the First Central scheme. All other surrounding buildings are of commercial or industrial use.

Daylight and sunlight assessments to the existing surrounding and proposed consented residential properties were also carried out against the two illustrative layouts submitted as part of the application. For both scenarios, the Vertical Sky Component (VSC) tests, Annual Probable Sunlight Hour (APSH) tests and overshadowing images show that all of the existing surrounding and proposed consented residential properties will retain good levels of daylight and sunlight with the proposed development in place.

The effect on the existing surrounding and proposed consented residential properties as a result of the proposals is therefore considered negligible and in accordance with Brents planning policy regarding daylight and sunlight.

General relationship to residential neighbours

Although the applicants have demonstrated an acceptable relationship in terms of daylight, sunlight and overshadowing there is some concern about the impact of the scheme in terms of outlook and general massing on the rear gardens of housing in Abbeyfields Close and Moyne Close. In terms of SPG17 the scheme meets the 30 degree set down guidelines on the rear of these properties. However the proposed buildings along this boundary are approximately 3 metres higher than those in the existing permission. This means that they currently fail the 45 degree set down guidelines at the rear boundary of these gardens. This is partly mitigated by the generous landscaping buffer proposed along this boundary with a minimum width of approximately 9 metres, and by the relatively long rear gardens which are between 15 and 28 metres long with extensive existing planting in most of them. However there is some concern that the scheme as originally submitted might have an overbearing relationship on these gardens. In order to address this issue the applicants have agreed to revise the scheme and provide a report assessing the impact of the scheme in terms of the 45 degree test. The full details of the amendments and an assessment of the impact on adjoining amenity will be set out in a supplementary report. This application is recommended for approval on the basis that these revisions will be sufficient to address this issue.

Other

Noise and lighting impacts are dealt with elsewhere in this report but are generally considered acceptable.

RECOMMENDATION: Grant subject to S106 & refer to SoS

(1) The proposed development is in general accordance with policies contained in the:-

Brent Unitary Development Plan 2004
Central Government Guidance
Council's Supplementary Planning Guidance

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment
Environmental Protection: in terms of protecting specific features of the environment and protecting the public
Housing: in terms of protecting residential amenities and guiding new development
Employment: in terms of maintaining and sustaining a range of employment opportunities
Open Space and Recreation: to protect and enhance the provision of sports, leisure and nature conservation

Transport: in terms of sustainability, safety and servicing needs
Park Royal: to promote the opportunities and benefits within Park Royal
Site-Specific Policies

CONDITIONS/REASONS:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

Drawing numbers:

30481-PL-120
30481-PL-121A
30481-PL-122
30481-PL-123B
30481-PL-124
30481-PL-125
30481-PL-126
30481-PL-127
30481-PL-128
30481-PL-129
30481-PL-130
30481-PL-131
30481-PL-132
30481-PL-140
30481-PL-141A
30481-PL-142
30481-PL-146
30481-PL-160
30481-PL-170
30481-PL-171
30481-PL-172A
30481-PL-173
30481-PL-177
30481-PL-178

Technical Reports

Planning Statement
Statement of Community Involvement
Design & Access Statement
Transport Statement
Framework Travel Plan
Air Quality Assessment Noise and Vibration Assessment
Ground Conditions Assessment
Flood Risk Assessment and SuDs Drainage Report
Desk Based Archaeology Assessment
Sustainability Statement
Sustainability Checklist
Plot 1 Energy Strategy
Plot 1 BREEAM Pre-Assessment
Plot 2 Framework Energy Strategy
Updated Ecology Strategy
Arboricultural Report
Landscape Framework & Strategy (& associated plans)
Utilities Appraisal
Lighting & CCTV Strategy
UXB Survey (2006)

Reason: For the avoidance of doubt and in the interests of proper planning.

(2)

- (3) During demolition and construction on site:

- The best practical means available in accordance with British Standard Code of Practice B.S. 5228: 1997 shall be employed at all times to minimise the emission of noise from the site;
- The operation of the site equipment generating noise and other nuisance-causing activities, audible at the site boundaries or in nearby residential properties shall only be carried out between the hours of 0800 – 1700 Mondays-Fridays, 0800 -1300 Saturdays and at no time on Sundays or Bank Holidays;
- Vehicular access to adjoining and opposite premises shall not be impeded;
- All vehicles, plant and machinery associated with such works shall be stood and operated within the curtilage of the site only;
- No waste or other material shall be burnt on application site;
- A barrier shall be constructed around the site, to be erected prior to demolition;
- A suitable and sufficient means of suppressing dust must be provided and maintained at all times during construction works.

Reason: To limit the detrimental effect of construction on adjoining residential occupiers by reason of noise and disturbance.

- (4) Details of materials for all external work including samples, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development carried out in accordance with the approved details.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (5) Notwithstanding the plans hereby approved, further details of site wide landscaping and boundary treatments, shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development. The proposed landscaping shall include provision for new tree planting and shall be completed in accordance with the approved details before the development hereby approved is occupied and thereafter shall be maintained to the satisfaction of the Local Planning Authority, with any trees or plants that die, are badly damaged or become seriously diseased being replaced in the first five planting seasons.

Reason: To ensure a satisfactory standard of appearance and that the proposed development enhances the visual amenity of the locality.

- (6) Notwithstanding the plans hereby approved further details of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development shall be carried out and completed in all respects in accordance with the details so approved before the building(s) are occupied. Such details shall include:-

- details of additional refuse and recycling facilities;
- details of bicycle storage facilities;
- further details of the proposed external lighting;

Reason: These details are required to ensure that a satisfactory development is achieved.

- (7) Notwithstanding the details hereby approved further details of the proposed pedestrian/cycle access to the site from Lakeside Drive shall be submitted to and approved in writing by the local planning authority prior to the commencement of works on site. And the access shall be provided prior to first occupation of any of the units hereby approved.

Reasons: To ensure that the development provides an acceptable level of access for cyclists and pedestrians.

- (8) Notwithstanding the details shown in drawing numbers 2961/ME/01 -1 & 2 further details of a scheme for lighting the development shall be submitted and approved in writing by the local planning authority prior to the commencement of works on site, and the lighting shall be installed fully as approved thereafter. Such details shall pay attention to further reducing light spillage at sensitive boundaries with residential neighbours.

Reason: In the interests of the residential amenity of adjoining occupiers.

- (9) Notwithstanding the plans hereby approved further amended details of the access and servicing arrangements to Units 13, 14, 15 and 16 shall be submitted showing the provision of two full sized loading bays and two 8m rigid vehicle bays. These revised details to be submitted and approved in writing by the local planning authority prior to the commencement of works on site, and the works shall be implemented fully in accordance with such details unless otherwise agreed in writing by the local planning authority..

Reasons: To avoid obstructing the highway and ensure the free flow of traffic.

- (10) Notwithstanding the details hereby approved further details of the proposed CCTV cameras shall be submitted showing how cameras located adjacent to the boundary with adjoining residential neighbours will be restricted in order to prevent overlooking of private residential

gardens and residential windows. Submitted details to be approved in writing by the local planning authority prior to the commencement of works on site, and the cameras shall be installed fully as approved, unless otherwise agreed in writing by the Local Planning Authority.

Reasons: To protect the privacy of neighbouring residential occupiers.

- (11) The quality of soil imported to site for the purposes of soft landscaping, including the 'Pocket Park' must be tested to ensure that it does not pose an unacceptable risk to the health of future end users of the 'Pocket Park'. The results must be submitted to the Local Planning Authority for written approval, prior to the commencement of works

Reason To ensure the safe development and secure occupancy of the site proposed for use in accordance with UDP policy EP6.

- (12) No mechanical extraction, ventilation, cooling or other such plant equipment shall be installed to any of the units hereby approved without the prior approval in writing of the local planning authority.

Reason: To protect adjoining occupiers from potential noise and odor nuisance.

- (13) If the development is to be carried out in a phased manner then a detailed phasing plan shall be submitted to and approved by the Local Planning Authority prior to the commencement of works. The phasing plan shall include details of how the required flood alleviation measures will be delivered in relation to each phase, the development will thereafter be carried out in accordance with the approved phasing plan unless the Council agree otherwise in writing.

Details required to discharge the conditions relating to each phase shall be submitted to and approved by the Local Planning Authority before any work in relation to that phase is commenced.

Reason: To allow the phased implementation of the development

- (14) Prior to the commencement of works on site further details of an acoustic barrier to be installed along the north western boundary of the site shall be submitted to and approved in writing by the local planning authority. Such details shall specify the materials and height, and shall be installed fully, with details as approved in writing, unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of maintaining the amenity of neighbouring residential occupiers.

- (15) Prior to the occupation of each unit the applicant shall submit details, in writing, of the noise rating levels from the fixed plant and equipment to demonstrate that it shall not exceed a level 10 dB below the typical background noise level during the day of LA90 = 49 dB (0700 to 2300 hours) and night of LA90 = 43 dB (2300 to 0700 hours). The measurements and assessment should be undertaken using the provisions of BS 4142:1997.

Reason: To protect the amenity of neighbouring residents.

- (16) Prior to the commencement of phase 2 of the development the applicant shall submit, in writing, to the Local Planning Authority a lighting plan for this phase of the development demonstrating that the light intrusion into neighbouring residential properties shall be within acceptable levels.

Reason: To protect the amenity of neighbouring residents.


- (17) Prior to the occupation of each unit the applicant shall submit details, in writing, of the noise rating levels from the fixed plant and equipment to demonstrate that it shall not exceed a level 10 dB below the typical background noise level during the day of LA90 = 49 dB (0700 to 2300 hours) and night of LA90 = 43 dB (2300 to 0700 hours). The measurements and assessment should be undertaken using the provisions of BS 4142:1997.

Reason: To protect the amenity of neighbouring residents.

INFORMATIVES:

None Specified

Any person wishing to inspect the above papers should contact Neil McClellan, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5243

	<p style="text-align: center;">Planning Committee 16 January 2013</p> <p style="text-align: center;">Report from the Director of Regeneration & Major Projects</p>
<p style="text-align: center;">Wards affected: Barn Hill & Queens Park</p>	
<p style="text-align: center;">Updated Barn Hill Conservation Area Design Guide & Queens Park Conservation Area Design Guide</p>	

1.0 Summary

- 1.1 A review of Brent's Conservation Area Design Guides is being undertaken with the overall aim of producing up to date documents to give clear guidance primarily to residents on acceptable types of development. These documents have an important role in ensuring the special character of our conservation areas is preserved and where possible enhanced. New versions of Design Guides for Barn Hill Conservation Area (Northern Area) and Queens Park Conservation Area (Southern Area) have been produced and are now at a stage where they are ready for public consultation.

2.0 Recommendations

- 2.1 The Planning Committee are invited to make comment on the draft Barn Hill Conservation Area Design Guide and Queens Park Conservation Area Design Guide and give their endorsement prior to public consultation scheduled to commence at the end of January 2013.
- 2.2 Following public consultation, consideration will be given to comments received with the final documents presented to the Executive Committee for formal adoption.

3.0 Discussion

Barn Hill Conservation Area Design Guide

- 3.1 The current Barn Hill Conservation Area Design Guide was adopted in September 2002. Whilst the general approach to development remains unchanged, the updated document is intended to be more 'user friendly' and provide clearer advice on interpretation of the guidance.

3.2 Prior to commencement of the work of updating the Design Guide, discussions were held with the Barn Hill Residents Association (BHRA) about changes/updates they would like to see. A copy of the draft Barn Hill Conservation Area Design Guide has been sent to BHRA.

3.3 The following are the key changes to the Design Guide:

- More detailed guidance on designing extensions which take into account the changes in ground levels characteristic of the Barn Hill Conservation Area;
- More detailed guidance on terraces and raised patios to ensure they protect the privacy of neighbouring properties but also provide an acceptable design solution;
- Guidance on basements which was not covered in the previous Design Guide;
- Further detail regarding replacement windows including examples of the plans and level of detail required as part of a planning application to assist applicants and ensure acceptable replacement windows are provided.

3.4 As well as providing more clarity for residents, it will assist the Council in defending a decision where an appeal has been lodged.

Queens Park Conservation Area Design Guide

3.5 Whilst there is a Queens Park Conservation Area Design Guide, this has not been updated for many years and does not provide clear guidance for existing residents and those proposing to move into the area about the types of works that are generally accepted.

3.6 There have been on-going discussions with the Queens Park Area Residents Association (QPARA) regarding the content of the new Design Guide. A copy of the draft Queens Park Conservation Area Design Guide has been sent to QPARA and initial feedback has been supportive although there are a number of issues in the Design Guide that QPARA will wish to comment on further.

3.7 The following are the key elements included in the Design Guide:

- Detailed guidance on extensions, in particular side infill extensions, to provide clarity of the design and scale that will be accepted;
- Guidance on basements which was not covered in the previous Design Guide and is an important issue in the area;
- Detailed guidance on replacement windows including examples of the plans and level of detail required as part of a planning application to assist applicants and ensure acceptable replacement windows are provided

3.8 Given that there has not been an updated guide for many years, this document will be very important providing clear advice to residents and will assist the Council in defending a decision where an appeal has been lodged.

4.0 Financial Implications

4.1 The guides are intended to provide more detailed guidance for residents, giving a greater level of certainty as to whether works are likely to be acceptable. This may help reduce the expense for residents of submitting multiple applications in order to gain an approval.

5.0 Legal Implications

5.1 If formally adopted by the Executive Committee, the documents will replace the existing Design Guides and carry significant weight when determining planning applications.

6.0 Diversity Implications

6.1 It is not the intention to prevent people carrying out improvement works to their homes but to ensure that the works are appropriate in the context of the conservation area designation.

7.0 Staffing/Accommodation Implications

7.1 The updated documents are intended to be more 'user friendly' and may reduce the level of input required from officers both at pre-application stage and during the course of the application though seeking revisions.

8.0 Environmental Implications

8.1 The aim of these documents is to ensure development preserves and where possible enhances the character of the area.

9.0 Draft Design Guides

Appendix 1: Barn Hill Conservation Area Design Guide (Draft)

Appendix 2: Queens Park Conservation Area Design Guide (Draft)

Contact Officers

Rachel McConnell, North Team Area Manager, Planning & Development 020 8937 5223

Andy Bates, South Team Area Manager, Planning & Development 020 8937 5228

Andy Donald, Director of Regeneration & Major Projects

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PLANNING & ENFORCEMENT APPEALS

November 2012 and December 2012

Received	4/01
Decided	4/02
Selected Decisions	4/03
Copies of selected Decisions	4/04

SPECIAL ITEMS

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Received PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: 12/0524 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 01/11/2012 **Appeal Against:** Refusal of planning permission
Location: 43 Crabtree Avenue, Wembley, HA0 1LW
Proposal:

Retrospective application for the erection of a first floor rear extension to dwellinghouse

Application Number: 12/1303 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 05/12/2012 **Appeal Against:** Refusal of planning permission
Location: 118 Monks Park, Wembley, HA9 6JH
Proposal:

Retrospective application for erection of a single storey outbuilding in rear garden of dwellinghouse

Application Number: 12/1416 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 08/11/2012 **Appeal Against:** Refusal of planning permission
Location: 9 Chalkhill Road, Wembley, HA9 9DS
Proposal:

Conversion of garage into habitable space, demolition of single storey rear outbuilding and erection of single and two storey side and rear extension, hip to gable end roof extension, three rear dormer windows and three rooflights to dwellinghouse

Application Number: 12/1631 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 12/11/2012 **Appeal Against:** Refusal of planning permission
Location: 319 & 319A Harrow Road, Wembley, HA9
Proposal:

Proposed installation of new shop front including internal and external alterations to remove the front access (to Harrow Road) for the upper floor flat and installation of roller-shutters, erection of single storey rear extension, erection of new external stairs from rear of site to upper floor flat and associated screening wall at first floor level, alterations to and replacement of part of external flue to rear, erection of front and rear rooflight and rear dormer window associated with loft conversion for upper floor flat

Application Number: 12/1693 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 17/12/2012 **Appeal Against:** Refusal of planning permission
Location: 24 The Paddocks, Wembley, HA9 9HH
Proposal:

Demolition of existing two-storey side and rear extension and erection of a replacement two-storey side and rear extension, single storey side extension, rear dormer extension and four new flank roof lights to dwellinghouse

Application Number: 12/1754 **Team:** Southern Team **Application Type** Other CLU
Appeal Received: 25/12/2012 **Appeal Against:** Refusal of planning permission
Location: 120A-E inclusive, Brondesbury Park, Brondesbury, London, NW2 5JR
Proposal:

Certificate of lawfulness for existing use of outbuilding in rear garden of site as a single storey dwelling unit

Received PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: 12/1788 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 19/11/2012 **Appeal Against:** Refusal of planning permission
Location: 49, first, second and third floor flats at 49, 51, 51A-D inclusive Kilburn High
Proposal: Road, London, NW6 5SB

Change of use of 49 and 51 Kilburn High road to Class C1 (Hotel) to form 40 bedroom extension to the existing hotel at 53 - 59 Kilburn High Road and retention of the ground floor commercial unit; including three storey rear extension to the rear of 49 and 51, excavation of the basement and addition of a mansard at no. 49 and refurbishment and alterations to the mews properties at Manor Mews to provide servicing

Application Number: 12/1820 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 06/11/2012 **Appeal Against:** Refusal of planning permission
Location: 363 Edgware Road, Kingsbury, London, NW9 6AF
Proposal:

Alterations to hard and soft landscaping along site frontage.

Application Number: 12/1842 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 06/12/2012 **Appeal Against:** Refusal of planning permission
Location: 122, Flat 1 122A, 124 and Flat 1 124 Craven Park Road, London, NW10 8QD
Proposal:

First floor rear extension to provide ancillary office space to existing betting shop on the ground floor

Application Number: 12/1861 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 11/12/2012 **Appeal Against:** Refusal of planning permission
Location: 73 Bryan Avenue, London, NW10 2AS
Proposal:

Single storey rear extension to ground floor flat

Application Number: 12/1864 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 26/11/2012 **Appeal Against:** Refusal of planning permission
Location: 79 Preston Hill, Harrow, HA3 9SQ
Proposal:

Full planning permission sought for erection of a first floor front extension above front entrance of dwelling house

Application Number: 12/1898 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 18/12/2012 **Appeal Against:** Refusal of planning permission
Location: 17 Greenhill Road, London, NW10 8UD
Proposal:

Conversion of house into three flats, erection of two ground floor single storey rear extensions and erection rear dormer window.

Application Number: 12/1931 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 13/12/2012 **Appeal Against:** Refusal of planning permission
Location: 154 Salmon Street, London, NW9 8NU
Proposal:

Rebuilding of existing outbuilding with a reduced height in the rear garden of dwellinghouse

Received PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: 12/1948 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 20/11/2012 **Appeal Against:** Refusal of planning permission
Location: 29 Windermere Avenue, Wembley, HA9 8QU
Proposal:
Retention of existing first floor side extension, gable end roof extension & rear dormer window with proposed modifications to hipped roof and rear dormer window to dwellinghouse.

Application Number: 12/1965 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 22/11/2012 **Appeal Against:** Refusal of planning permission
Location: Flats 1-6 inclusive at 27, 29, 29A, 31, 33 and 33A Elm Road, Wembley, HA9 7JA
Proposal:
Retrospective application for erection of a single storey outbuilding to rear of dwellinghouses and self-contained flats

Application Number: 12/1980 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 28/11/2012 **Appeal Against:** Refusal of planning permission
Location: 66 Chatsworth Road, London, NW2 4DD
Proposal:
Demolition of existing garage and the erection of new dwellinghouse in the rear garden of 66 Chatsworth Road

Application Number: 12/2009 **Team:** Northern Team **Application Type** S78 CON
Appeal Received: 12/12/2012 **Appeal Against:** Refusal of planning permission
Location: 1 Mentmore Close, Harrow, HA3 0EA
Proposal:
Details pursuant to condition 4 (materials) and 5 (windows) of full planning application reference 11/2383 dated 12/12/2011 for demolition of existing attached side garage and erection of two storey side and single storey rear extension to dwellinghouse

Application Number: 12/2013 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 13/12/2012 **Appeal Against:** Refusal of planning permission
Location: 23 Kingsmead Avenue, London, NW9 7NP
Proposal:
Erection of a front boundary wall with timber panels and pedestrian and vehicular gates (Retrospective Application)

Application Number: 12/2149 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 14/11/2012 **Appeal Against:** Refusal of planning permission
Location: 14 Creighton Road, London, NW6 6ED
Proposal:
Painting of front facade to dwellinghouse

Application Number: 12/2229 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 05/11/2012 **Appeal Against:** Refusal of planning permission
Location: 159 Elmstead Avenue, Wembley, HA9 8NU
Proposal:
Retrospective application for existing detached outbuilding in rear garden of dwellinghouse

Received PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: 12/2239 **Team:** Southern Team **Application Type** Other CLU
Appeal Received: 18/12/2012 **Appeal Against:** Refusal of planning permission
Location: Flat 1, 8 Craven Park, London, NW10 8SY
Proposal:
Certificate of lawfulness for existing use as a self contained flat

Application Number: 12/2490 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 05/12/2012 **Appeal Against:** Refusal of planning permission
Location: 24 The Crescent, Wembley, HA0 3JT
Proposal:
Retention of front double glazed UPVC windows and door and proposed replacement of existing UPVC garage door to dwellinghouse

Application Number: 12/2630 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 22/11/2012 **Appeal Against:** Refusal of planning permission
Location: 53 Chartley Avenue, London, NW2 7QY
Proposal:
Retrospective application for outbuilding in the rear garden

Application Number: 12/2708 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 19/12/2012 **Appeal Against:** Refusal of planning permission
Location: 384 Neasden Lane North, London, NW10 0BT
Proposal:
Retrospective application for single storey rear extension to internet cafe (Use Class A1)

Received ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/12/0486 **Appeal Against:** Enforcement Appeal **Team:** Southern Team

Appeal Started: 03/12/2012

Location: THANET LODGE GARAGES, THANET LODGE, Mapesbury Road, London

Description:

Without planning permission, the change of use of the garages and car parking area to car repairs and the storage of vehicles in various states of repair.

("the unauthorised change of use")

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Decisions on PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16-Jan-2013

Application Number: 11/1208 **PINSRefNo** D/12/2183663 **Team:** Southern Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 21/11/2012

Location: 135 Chatsworth Road, London, NW2 5QT

Proposal:

Erection of a two storey side extension, single storey rear extension, rear roof dormer and installation of two rear roof lights and two side roof lights to dwellinghouse

Application Number: 11/1870 **PINSRefNo** A/12/2174633/NWF **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 30/11/2012

Location: 9 COLLEGE MANSIONS, Winchester Avenue, Kilburn, London, NW6 7TY

Proposal:

Redevelopment of the site including demolition of the existing B1 industrial structure, change of use to C3 – residential and construction of a new three storey building, containing six numbers one, two and three bedroom apartments with communal amenity space.

Application Number: 11/2298 **PINSRefNo** A/12/2174766/NWF **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 08/11/2012

Location: 293-301 Kilburn High Road, London, NW6 7JS

Proposal:

Proposed third floor extension at 293-301 Kilburn High Road, Kilburn, London NW6 7JR

Application Number: 11/2934 **PINSRefNo** A/12/2175563/NWF **Team:** Northern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 01/11/2012

Location: 6 Highmeadow Crescent, London, NW9 0XH

Proposal:

Erection of two-storey side extension to No. 6 and and the division of the property to form two three-bed self-contained dwellinghouses with associated hard and soft landscaping and reduction in width of existing crossover.

Application Number: 11/2959 **PINSRefNo** A/12/2175775 **Team:** Northern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 06/11/2012

Location: 123 & 125 Preston Hill, Harrow, HA3 9SN

Proposal:

Demolition of existing two bungalows and erection of six x four-bedroom two-storey detached dwellinghouses with accommodation in the roof and associated changes to existing two vehicular crossovers, new access road, twelve off-street parking spaces and hard and soft landscaping accompanied by Design & Access Statement and completed Brent Sustainable Development Checklist

Application Number: 11/3191 **PINSRefNo** A/12/2179075/NWF **Team:** Southern Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 17/12/2012

Location: Flat 3, 33 Priory Park Road, London, NW6 7UP

Proposal:

Erection of a rear dormer window, one rear rooflight, three front rooflights and a rooflight to either side to create a self-contained flat at third floor level

Decisions on PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16-Jan-2013

Application Number: 11/3340 **PINSRefNo** A/12/2172303/NWF **Team:** Southern Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 14/12/2012

Location: Flat 3, 16 Plympton Road, London, NW6 7EG

Proposal:

Retrospective application for rear dormer window, involving the replacement of pvc-window frames with timber-framed, double-glazed sash windows to second floor flat

Application Number: 12/0118 **PINSRefNo** A/12/2175365 **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 06/11/2012

Location: 40 Donaldson Road, London, NW6 6NG

Proposal:

Demolition of garage and erection of single storey rear extension to facilitate change of use of rear of laundrette to self-contained studio flat, installation of front door fronting Lonsdale Road, new upvc windows and doors in flank wall of opposite elevation and removal of existing external extractor ducts.

Application Number: 12/0169 **PINSRefNo** A/12/2178535/NWF **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 19/11/2012

Location: Flat 3, 17 Brondesbury Villas, London, NW6 6AH

Proposal:

Installation of replacement white UPVC windows to rear of second floor flat

Application Number: 12/0170 **PINSRefNo** A/12/2174712 **Team:** Northern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 05/11/2012

Location: 17 Springfield Gardens, London, NW9 0RT

Proposal:

Retrospective application for existing single storey outbuilding with proposed alteration to include demolition of front extension and removal of fence in rear garden of dwelling house.(Revised proposal)

Application Number: 12/0175 **PINSRefNo** A/12/2178166 **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 13/12/2012

Location: 343A Kilburn High Road, London, NW6 7QB

Proposal:

Conversion of existing 4 bedroom flat into 3 studio flats and one 3 bed flat, involving a first and second floor rear extension and mansard roof extension

Application Number: 12/0176 **PINSRefNo** A/12/2174804/NWF **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 05/11/2012

Location: 14D Wrotesley Road, London, NW10 5YL

Proposal:

Removal of existing hip to gable roof extension and rear dormer, and erection of side and rear dormer windows.

Application Number: 12/0267 **PINSRefNo** A/12/2173839 **Team:** Western Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 30/11/2012

Location: Ground Floor Flat, 1A Alric Avenue, London, NW10 8RB

Proposal:

Proposed partial change of use of the ground floor from shop (Use Class A1) to a studio flat (Use Class C3)

Decisions on PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16-Jan-2013

Application Number: 12/0441 **PINSRefNo** A/12/2178953 **Team:** Northern Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 17/12/2012

Location: Street Record, Burnley Road, London, NW10

Proposal:

Prior approval notification for siting and appearance of proposed telecommunications equipment comprising installation of 12.5m street works column on footpath outside 82 Burnley Road (Part 24 General Permitted Development Order) accompanied by ICNIRP Declaration (dated 22/12/2011), Site Specific Supplementary Information and Supporting Technical Information

Application Number: 12/0484 **PINSRefNo** A/12/2178360 **Team:** Northern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 13/12/2012

Location: 9 & 11, Alder Grove, London, NW2 7DA

Proposal:

Erection of a two storey detached dwellinghouse (2 bedroom) at the rear of the existing dwellinghouses, fronting Paddock Road.

Application Number: 12/0518 **PINSRefNo** A/12/2175955/NWF **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 20/11/2012

Location: 343 Harlesden Road, London, NW10 3RX

Proposal:

Change of use of ground floor from residential (Use Class C3) to a religious place of worship (Use Class D1)

Application Number: 12/0771 **PINSRefNo** A/12/2181186/NWF **Team:** Southern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 22/11/2012

Location: First & Second Floor, 63 Chamberlayne Road, London, NW10 3NG

Proposal:

Conversion of first and second floor office to 2 self-contained flats, erection of rear dormer window, 1 front roof light, second floor rear extension, alteration to shop front to include residential entrance door and new fascia board

Application Number: 12/1303 **PINSRefNo** D/12/2184641 **Team:** Western Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 13/12/2012

Location: 118 Monks Park, Wembley, HA9 6JH

Proposal:

Retrospective application for erection of a single storey outbuilding in rear garden of dwellinghouse

Application Number: 12/1386 **PINSRefNo** D/12/2183586 **Team:** Northern Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 11/12/2012

Location: 163 Beverley Drive, Edgware, HA8 5NJ

Proposal:

Erection of a first floor side and rear extension to dwellinghouse

Application Number: 12/1467 **PINSRefNo** D/12/2184379 **Team:** Western Team

Appeal Decision: Appeal Dismissed **Appeal Decision Date:** 26/11/2012

Location: 1 Woodside Place, Wembley, HA0 1UW

Proposal:

Change of use from unauthorised dwelling to a games room/gym/bike store and retention of existing detached single storey outbuilding in the rear garden of dwellinghouse

Decisions on PLANNING Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16-Jan-2013

Application Number: 12/1691 **PINSRefNo** D/12/2186060 **Team:** Northern Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 18/12/2012

Location: 7 Oxenpark Avenue, Wembley, HA9 9SY

Proposal:

Erection of two storey side extension and rear dormer window to dwellinghouse.

Application Number: 12/1708 **PINSRefNo** D/12/2185713 **Team:** Northern Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 12/12/2012

Location: 19 Salmon Street, London, NW9 8PP

Proposal:

Installation of 2 metal gates to the existing vehicular access at the front and insertion of 1m high railings to side walls of dwellinghouse

Application Number: 12/1888 **PINSRefNo** A/12/2184275/NWF **Team:** Southern Team

Appeal Decision: Appeal withdrawn **Appeal Decision Date:** 06/12/2012

Location: 68 & 70, Salusbury Road, London, NW6

Proposal:

Change of use of first floor from B1 offices to two residential units, erection of rear dormer, creation of roof terraces, installation of rooflights, new gates external stairs and entrance to loft

Application Number: 12/1948 **PINSRefNo** D/12/2187124 **Team:** Western Team

Appeal Decision: Appeal Allowed **Appeal Decision Date:** 19/12/2012

Location: 29 Windermere Avenue, Wembley, HA9 8QU

Proposal:

Retention of existing first floor side extension, gable end roof extension & rear dormer window with proposed modifications to hipped roof and rear dormer window to dwellinghouse.

Decisions on ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/08/0208 **PINSRefNo** C/12/2174602&2174603 **Team:** Southern Team**Appeal Decision:** Appeal Dismissed **Appeal Decision Date:** 31/12/2012**Location:** 6A Buckley Road, London, NW6 7NE**Proposal:**

Without planning permission, the construction of a basement and its use as landlord's storage, and the erection of a rear dormer window and single storey outbuilding in the rear garden of the premises.

("The unauthorised development")

Application Number: E/08/0554 **PINSRefNo** C/12/2174167 **Team:** Southern Team**Appeal Decision:** Appeal Dismissed **Appeal Decision Date:** 05/12/2012**Location:** 64A Rainham Road, London, NW10 5DJ**Proposal:**

Without planning permission, the erection of a single storey extension to the rear of the premises.

("The unauthorised development")

Application Number: E/09/0355 **PINSRefNo** C/12/2175337 **Team:** Western Team**Appeal Decision:** Appeal Allowed **Appeal Decision Date:** 07/11/2012**Location:** 21 St Annes Road, Wembley, HA0 2AW**Proposal:**

Without planning permission, the erection of a single storey rear extension onto the existing rear extension, rear canopy infill extension and a building in rear garden of the premises.

("The unauthorised development")

Application Number: E/09/0490 **PINSRefNo** C/12/2171354/2171355 **Team:** Southern Team**Appeal Decision:** Appeal Dismissed **Appeal Decision Date:** 15/11/2012**Location:** Ground Floor Flats, 279 Willesden Lane, Willesden, London, NW2 5JA**Proposal:**

Without planning permission, the change of use of the ground floor of the premises from one self-contained flat to three self-contained flats.

("The unauthorised change of use")

Application Number: E/10/0175 **PINSRefNo** C/12/2173993 **Team:** Western Team**Appeal Decision:** Appeal Allowed **Appeal Decision Date:** 04/12/2012**Location:** 130 Vivian Avenue, Wembley, HA9 6RT**Proposal:**

Without planning permission, the erection of a brick-built building in rear garden of the premises.

("The unauthorised development")

Application Number: E/10/0365 **PINSRefNo** C/12/2176164 **Team:** Western Team**Appeal Decision:** Appeal Dismissed **Appeal Decision Date:** 07/11/2012**Location:** 30 Second Way, Wembley, HA9 0YJ**Proposal:**

Without planning permission, the material change of use of the premises from a bakery (since demolished) to a mixed use as a builder's yard, commercial storage (including but not limited to skips, tyres and vehicles) and the erection of ancillary buildings and fences.

("The unauthorised development")

Decisions on ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/11/0103 **PINSRefNo** C/12/2173824**Team:** Southern Team**Appeal Decision:** Appeal Allowed**Appeal Decision Date:** 03/12/2012**Location:** Flats 1-7, 237A Kilburn High Road, London, NW6 7JN**Proposal:**

Without planning permission, the change of use of the premises from the upper floor maisonette to seven self-contained flats.

("The unauthorised change of use")

Application Number: E/11/0106 **PINSRefNo** C/12/2174014**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 01/11/2012**Location:** 6 and 6A Nicoll Road, London, NW10 9AB**Proposal:**

The change of use of the main building in the premises from a Hotel to twenty-six self-contained flats.

("The unauthorised change of use")

The erection of a plastic clad building in the rear garden and its use as a two bed self-contained flat.

("The unauthorised development")

Application Number: E/11/0265 **PINSRefNo** C/12/2178887**Team:** Western Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 17/12/2012**Location:** Ground Floor, First and Second Floor Flats, 21 Watford Road, Wembley, HA0 3ET**Proposal:**

Without planning permission, the material change of use of the premises to two self-contained flats.

("The unauthorised change of use")

Application Number: E/11/0320 **PINSRefNo** C/12/2173423**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 29/11/2012**Location:** Land rear of 270-288, Neasden Lane, London**Proposal:**

Without planning permission, the change of use of the premises from a car park to a mixed use as car park and storage yard.

("The unauthorised change of use")

The installation of two containers and a fencing to the premises.

("The unauthorised development")

Application Number: E/11/0361 **PINSRefNo** C/12/2170843**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 19/11/2012**Location:** 15A Ancona Road, London, NW10 5YD**Proposal:**

The erection of a raised decking with railings to the rear of the ground floor of the premises.

("The unauthorised development")

Decisions on ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/11/0448 **PINSRefNo** C/12/2175551**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 13/11/2012**Location:** 70A and B Lancaster Road, London, NW10 1HA**Proposal:**

Without planning permission, the change of use of the premises into two self-contained flats.

("The unauthorised change of use")

Application Number: E/11/0459 **PINSRefNo** C/12/2174607**Team:** Southern Team**Appeal Decision:** Appeal Allowed**Appeal Decision Date:** 09/11/2012**Location:** 36A Kings Road, London, NW10 2BP**Proposal:**

Without planning permission, the erection of a part timber-framed and part brick single storey infill side rear extension at the premises.

("The unauthorised development")

Application Number: E/11/0502 **PINSRefNo** C/12/2175632**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 30/11/2012**Location:** First Floor and rear yard of 2 Library Parade, Craven Park Road, London, NW10 8SG**Proposal:**

Without planning permission, the change of use of the first floor and rear yard of the premises to a bar, and the erection of a single storey timber-framed structure to rear of the premises.

("The unauthorised change of use and development")

Application Number: E/11/0533 **PINSRefNo** C/12/2173990**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 19/11/2012**Location:** 144 Bathurst Gardens, London, NW10 5HX**Proposal:**

The erection of a rear dormer window roof extension and a dormer window extension on top of two storey rear projection, incorporating two side bricked walls with coping stones on roof.

("The unauthorised development")

Application Number: E/11/0545 **PINSRefNo** C/12/2170863**Team:** Western Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 10/12/2012**Location:** 68 Pebworth Road, Harrow, HA1 3UE**Proposal:**

Without planning permission, the erection of a gable end roof extension and a rear dormer window extension to dwellinghouse.

("The unauthorised development")

Decisions on ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/11/0631 **PINSRefNo** C/12/2170529**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 02/11/2012**Location:** 79 Dollis Hill Lane, London, NW2 6JH**Proposal:**

Without planning permission, the erection of a front, side and rear boundary wall, the erection of a raised rear patio and the erection of a canopy to the rear of the dwellinghouse.

("The unauthorised development")

Application Number: E/11/0642 **PINSRefNo** C/12/2168890**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 14/12/2012**Location:** 83 Purves Road, London, NW10 5TE**Proposal:**

The erection of a wooden decking and railings to form a roof terrace to the rear on top of two-storey rear extension of the premises.

("The unauthorised development")

Application Number: E/11/0734 **PINSRefNo** C/12/2178675**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 17/12/2012**Location:** 84A and B Walm Lane, London, NW2 4QY**Proposal:**

Without planning permission, the installation of new UPVC framed windows to the first and second floors of the front and side elevations of the premises.

("The unauthorised development")

Application Number: E/11/0770 **PINSRefNo** C/12/2170669/2170670**Team:** Southern Team**Appeal Decision:** Appeal part dismissed / part allowed**Appeal Decision Date:** 19/12/2012**Location:** 26 Brownlow Road, London, NW10 9QL**Proposal:**

Without planning permission, the change of use of the premises from a single family dwellinghouse to ten self-contained flats; the erection of a rear dormer window and hip to gable end roof extension; demolition of a garage to side and erection of single storey extensions to side and rear of the premises.

Application Number: E/11/0805 **PINSRefNo** C/12/2175691**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 10/12/2012**Location:** 17 Bramshill Road, London, NW10 8AE**Proposal:**

The erection of a timber-framed gate and fence panels on top of bricked front and side boundary wall as an enclosure of the front garden of the premises.

("The unauthorised development")

Decisions on ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/11/0825 **PINSRefNo** C/12/2175690**Team:** Western Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 20/11/2012**Location:** 103 Preston Road, Wembley, HA9 8NN**Proposal:**

Without planning permission, the erection of a two-storey side and rear extension, incorporating a gable end roof and rear dormer window roof extension to dwellinghouse.

("The unauthorised development")

Application Number: E/11/0833 **PINSRefNo** C/12/2175205**Team:** Southern Team**Appeal Decision:** Appeal part dismissed / part allowed**Appeal Decision Date:** 01/11/2012**Location:** 263 High Road, London, NW10 2RX**Proposal:**

Without planning permission, the installation of a replacement shopfront and the erection of a single storey timber-framed structure to the rear of the premises.

("The unauthorised development")

Application Number: E/12/0041 **PINSRefNo** C/12/2172942**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 13/12/2012**Location:** Ground Floor entrance and corridor, and First and Second Floors, 6A Furness Road, London, NW10 4PP**Proposal:**

The change of use of the premises from one to six self-contained flats.

("The unauthorised change of use")

Application Number: E/12/0126 **PINSRefNo** C/12/2178868**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 09/11/2012**Location:** 21 Grove Park, London, NW9 0LA**Proposal:**

The erection of a new high brick boundary wall with the metal rail inserts to the front and side of the premises.

("The unauthorised development")

Application Number: E/12/0150 **PINSRefNo** C/12/2180945**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 18/12/2012**Location:** 53A-F Chartley Avenue, London, NW2 7QY**Proposal:**

Without planning permission, the change of use of the premises into six self-contained flats and the erection of a building in the rear garden of the premises.

("The unauthorised change of use and development")

Application Number: E/12/0207 **PINSRefNo** C/12/2177754**Team:** Western Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 17/12/2012**Location:** 23 Fulwood Avenue, Wembley, HA0 1LS**Proposal:**

Without planning permission, the erection of a building in the rear garden of the dwellinghouse and its use as residential accommodation.

("The unauthorised development")

Decisions on ENFORCEMENT Appeals between 1-Nov-2012 and 31-Dec-2012

Planning Committee: 16 January, 2013

Application Number: E/12/0676 **PINSRefNo** C/12/2179050

Team: Southern Team

Appeal Decision: Appeal Allowed

Appeal Decision Date: 17/12/2012

Location: 8 Craven Park, London, NW10 8SY

Proposal:

Without planning permission, the change of use of the premises to twelve residential flats.

("The unauthorised change of use")

**PLANNING SELECTED appeal DECISIONS between
1-Nov-2012 and 31-Dec-2012
Planning Committee: 16 January, 2013**

Introduction

In order to keep Members fully informed of Planning Appeal decisions, copies of Inspector's decision letters concerning those applications that have been allowed or partly allowed on appeal, are attached to the agenda. These include the following:

Our reference: 11/1208	Appeal Decision: Appeal Allowed	Appeal Decision Date: 21/11/2012
Team:	Southern Team	
Location:	135 Chatsworth Road, London, NW2 5QT	
Proposal:	Erection of a two storey side extension, single storey rear extension, rear roof dormer and installation of two rear roof lights and two side roof lights to dwellinghouse	
Our reference: 11/3191	Appeal Decision: Appeal Allowed	Appeal Decision Date: 17/12/2012
Team:	Southern Team	
Location:	Flat 3, 33 Priory Park Road, London, NW6 7UP	
Proposal:	Erection of a rear dormer window, one rear rooflight, three front rooflights and a rooflight to either side to create a self-contained flat at third floor level	
Our reference: 11/3340	Appeal Decision: Appeal Allowed	Appeal Decision Date: 14/12/2012
Team:	Southern Team	
Location:	Flat 3, 16 Plympton Road, London, NW6 7EG	
Proposal:	Retrospective application for rear dormer window, involving the replacement of pvc-window frames with timber-framed, double-glazed sash windows to second floor flat	
Our reference: 12/0441	Appeal Decision: Appeal Allowed	Appeal Decision Date: 17/12/2012
Team:	Northern Team	
Location:	Street Record, Burnley Road, London, NW10	
Proposal:	Prior approval notification for siting and appearance of proposed telecommunications equipment comprising installation of 12.5m street works column on footpath outside 82 Burnley Road (Part 24 General Permitted Development Order) accompanied by ICNIRP Declaration (dated 22/12/2011), Site Specific Supplementary Information and Supporting Technical Information	
Our reference: 12/1303	Appeal Decision: Appeal Allowed	Appeal Decision Date: 13/12/2012
Team:	Western Team	
Location:	118 Monks Park, Wembley, HA9 6JH	
Proposal:	Retrospective application for erection of a single storey outbuilding in rear garden of dwellinghouse	
Our reference: 12/1691	Appeal Decision: Appeal Allowed	Appeal Decision Date: 18/12/2012
Team:	Northern Team	
Location:	7 Oxenpark Avenue, Wembley, HA9 9SY	
Proposal:	Erection of two storey side extension and rear dormer window to dwellinghouse.	
Our reference: 12/1708	Appeal Decision: Appeal Allowed	Appeal Decision Date: 12/12/2012
Team:	Northern Team	
Location:	19 Salmon Street, London, NW9 8PP	
Proposal:	Installation of 2 metal gates to the existing vehicular access at the front and insertion of 1m high railings to side walls of dwellinghouse	

**PLANNING SELECTED appeal DECISIONS between
1-Nov-2012 and 31-Dec-2012
Planning Committee: 16 January, 2013**

Our reference: 12/1948 **Appeal Decision:** Appeal Allowed **Appeal Decision Date:** 19/12/2012

Team: Western Team

Location: 29 Windermere Avenue, Wembley, HA9 8QU

Proposal:

Retention of existing first floor side extension, gable end roof extension & rear dormer window with proposed modifications to hipped roof and rear dormer window to dwellinghouse.

Background Information

Any persons wishing to inspect an appeal decision not set out in full on the agenda should check the application details on our website or contact the Technical Support Team, Planning and Development, Brent House, 349 High Road, Wembley, HA9 6BZ. Telephone 020 8937 5210 or email

Chris Walker, Assistant Director - Planning and Development

**ENFORCEMENT SELECTED appeal DECISIONS between
1-Nov-2012 and 31-Dec-2012**

Planning Committee: 16 January, 2013

Introduction

In order to keep Members fully informed of Enforcement Appeal decisions, copies of Inspector's decision letters concerning those cases where Enforcement action has been initiated and the appeal has been allowed or part allowed, are attached to the agenda. These include the following:

Our reference: E/09/0355	Appeal Decision Date: 07/11/2012
Team: Western Team	Appeal Decision: Appeal Allowed

Location: 21 St Annes Road, Wembley, HA0 2AW

Proposal:

Without planning permission, the erection of a single storey rear extension onto the existing rear extension, rear canopy infill extension and a building in rear garden of the premises.

Our reference: E/10/0175	Appeal Decision Date: 04/12/2012
Team: Western Team	Appeal Decision: Appeal Allowed

Location: 130 Vivian Avenue, Wembley, HA9 6RT

Proposal:

Without planning permission, the erection of a brick-built building in rear garden of the premises.

Our reference: E/11/0103	Appeal Decision Date: 03/12/2012
Team: Southern Team	Appeal Decision: Appeal Allowed

Location: Flats 1-7, 237A Kilburn High Road, London, NW6 7JN

Proposal:

Without planning permission, the change of use of the premises from the upper floor maisonette to seven self-contained flats.

Our reference: E/11/0459	Appeal Decision Date: 09/11/2012
Team: Southern Team	Appeal Decision: Appeal Allowed

Location: 36A Kings Road, London, NW10 2BP

Proposal:

Without planning permission, the erection of a part timber-framed and part brick single storey infill side rear extension at the premises.

**ENFORCEMENT SELECTED appeal DECISIONS between
1-Nov-2012 and 31-Dec-2012**

Our reference: E/11/0770	Planning Committee: 16 January, 2013	Appeal Decision Date: 19/12/2012
Team: Southern Team		Appeal Decision: Appeal part dismissed / part allowed

Location: 26 Brownlow Road, London, NW10 9QL

Proposal:

Without planning permission, the change of use of the premises from a single family dwellinghouse to ten self-contained flats; the erection of a rear dormer window and hip to gable end roof extension; demolition of a

Our reference: E/11/0833	Appeal Decision Date: 01/11/2012
Team: Southern Team	Appeal Decision: Appeal part dismissed / part allowed

Location: 263 High Road, London, NW10 2RX

Proposal:

Without planning permission, the installation of a replacement shopfront and the erection of a single storey timber-framed structure to the rear of the premises.

Our reference: E/12/0676	Appeal Decision Date: 17/12/2012
Team: Southern Team	Appeal Decision: Appeal Allowed

Location: 8 Craven Park, London, NW10 8SY

Proposal:

Without planning permission, the change of use of the premises to twelve residential flats.

Background Information

Any persons wishing to inspect appeal decision letters not set out in full on the agenda should contact the Planning Service Technical Support Team, The Planning Service, Brent House, 349 High Road, Wembley, HA9 6BZ.

Chris Walker, Assistant Director - Planning and Development



Appeal Decision

Site visit made on 14 November 2012

by David Kaiserman BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2012

Appeal Ref: APP/T5150/D/12/2183663
135 Chatsworth Road, LONDON, NW2 5QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lalji Vekaria against the decision of London Borough of Brent.
 - The application Ref 11/1208 was refused by notice dated 25 June 2012.
 - The development proposed is a two storey side, single storey rear and loft conversion including the construction of a rear dormer.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey side, single storey rear and loft conversion including the construction of a rear dormer, at 135 Chatsworth Road, London NW2 5QT, in accordance with the terms of the application, ref: 11/1208, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the approved plans referenced 110304/01/P6, 110304/00/P1 and 110304/02/P1.
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main issue

2. The main issue in this case is the effect which the proposal would have on the living conditions of the occupiers of no 137 Chatsworth Road.

Reasons

3. 135 Chatsworth Road is an inter-war semi-detached house in a street of similar properties. The Council have no objection to the principle of its being extended at the side. They add that the scheme complies with their design guidelines in that the ground floor would be set back from the main front wall by 1.5m and the first-floor element by 3.6m; in addition, the Council consider that it would have an acceptable impact on a ground-floor flank kitchen window at no 137, since that room is also served by a large rear-facing window, which provides adequate light.

4. However, there is a first-floor window in the facing flank elevation of no 137 which would be 2.3m away from the extension, which would be located hard on the common boundary. The Council say that this window serves what they describe as a "kitchen habitable room"; and since it would face a significant wall rising to a full two storeys, together with a loft extension within an extended roof, they conclude that it would have an unacceptable loss of outlook for anyone using the room involved. I have taken it, from the submitted evidence, that the window in question is the only source of natural light.
5. I am told that the subject window would have originally served a bathroom, but that the Council are satisfied that the room is now used as a kitchen. The appellant does not challenge the Council's conclusion, following an inspection of the property, that 137 is being used lawfully as a house in multiple occupation in the terms of Class C4 of the Use Classes Order. While he accepts that the room in question is used as a kitchen, he has provided evidence to indicate that it is of "secondary" status, since it occupies only 3.3 sq m of floorspace, from which he concludes it is of little practical value. Moreover, the shared kitchen/ dining room on the ground floor of the property is said to be 29 sq m in area, and thus of a size which is adequate for the use of all the occupiers of the house. I have been given no reason to doubt any of these assertions.
6. Based on this evidence, and what I was able to see on my visit, I have concluded that that it would be unreasonable to prevent the extension of no 135 in the way proposed purely and solely because of its impact on this very small room, the practical utility of which is in some doubt. For these reasons, I am not convinced that there would be any material conflict with either "saved" Unitary Development Plan policy BE9 or the Council's detailed design guidelines. I have therefore decided to allow the appeal, subject to conditions tying the permission to the approved plans and requiring the materials to match those in the existing dwelling.

David Kaiserman

INSPECTOR



Appeal Decisions

Site visit made on 17 October 2012

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 November 2012

Appeal A Ref: APP/T5150/C/12/2175337

Appeal B Ref: APP/T5150/C/12/2175338

21 St Annes Road, Wembley HA0 2AW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr B Hussain (Appeal A) and Mrs M Hussain (Appeal B) against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/09/0355.
 - The notice was issued on 29 March 2012.
 - The breach of planning control as alleged in the notice is "Without planning permission, the erection of a single storey rear extension onto the existing rear extension, rear canopy infill extension and a building in rear garden of the premises."
 - The requirements of the notice are to: "Demolish the unauthorised single storey rear extension, rear canopy infill extension and the building in the rear garden of the premises, remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises."
 - The period for compliance with the requirements is 6 months.
 - Appeal A is proceeding on the grounds set out in section 174(2) (f) and (g) of the 1990 Act as amended. Since the prescribed fees have not been paid within the specified period for Appeal A, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered in relation to Appeal A.
 - Appeal B is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the 1990 Act as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended also falls to be considered in relation to Appeal B.
-

Decisions

1. **Appeal B:** Appeal B is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely *the erection of a single storey rear extension onto the existing rear extension, rear canopy infill extension and a building in rear garden of the premises* at 21 St Annes Road, Wembley HA0 2AW referred to in the notice.
 2. **Appeal A:** I take no further action in respect of Appeal A.
-

Procedural matters

3. The appellant raises various procedural points. The second and third reasons for issuing the notice contain clear information as to why the Council considers that planning permission should not be granted. The purpose of the notice is not made explicit; this is not helpful but when the notice is read as a whole it is obvious that the notice is primarily aimed at remedying the breach of planning control. As to whether the requirements are onerous, this would be a matter to be considered under ground (f). The breach of planning control concerning the single storey rear extension is sufficiently understandable even though the words "attached to" may be preferable to the word "onto". The associated requirement – the removal of the unauthorised single storey rear extension - does not imply the removal of the pre-existing rear extension.
4. The notice is sufficiently clear and is not flawed in any way. I had no difficulty identifying the alleged breach of planning control at the site visit.

Appeal B on ground (a) and the deemed planning application

Main issues

5. In assessing whether planning permission ought to be granted, I consider there are two main issues: firstly, the effect of the development on the character and appearance of the appeal property and the surrounding area and secondly, its effect on the living conditions of the occupiers of the neighbouring properties.

Character and appearance

6. The local character of the area is residential. The southern side of the road where the appeal property is situated is characterized by a two-storey terrace with narrow-width, modest-sized houses and back gardens. The appeal property is a typical mid-terrace example.
7. Like many other properties in the terrace No. 21 has been extended at the rear in the past at ground floor level. The appellant says that the neighbouring extensions are substantially more than four years old and are therefore immune from enforcement action. The Council has not supplied any evidence to the contrary. Those other rear additions are clearly part of the local context and townscape and are within the immediate setting of the appeal site.
8. The rear of the appeal property is not readily seen from any public viewpoint. There is a distant view, across the rear gardens of several other properties in St Annes Road, from the end of Lantern Close to the west. Viewing from this public vantage point or from private viewpoints within the rear gardens, one can clearly observe a ground floor rear building line formed by the long extensions (including extensions to extensions) at many of the other properties in this terrace. This includes the single storey extensions to the rear of the immediately adjoining properties on either side of No. 21.
9. The Council refers to the excessive depth of the subject rear extensions as they are built at the back of the pre-existing rear extension; there is no criticism of their detailed design or materials of construction. However, I saw that the rear canopy infill extension is set back from the end of the adjoining extension at No. 23. The main rear extension is more or less in line with that neighbouring extension and projects only just beyond the extensions at the rear of No. 19.

10. The Council's adopted guidance in SPG5 *Altering and Extending Your Home* notes that extensions to extensions are usually not acceptable except where no material harm arises. I find that no material harm arises in the circumstances of this case. In this densely built-up area, the host terraced property is not seen in isolation. Given the notable projection of the adjoining rear extensions and others close by and the very limited public views, the main rear extension and the infill canopy do not have a materially adverse impact on the character and appearance of the appeal property or the surrounding area.
11. The Council indicates that by virtue of its excessive scale and mass the rear outbuilding is out of keeping. However, the Council does not dispute the various measurements provided by the appellant. At 2.5m by 3.7m by 2.5m high the outbuilding cannot be described as sizeable or as being of excessive scale and mass.
12. From other undisputed measurements supplied by the appellant, it would appear that the only reason the outbuilding falls outside the permitted development rights is because of the ground coverage of the buildings within the curtilage. Thus, a similar outbuilding could be erected under permitted development rights once the infill canopy was removed. This fallback is clearly a material consideration when assessing the planning merits.
13. In any event, even without a fallback, I saw that there is a wide variety of outbuildings close to the rear plot boundaries of many of the neighbouring properties in this terrace. The subject outbuilding simply adds to this variety and does not look out of keeping in the local townscape context and setting.
14. On the first main issue I conclude that the development is not unacceptably harmful to the character and appearance of the appeal property and the surrounding area.

Living conditions

15. In the rear-facing end of the adjoining extension at No. 23 there is a window that appears to serve a bathroom. At the rear of No. 19 there seems to be a door/utility area next to the common boundary and beyond that a window that again appears to serve a bathroom. Much of the glazing at the rear of No. 19 was covered by cardboard on the day of my visit.
16. The two extensions do not project beyond the rear of the extension at No. 23. The main extension projects beyond the rear ground floor building line of No. 19 by only a marginal amount. As such I agree with the appellant that the subject extensions have not brought about a material loss of light or outlook for the occupiers of those neighbouring properties.
17. As I have already explained I did not find the outbuilding to be of excessive scale or mass. It is positioned adjacent to each side boundary but its flat roof does not exceed 2.5m in height according to the appellant's undisputed measurement. This is the height allowed for under permitted development rules where a building is within 2m of the boundary of the curtilage of a dwelling. Under only slightly different circumstances the outbuilding would have been permitted development.

18. Given the compact nature of the rear garden environment hereabouts and the limited boundary treatments in place, the outbuilding clearly has an impact on the outlook from neighbouring properties, including from their garden areas. However, on balance I judge that it is not unneighbourly to an extent that warrants refusing planning permission. Neighbours still enjoy satisfactory levels of sunlight, daylighting, privacy and outlook.
19. I note that there have been no objections to the grant of planning permission from neighbours in response to this appeal. This lends some weight to the conclusion I have reached on the second main issue that the effect of the development on the living conditions of the occupiers of the neighbouring properties is acceptable.

Planning policy and concluding comments

20. Having regard to my findings under the two main issues, I consider that the development accords with the aims of saved Policies BE2 and BE9 of the Brent Unitary Development Plan 2004 and Policy CP 17 of the Brent Core Strategy 2010. I have not been provided with any substantive evidence which would lead me to conclude that these development plan policies are in conflict with the National Planning Policy Framework (the Framework). Accordingly, the Framework has not led me to reach any different overall decision.
21. The development does not conflict with the development plan and there is no other ground for refusing planning permission. The Council has not suggested any planning conditions and I consider that none would be necessary in this case.
22. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that Appeal B on ground (a) and the deemed planning application should succeed. Planning permission will be granted for the development the subject of the notice.

Conclusions (Appeals A and B)

23. Appeal B succeeds on ground (a). This leads to the notice being quashed so there is no need for me to consider that appeal on grounds (f) and (g).
24. In relation to Appeal A, it is unnecessary for me to consider whether the appeal on grounds (f) and (g) should succeed as the notice will be quashed in consequence of my decision to allow Appeal B on ground (a). I shall, therefore, take no further action on these grounds of appeal.

Andrew Dale

INSPECTOR



Appeal Decision

Site visit made on 31 October 2012

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 November 2012

Appeal Ref: APP/T5150/C/12/2174607
36A Kings Road, London, NW10 2BP.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Joyce Ellen Whitman against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/11/0459.
- The notice was issued on 20 March 2012.
- The breach of planning control as alleged in the notice is the erection of a part timber framed and part brick single storey infill side rear extension.
- The requirements of the notice are to demolish the part timber-framed and part brick single storey infill rear extension and remove all items and debris and materials arising from the demolition from the site.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Decision.

Procedural matters

1. In the appeal form, grounds of appeal (b), (c) and (f) were also selected, but the appellant's subsequent statement indicated that the appeal was to be considered on ground (a) only.

Appeal on ground (a) and the deemed planning application

Main Issues

2. The main issues are the effect of the form, design and materials of the extension on the character and appearance of the host property and the surrounding area, and secondly the effect on the outlook and privacy of No.37 Kings Road and on the general living conditions of that property.

Reasons

3. The existing property is a two storey terrace which appears to have been divided horizontally into two flats. At the rear, the property has a two storey outrigger which is halved with the adjoining property No. 35. There is a similar arrangement with the property to the north. So the appeal site and No. 37 both have a narrow open passageway, to the side of the outrigger extension, which adjoin.

4. The structure the subject of the notice is a single storey enclosure of this space and is constructed with a brick base and piers and glazed panels in a timber frame on the side elevation and a clear glazed roof. The structure provides covered space off the living room of No. 36A and also includes a brick lined enclosure which accommodates a washing machine and dryer and a boiler.

Character and appearance

5. In terms of the visual impact of the structure, it is not visible from the public realm. It is only seen from the rear gardens of the appeal site and the neighbouring properties and it is also seen against the back drop of the main two storey property and its outrigger. The overall simple design and small scale of the structure give it the appearance of a modest conservatory and the brick and timber panels with a glazing roof do not result in an awkward design. Accordingly, it is not harmful to the original character and appearance of the property, nor the surrounding area and local context. On this issue, I find that the proposal accords with the requirements of saved policies BE2 and BE9 of the Council's Unitary Development Plan (UDP). Such policies are not inconsistent with the guidance in the National Planning Policy Framework (the Framework) and I should give them some weight.

Living conditions

6. In terms of the effect on living conditions, there are two main aspects of concern; the effect of overlooking and loss of privacy and the effect on outlook and daylight entering this neighbouring property. The guidance in the Council's Supplementary Planning Guidance – 'Altering and Extending your Home' (SPG5) advises in section 3 that "Many terraced houses already have two-storey rear sections which project from the back of the house. Single storey side or infill extensions to these properties are not allowed as they cause problems for neighbours who already suffer from restricted light into their homes."
7. However, notwithstanding this general guidance, each proposal has to be considered on its individual planning merits. At my site visit, I noted the windows that existed at ground floor level in No. 36A and also the corresponding ones in No. 37. Regarding No. 37 there is a window in the rear wall of the house and a door facing sideways in the wall of the outrigger as well as a window with obscure glazing. Given that the two original extensions are only about 3m apart, without the infilling extension the subject of the notice, there could be a high degree of over-looking and not much privacy between the two properties. Further, the pictures taken from the side of No. 37 supplied with the representations of Ms Reilly, demonstrate that the obscure glass side panels in the extension help provide a greater degree of privacy in the use of the two properties, although the enclosure may accommodate more activity than that likely to take place in an open 'yard'.
8. In relation to the effect on outlook and daylight, again the photographs supplied show the relationship of the main windows in No. 37 to the appeal site. The appeal structure does restrict some of the angled outlook for the rear facing window and also restricts the availability of light. However, this has to be judged in the context that the light available to the window is already constrained by the higher two storey extensions which effectively form a 'gorge' between the two properties. In addition, I noted that the glazed panels on the side of the structure and the glazing on the roof, which is angled away

from the boundary, provide some degree of light rather than if it was a solid wall.

9. Taking the two aspects together, on balance, and as a matter of judgement, I do not consider that privacy or the outlook and daylight to No.37 are so additionally restricted that the extension results in the material worsening of the living conditions enjoyed by the occupants of that property or to the extent that the work conflicts with the provisions of saved policy BE9(e) of the UDP. This conclusion outweighs the general presumption against such infilling as advanced in the in SPG5.

Other matters

10. The representation made by the owner of No. 37 also raises concern that the extension has been erected across the property boundary line and has no guttering, but these are private matters between the landowners/tenants that do not form part of the planning merits of the case, and are therefore not before me. As a private matter, they may be addressed under other legislation such as the Party Wall Act.

Conclusions

11. For the reasons given above, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The Council do not recommend any conditions on any permission and, as the development already carried out is acceptable, I conclude that none are needed.

Decision

12. The appeal is allowed, I direct that the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a part timber framed and part brick single storey infill side rear extension, on land at 36A Kings Road, London NW10 2BP, as referred to in the notice.

David Murray

INSPECTOR



Appeal Decision

Site visit made on 16 October 2012

by David Richards BSocSci Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 November 2012

Appeal Ref: APP/T5150/C/12/2175205
263 High Road, London, NW10 2RX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr K El-Nahas against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/11/0833.
 - The notice was issued on 20 March 2012.
 - The breach of planning control as alleged in the notice is: *Without planning permission, the installation of a replacement shopfront and the erection of a single storey timber-framed structure to the rear of the premises.*
 - The requirements of the notice are:
 - Step 1. Demolish the single storey timber-framed structure to the rear of the premises, remove all debris arising from that demolition, and remove all other materials and equipments (including tables, chairs and gas lamps) associated with the unauthorised development from the premises.*
 - Step 2. Remove the shopfront and remove all items, debris and materials associated with the unauthorised development from the premises.*
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal on the deemed planning application is allowed in part insofar as it relates to the installation of a replacement shopfront at 263 High Road, London, NW10 2RX and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the installation of a replacement shopfront.
2. The enforcement notice is varied by the substitution of three months for one month as the period for compliance in schedule 5.
3. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to the erection of a single storey timber framed structure at the rear of the premises and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a) – the deemed planning application

Main Issues

4. The effect of the shopfront and timber framed-structure at the rear of the premises on the character and appearance of the conservation area, and on the living conditions of neighbours.

Shopfront

5. The site lies in a busy commercial high street. Though it dates from the Victorian era, and the general character is reasonably well preserved, there have been many detailed changes to street frontages. While some traditional attractive shop fronts remain, and some new ones have been carefully designed to reflect that character, a greater number have been replaced with modern and in some cases utilitarian designs.
6. I fully appreciate the Council's aims of retaining what is best on the conservation area, and seeking to improve the general quality of design when replacement shopfronts are being considered, in accordance with saved Policies BE2, BE9 and SH21 of the Brent Unitary Development Plan (UDP) and Supplementary Planning Guidance Note 7: Shop Fronts and Shop Signs (SPG 7). However, in this particular case the shopfront is similar in character and appearance to many other premises in the locality. The size of the fascia is not excessive, either in comparison with its neighbours on either side or with premises in the wider area. While the darker colouring contrasts with its immediate neighbours, it is not a harmful contrast, and the lettering is in no way over assertive. While the corbels are a feature of the locality, they remain visible and I do not agree that they are swamped by the size of the fascia.
7. The Appellant states that the shopfront it replaced was of no merit, and there is no evidence to show that it replaced a high quality traditional shopfront. In many respects the active, open appearance of the restaurant contributes to the vitality and attractiveness of the streetscene hereabouts.
8. The Council also raised concern about the retractable canopy which it suggests facilitates the enclosure of the seating area underneath as a smoking and congregation area for patrons, and in the generation and transmission of noise and disturbance to the adjoining properties. However, there is no evidence to support the allegation of unacceptable disturbance arising from this use on this public side of the buildings, where there is already likely to be a degree of noise from traffic and the night time economy.
9. As the shopfront preserves the character and appearance of the conservation area, and there is no evidence of harm to the living conditions of neighbours, I conclude that planning permission should be granted for this element of the unauthorised development. As the development is already in place and is satisfactory, there is no need for any conditions to be attached.
10. There is no need for me to delete Step 2 of the requirements of the notice in consequence of granting permission for this part of the development as Section 180 of the 1990 Act as amended provides that where planning permission is granted for any development carried out before the grant of the permission, the enforcement notice shall cease to have effect so far as inconsistent with that permission.

Single storey structure to the rear

11. Additional seating is accommodated in the single storey structure which has been constructed at the rear of the building. While there is a strip of some 1.1 metres between the building and the rear garden of No 1 Bertie Road, the building substantially encloses the majority of the rear garden/yard area of the premises, extending some 5.83 metres behind the host building, and to the boundary on either side. It appeared that the building opened onto the yard of No 265, though I was informed that customers were not permitted to use this area.
12. The building is of poor quality design and materials, including timber, plastic sheeting and curtain drapes and has a somewhat makeshift appearance. While it is not visible in the public domain, it is visible from private spaces and contrasts with the traditional built form of neighbouring development, and is of a height which would appear intrusive and dominant when seen from neighbouring premises. It falls a long way short of the quality of design and construction which is sought in Policies BE2 and BE9 of the UDP and the National Planning Policy Framework.
13. I therefore conclude that the single storey rear extension is harmful to the character and appearance of the area, and fails to preserve or enhance the character or appearance of the conservation area. The appeal on ground (a) fails in respect of this element of the unauthorised development and I refuse to grant planning permission for it.

Appeal on ground (f)

14. The appeal on ground f) relates only to the shopfront. As I have decided that planning permission should be granted for this, there is no need for me to consider the appeal on ground f) further.

Appeal on ground g)

15. The Appellant considers that the period for compliance should be extended to six months, to allow time for a planning application to be submitted and considered by the Council. I accept that the period of one month specified in the notice would be too short a period to allow this to happen. A period of three months would be a reasonable compromise between the public interest in rectifying the breach as soon as possible, while allowing for a planning application to be submitted and determined in respect of any proposed alternative development at the rear of the property.

Conclusion

16. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with one variation and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of s180 of the Act.

David Richards

INSPECTOR



Appeal Decision

Site visit made on 4 December 2012

by Simon Miles BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2012

Appeal Ref: APP/T5150/A/12/2179075
31-33 Priory Park Road, London NW6 7UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Barton against the decision of the London Borough of Brent Council.
 - The application Ref 11/3191, dated 5 December 2011, was refused by notice dated 2 March 2012.
 - The development proposed is rear roof extension and creation of one bedroom flat within roof void.
-

Procedural Matter

1. As noted above, the address is given on the application form as 31-33 Priory Park Road. However, I have noted that it is identified more particularly in the supporting documentation and on the appeal form as Flat 3, 31-33 Priory Park Road.

Decision

2. The appeal is allowed and planning permission is granted for rear roof extension and creation of one bedroom flat within roof void at 31-33 Priory Park Road, London NW6 7UP in accordance with the terms of the application Ref 11/3191, dated 5 December 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100518/01, 02A, 03, 04, 05, 06A, 07E, 08D, 09 and 10A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) No development shall commence until details of the facilities to be provided for the storage of refuse have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the refuse storage facilities shall be retained as such thereafter.
-

Main Issue

3. This is the effect of the proposed development on highway safety in relation to parking provision.

Reasons

4. The appeal relates to a traditional terraced property in a mainly residential street close to shops, services and public transport links in the vicinity of Kilburn High Road. The Council opposes neither the principle of the proposed development nor its design. I take the same view on these matters having regard to the accessible location of the site, the design of the scheme and the general character and appearance of the area.
5. However, the Council is concerned that the proposal would increase parking pressure on local roads to the detriment of highway safety. Certainly this is a densely developed area. No doubt few of the traditional terraced properties in the area have off-street parking, although there is a single parking space to the rear of the appeal property, which under this proposal would be allocated to the new flat. There is also space to the rear for cycle parking, but no additional car parking would be provided. As a result, the parking provision falls short of the standards that apply by virtue of saved Policy PS14 of the adopted London Borough of Brent Unitary Development Plan 2004 (UDP).
6. Under saved UDP Policy TRN24, if the net effect of on-street parking generated by a development is likely to cause significant safety or traffic management problems, then contributions to introduce, extend, or bring forward on-street controls may be secured. If such controls are not practical then the development may be unacceptable. In this case, parking controls are already in force in the local area, including a system of residents' parking permits, with a small number of pay-and-display bays, covering Priory Park Road and adjoining streets.
7. The Council argues primarily on the basis of evidence contained in an appendix to the UDP that Priory Park Road is heavily parked, particularly at night, when the parking restrictions do not apply. However, more up-to-date evidence is provided by the various late evening parking surveys conducted on behalf of the appellant in July 2012. These indicate that there is significant spare capacity in Priory Park Road. A further consideration is that this section of Priory Park Road is one-way, which simplifies traffic flows and reduces the potential for conflict and confusion. Moreover, the width, alignment and general condition of the road are such that I would expect typical vehicle speeds to be below the 30mph limit.
8. I therefore find little evidence to indicate that the net effect of on-street parking generated by the proposed development is likely to cause significant safety or traffic management problems. Furthermore, a completed S106 planning obligation is in place, which would prevent occupiers of the proposed flat applying for parking permits. This would restrict parking demand and is a reasonable approach, given that the area provides good opportunities for access by walking, cycling and public transport. It also complies with the objectives of the National Planning Policy Framework for delivering sustainable development.

9. Whilst noting the Council's concern about monitoring and enforcing a restriction that only applies to part of the building, the property is clearly identified in the obligation as Flat 4. Presumably, the Council already maintains records of residential properties and occupiers in order to manage the existing system of residents' parking permits, the electoral roll and for council tax purposes. Although the proposed arrangements might not be ideal, and in certain other appeal cases were not considered appropriate, they are acceptable here. I take this view particularly as I have determined that there is only a limited likelihood of safety or traffic management problems being caused. This leads me to conclude, on the main issue, that the proposed development is acceptable when assessed against the above policies and would cause no significant harm to highway safety in relation to parking provision.
10. In other respects, the S106 planning obligation would also secure financial contributions towards sustainable transportation, open space and sports facilities in the area. A transport contribution is justified on the basis of the Council's adopted policies and guidance and the need for improvements along the A5 Kilburn High Road. A contribution to open space and sports facilities is likewise supported by the relevant policy justification and the need for improved facilities at Queens Park. It follows that the planning obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind. I have taken this into account in making my decision.
11. Overall, I find that there are no compelling or over-riding reasons why the appeal should not succeed. In addition to the standard time limit, it is necessary that the development should be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. Further conditions are justified in relation to materials and facilities for refuse storage in the interests of the character, appearance and amenities of the area.

Simon Miles

INSPECTOR



Appeal Decision

Site visit made on 3 December 2012

by Clive Hughes BA (Hons) MA DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2012

Appeal Ref: APP/T5150/A/12/2172303
Flat 3, 16 Plympton Road, London NW6 7EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Clem Warren against the decision of the Council of the London Borough of Brent.
 - The application Ref 11/3340, dated 18 December 2011, was refused by notice dated 10 February 2012.
 - The development proposed is described as "to replace the pvc window with a timber double glazed sash".
-

Procedural matters

1. The Council has described the development as "retrospective application for rear dormer window, involving the replacement of pvc-window frames with timber framed double glazed sash windows to second floor flat". This is a more comprehensive description and I have used it for this decision.

Decision

2. The appeal is allowed and planning permission is granted for retrospective application for rear dormer window, involving the replacement of pvc-window frames with timber framed double glazed sash windows to second floor flat at Flat 3, 16 Plympton Road, London NW6 7EG in accordance with the terms of the application, Ref 11/3340, dated 18 December 2011, subject to the following conditions:
 - 1) Within 2 months of the date of this permission, full details of the timber sash windows to be installed, together with a timetable for the works to be carried out, shall be submitted to the local planning authority for its written approval. The development shall be carried out in accordance with the approved details and timetable.
 - 2) All external work shall be carried out in materials that match, as closely as is possible, the colour, texture and design detail of those used in the existing building.

Reasons

3. The property is a mid-terrace three storey dwelling within a residential area. It lies within the North Kilburn Conservation Area. In 2005 planning permission was granted for a single storey extension, rear dormer window and front rooflight and the conversion of the property into 3 self-contained flats. The rear dormer was not built in accordance with the approved plans. Its size, siting and design were not built as approved. In 2009 planning permission was

granted for the retention of the dormer window as built but with an enlarged window opening and the replacement of the pvc-framed window with a timber-framed double glazed sash window. The current proposal is for the replacement of the pvc-framed windows in this rear dormer with timber-framed double glazed sash windows while retaining the size of the window opening as originally built. It is the size of this window opening, relative to the size of the rear dormer, to which the Council objects.

4. The main issue is the effect of the proposals on the host property and whether the development would preserve or enhance the character and appearance of the Conservation Area in which it lies. Saved Policies BE9, BE25 and BE26 of the *Brent Unitary Development Plan 2004* (the UDP) seek to ensure architectural quality in new developments and the preservation or enhancement of the character and appearance of Conservation Areas. In Conservation Areas extensions should be complementary to the original building in elevational features. These policies have been supplemented by the Council's adopted Supplementary Planning Guidance 5: *Altering and extending your home* (the SPG: 2002) and a *Design Guide for the North Kilburn Conservation Area*. Both the SPG and the *Design Guide* offer advice concerning dormer windows; the advice concerning siting has not been followed in respect of this window. Of particular relevance to this appeal is the advice that the front face of dormer windows should be mainly glazed and should be of a style in keeping with the rest of the house.
5. The originally approved scheme showed a rear dormer window whose scale, siting, design and materials were in accordance with the SPG and the *Design Guide*. The dormer window as constructed fails to respect the design principles of the host property in that it is too large, is poorly sited and the window details fail to reflect the style of the windows in the original house. While the scale and siting of the dormer as built has subsequently been approved, the size of the window opening has not.
6. The difference in the sizes of the window as approved and as now proposed is quite small. No dimensions are set out in the evidence or indicated on the plans. When scaled off the plans the approved windows measure about 2.03m x 1.10m whereas those now proposed measure about 1.70m x 0.95m. These latter dimensions match the size of the existing window as measured on site. Having smaller windows results in an increase in the proportion of the face of the dormer that is not glazed. In the current proposal only about one-third of the face of the dormer would be glazed; this seems to be substantially below the advice in the SPG that it be "mainly glazed". The proposals therefore are not in accord with adopted advice.
7. This has to be seen in the context that the amendment approved in 2009, which seems to accurately reflect what has been built save for the size of the window opening, does not show the face of the rear dormer to be mainly glazed. While the proportion of glazing in that approved scheme is a little greater than that now proposed it clearly did not comply with the SPG. The further reduction in the amount of glazing, as now proposed, would also not comply with the SPG.
8. However, the window is at second floor level in the rear elevation of the property. The Council has approved a window in this dormer that is only a little larger than that now proposed. There are no public viewpoints from which the window can be clearly seen. The only viewpoint that I found was from the

footpath under James Stewart House to the north, between Dunster Road and Dyne Road. From there the window was too distant for the difference in the amount of glazing between that approved by the Council and that now proposed to be discernible. I do not consider that the small reduction in the amount of glazing now proposed would result in any harm to the appearance of either the host property or to the Conservation Area in which it lies. When viewed from within the property itself, and from flats in James Stewart House, the change from pvc to a timber sash window would be beneficial; it would be in keeping with other windows on this property.

9. I conclude that the proposals are similar to those previously approved by the Council. There would be an improvement in the materials to be used and there are no public viewpoints in which the small reduction in the size of the opening would be noticeable. In all these circumstances, and notwithstanding the conflict with the SPG, I conclude that the proposals should be approved. The proposals would not harm the appearance of the host property; it would preserve the character and appearance of the Conservation Area. I have imposed a condition requiring the submission of full details of the replacement windows as the details on the submitted plans are insufficient. The condition also requires the submission of a timetable for the development to be carried out in order to protect the appearance of the host property and the wider Conservation Area.

Clive Hughes

Inspector



Appeal Decision

Site visit made on 4 December 2012

by Simon Miles BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2012

Appeal Ref: APP/T5150/A/12/2178953

Pavement adjacent to Dollis Hill Garage, 72-76 Burnley Road, London NW10 1EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Telefonika Uk Limited (O2) against the decision of the London Borough of Brent Council.
 - The application Ref 12/0441, dated 17 February 2012, was refused by notice dated 13 April 2012.
 - The development proposed is telecommunications street furniture pole (12.5m).
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) in respect of development by a telecommunications code system operator for the siting and appearance of telecommunications street furniture pole (12.5m) at the pavement adjacent to Dollis Hill Garage, 72-76 Burnley Road, London NW10 1EJ in accordance with the terms of the application Ref 12/0441, dated 17 February 2012, and the plans submitted with it.

Main Issue

2. This is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal relates to a site fronting Burnley Road close to its junction with Hamilton Road in an area including residential properties and various shops and other small-scale commercial uses. The street scene contains various trees and streetlight columns. The proposed telecommunications pole would be partially screened by an existing tree, although this would be less effective during the winter months. Nevertheless, the casual observer would accept the presence of such a structure in the context of the existing environment. Whilst its true function might be apparent upon closer inspection, I am satisfied that the telecommunications pole, even allowing for its height, would not be unduly prominent or obtrusive in the street scene. Although the development would increase the perception of street furniture, the effect of this proposal would not be sufficient to lead to an impression of visual clutter.
-

4. This leads me to conclude, on the main issue, that the proposed development would cause no significant harm to the character and appearance of the area. It follows that there is no conflict with saved Policies BE2, BE7 and BE19 of the adopted London Borough of Brent Unitary Development Plan 2004 insofar as these seek to ensure that development has regard to local character and context, including the streetscape, whilst minimising the impact of telecommunications development. The proposal further complies with the National Planning Policy Framework to the extent that great importance is attached to the design of the built environment whilst supporting the expansion of telecommunications infrastructure.
5. In other respects, the need for a telecommunications system or network should not be questioned. Nevertheless, the evidence before me demonstrates that there is a need to increase coverage and/or capacity in the area. I have also been provided with details of other possible sites and the reasons why this site was pursued in preference to the alternatives. Whilst this may not be exhaustive, given the limited effect of this proposal, I see no reason to extend the search further.
6. I am mindful of the need to weigh public concern about public health against national policy objectives for encouraging telecommunications operators to provide full coverage and the generally accepted findings of the Stewart Report that levels of risk can be sufficiently limited by taking a precautionary approach. The proposal complies with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines, in light of which it should not be necessary for me to consider further the health aspects and concerns about them.
7. Although I have no evidence to support the proposition that the proposed installation would be a danger to health, I accept that public concern about perceived risk is a material consideration. I have taken this into account. However, the development would not be so prominent or intrusive as to provide a constant reminder of its presence so as to justify rejecting the proposal on the basis of such public concern.
8. Overall, there are no compelling or over-riding reasons why the appeal should not succeed. No conditions are necessary other than those which apply automatically by virtue of Part 24 of Schedule 2 to the Order.

Simon Miles

INSPECTOR



Appeal Decision

Site visit made on 6 December 2012

by C J Leigh BSC(HONS) MPHIL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 December 2012

Appeal Ref: APP/T5150/D/12/2184641

118 Monks Park, WEMBLEY, Middlesex, HA9 6JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs L & I Mr Stukas & Mrs Gorokhova against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1303 was refused by notice dated 26 July 2012.
 - The development proposed is a rear outbuilding.
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Decision

1. The appeal is allowed and planning permission granted for a rear outbuilding at 118 Monks Park, WEMBLEY, Middlesex, HA9 6JH in accordance with the terms of the application, Ref 12/1303, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The building shall be used solely for purposes incidental to the dwellinghouse. No commercial use, business or industry shall be carried out therein, nor shall the building be used for primary residential accommodation, including a bedroom, kitchen, bathroom/W.C. It may also not be used as a separate flat, or be sold, let, occupied or used for storage separately from the main dwellinghouse.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: GTD229 – 01HPA, 02HPA and 03HPA.

Main issues

2. The main issues are the effect of the proposed development on, firstly, the character and appearance of the surrounding suburban area and, secondly, the living conditions of adjoining occupiers, with particular reference to outlook.

Reasons

Character and appearance

3. The outbuilding, which has been largely constructed though not finished, fills a sizeable proportion of the rear part of the garden to the appeal property. I understand a garage formerly stood on the site, though this was of smaller dimensions.
4. I saw at my site visit that many properties on both sides of Monks Park have outbuildings in their rear gardens. These differ in appearance and size to the outbuilding the subject of this appeal: some seem of similar proportions, whilst

others are smaller. I am not aware of the full history of all of these outbuildings, although the Council inform me that the comparable outbuilding to the rear of No. 116 was established without the grant of planning permission but is now lawful. Nevertheless, as the appellants say, it is apparent that outbuildings within the rear garden areas – of various designs and sizes – are part of the established character of the area. The size, siting and design of the proposed outbuilding, which is shown to have a rendered finish, would thus reflect this character and so be an appropriate addition.

5. On the first issue it is therefore concluded that the proposed development would not be harmful to the established character and appearance of the surrounding area. Thus, it would comply with the objectives of Policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan (UDP) 2004, and Policy CP 17 of the London Borough of Brent Core Strategy 2010, the general thrust of which seek to ensure all new development has regard to the local context and does not erode the character of the surrounding area.

Living conditions

6. The outbuilding retains a sufficient area of useable amenity space for the appeal property. It adjoins the garden to 120 Monks Park. There is sufficient distance retained to the rear of that property to ensure no overbearing impact upon the outlook from that house. Similarly, the siting of the outbuilding, its position and its height would ensure the garden would also retain a sufficiently open outlook. From observations on site and on the basis of the submitted evidence I am content that there would not be any material harm to the levels of light received to the adjoining property or its garden.
7. Thus, whilst the outbuilding would be visible from adjoining properties, a satisfactory standard of living conditions would remain for those properties. The proposed development would therefore not conflict with Policy BE9 of the UDP, insofar as it seeks to ensure all new buildings provides a satisfactory level of lighting and outlook for existing residents.

Conclusions and conditions

8. For the reasons given, and having had regard to all other matters raised, the appeal is allowed and planning permission granted.
9. The submitted application and drawings show the outbuilding to be used as storage by the occupants of the house, and the Council's decision notice and delegated report raise no objection on the basis of the use of the building. On this basis, and from my own observations at the site visit, I am also satisfied the intention is that the outbuilding would be ancillary to the main dwelling. The Council have suggested a condition be attached to secure this and I agree it is necessary, since an alternative use may give rise to considerations that would require a proper planning assessment to be made.
10. The outbuilding is not complete, so it is necessary to attach the standard time limit condition. I have also attached a condition specifying the approved drawings since it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

C Leigh

INSPECTOR



Appeal Decision

Site visit made on 10 December 2012

by **David Leeming**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 December 2012

Appeal Ref: APP/T5150/D/12/2186060

7 Oxenpark Avenue, Wembley, Middlesex HA9 9SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Gursharanjeet Kaur against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1691, dated 27 June 2012, was refused by notice dated 22 August 2012.
 - The development proposed is described as a two-storey side extension and loft conversion.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey side extension and rear dormer window to the dwellinghouse at 7 Oxenpark Avenue, Wembley, Middlesex HA9 9SY in accordance with the terms of the application, Ref 12/1691, dated 27 June 2012, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Drg no 1232-pl-01, dated 30/05/12.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural Matter

2. In the Council's decision notice the development is described as the erection of a two storey side extension and rear dormer window to dwellinghouse. Since this description more appropriately describes the development requiring planning permission it has been used in the decision above and the proposal has been assessed accordingly.

Main Issue

3. The main issue is the effect of the development on the appearance of the existing dwellinghouse and on the character and appearance the surroundings.

Reasons

4. The development was refused by the Council because it does not conform to their adopted Supplementary Planning Guidance Note *Altering and Extending your Home* (SPG5). Among other things, this advises that two storey side extensions should set in and/or set back from the front wall of the house. The stated reason for this is to prevent infilling of gaps between buildings whereby a row of detached or semi-detached homes may appear to change character and become a row of terraced houses.
5. In this case the proposed extension would be to a detached house set within a splayed corner plot. No set back from the frontage is proposed and neither would the extension be set down from the ridgeline of the existing house. It would not therefore be subservient to the existing dwelling. However, the lack of subservience is intentional and in this case appropriate given the proposed symmetrical design. The intention is to provide a larger, double-fronted dwelling rather than merely one that has been extended. Given the overall harmony of design, the result would be an aesthetically pleasing, respectful addition.
6. As regards a set in to the side boundary, the development would involve the removal of an existing garage to the side, but there would be a distance of between 1.3 and 8.3 metres between the extended house and the boundary, thus maintaining an adequate gap between this and the neighbouring property at No.9. The latter is similarly angled back on its plot from the boundary, with an intervening garage. The development would respect the open character of the corner site and would not create any impression of terracing. It would not appear visually dominating in relation to the neighbouring property.
7. In the particular circumstances, even though the extension would not conform fully to the SPG requirements, it would not have a harmful effect on the appearance of the property. Neither, given that it would create a symmetrically balanced, double-fronted property on a generous-sized corner plot, would the extension result in development that detracted from the character and appearance of the area. The development would thus comply generally with the aims of Policies BE2, BE7 and BE9 of the Council's UDP (2004). It would be sustainable development of good design, as sought by the National Planning Policy Framework.
8. As to the rear dormer window, although mentioned in the decision notice, the specific reasons for refusal appear to relate solely to the side extension. The proposed rear dormer would be set well within the roof slope leaving substantial areas of tiling above, below and to either side. It would neither be unduly bulky nor over-sized in relation to the extended roof. Although more than half the width of the original roof plane, it would thus relate acceptably to the proposed enlarged house. It would comply with the spirit (if not the exact letter) of SPG5 and with the aims of the above mentioned UDP Policies.
9. For the above reasons, subject to the standard conditions relating to commencement, conformity with the submitted plan and requiring matching materials, the appeal is being allowed.

David Leeming
INSPECTOR



Appeal Decision

Site visit made on 3 December 2012

by A Harwood CMS MSC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 December 2012

Appeal Ref: APP/T5150/D/12/2185713
19 Salmon Street, London, NW9 8PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K Ghani against the decision of the Council for the London Borough of Brent.
 - The application Ref 12/1708 dated 19 June 2012 was refused by notice dated 6 September 2012.
 - The development proposed is the erection of new front gates adjoining the highway and 0.8m high railings above the existing 1m high brick front and side boundary walls.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of new front gates adjoining the highway and 0.8m high railings above the existing 1m high brick front and side boundary walls at 19 Salmon Street, London, NW9 8PP in accordance with the terms of the application, Ref 12/1708 dated 19 June 2012, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans referenced 'salmonstreet-19/1 revb proposed site plan' and 'salmonstreet-19/8 revb block', dated 5 September 12.

Procedural Matter

2. I have amended the description of the development to reflect the proposed plans and the description as set out within the body of the Council's delegated report. This accurately describes the proposed development.

Main issue

3. The main issue is the impact of the proposals upon the character and appearance of the street-scene along Salmon Street.

Reasons

4. The appeal site is located in an urban area containing primarily residential properties. The site is on the southern side of Salmon Street which includes mainly detached properties of varying designs and sizes, set behind large front gardens. To the west of the site on both sides of the road, many of the front gardens include low walls allowing open views through to lawns and soft

planting. To the east on both sides of the road, many properties have constructed similar railings above low walls as proposed here. The site is therefore in a transitional area where the open character of gardens and driveways gives way to more enclosed frontages. The southern side of Salmon Street has a softer green character in the area immediately surrounding the site due to the substantial grass verges and street trees rather than open frontages. The verge in front of this dwelling would be unaffected.

5. The front garden of this site does not have a soft green character because the area behind the wall is covered with paving and is used to park vehicles. The proposed railings would help to screen parked vehicles and in this way would therefore, in my opinion, make a positive contribution to the character of the area as required by policy BE2 of the Brent Unitary Development Plan 2004 (UDP).
6. In relation to the main issue the proposal would have an acceptable impact upon the character and appearance of the street-scene along this part of Salmon Street. This would comply with policies BE2, BE6 and BE7 of the UDP. The proposal would comply with the advice in the National Planning Policy Framework requiring good design and the relevant policies are consistent with this in these respects.
7. I have attached the standard time limit condition and another requiring compliance with the submitted plans. A condition requiring materials that match the existing building would not fit with the context of this appeal because the existing property does not have any railings at the moment and the low brick walls already exist. It would be unreasonable to attach a condition requiring the submission of a front garden layout as suggested by the Council. This proposal does not directly relate to any changes within that enclosed area.

Overall Conclusion

8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Harwood

INSPECTOR



Appeal Decision

Site visit made on 10 December 2012

by **David Leeming**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2012

Appeal Ref: APP/T5150/D/12/2187124

29 Windermere Avenue, Wembley, Middlesex HA9 8QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Bhupendrakumar Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1948, dated 19 July 2012, was refused by notice dated 9 October 2012.
 - The development proposed is described as proposed regularisations and alterations.
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Decision

1. The appeal is allowed and planning permission is granted for the retention of the existing first floor side extension, gable end roof extension and rear dormer window, with proposed modifications to hipped roof and rear dormer window to dwellinghouse at 29 Windermere Avenue, Wembley, Middlesex HA9 8QU in accordance with the terms of the application, Ref 12/1948, dated 19 July 2012, subject to the following conditions:
 - 1) The development hereby permitted shall be completed within 6 months from the date of this decision, unless otherwise agreed in writing by the Local Planning Authority.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 2011210 Drg No 02 Rev C.
 - 3) All new external work shall be carried out in materials that match, in colour, texture, design and detail, those in the existing building.
 - 4) No windows shall be constructed at first floor level in the side elevation of the property as extended without the prior written consent of the Local Planning Authority.
 - 5) Within 3 months of the date of this decision a scheme of soft landscaping for the frontage shall be submitted to the Local Planning Authority for approval. The approved scheme shall be carried out in accordance with the approved details, to a timetable to be agreed between the appellant and the Local Planning Authority.

Procedural Matters

2. In making his application to the Council, the appellant described the proposed development as set out in the header above. In the refusal of planning permission it is referred to it as follows: Retention of existing first floor side extension, gable end roof extension & rear dormer window with proposed

modifications to hipped roof and rear dormer window to dwellinghouse. This latter description was the one set out in the appeal form. Since it more fully and clearly identifies the development at appeal, it has been used in the decision above and the proposal has been assessed accordingly.

3. In refusing planning permission, the Council raise no objection to the first floor extension in terms of its width and set back. Their principal concerns relate to the altered form of the roof and to the rear dormer window. They consider that the proposed modifications would not overcome their concerns.
4. Subsequent to the site visit the Council have brought to my attention the fact that they issued an enforcement notice relating to the appeal property, on 5 December 2012. Given the success of the current planning appeal it will now be for the Council to consider whether to withdraw it.

Main Issue

5. Having regard to the above, the main issues are whether the roof extension and the rear dormer window, with the proposed modifications, would have an adverse effect on the character and appearance of the dwelling and the surroundings; and if so, whether the development is nevertheless justified because of the fallback position.

Reasons

Character and appearance

6. Planning permission was granted by the Council on 28 March 2012 for the existing first floor side extension but without the hip-to-gable end and with a smaller rear dormer (LPA Ref: 11/2983). The current proposal seeks to retain the hip-to gable end in part but with a modification to partly re-instate the hipped roof. The full width rear dormer would be retained but with a hipped end.
7. The roof above the first floor side extension is currently set below that of the main roofline, giving it the appearance of subservience. The earlier 2012 planning permission permitted the raising of the height of the main roof, in part, to its current height to accommodate the permitted smaller roof extension/dormer. The extended length of the main roof at this height would increase the profile of the roof. However, with the proposed re-introduction of a partial hip, the somewhat stark contrast between the existing gable end and the hipped roof line of the first floor side extension would be lessened.
8. The Council's adopted Supplementary Planning Guidance Note *Altering and Extending your Home* (SPG5) advises that the conversion of a hipped roof into a full gable will not normally be permitted as this results in a significant change to the character and appearance of a house and street scene. The SPG advises that such conversions will not be permitted if the property has an existing two storey side extension. As the appellant points out however, the proposal at appeal is not for a conversion to a **full** gable wall. Whilst the overall resulting roof form, like that currently, would not be typical of others within the area, the visual effect with the alteration would not be such as to result in a visually harmful and discordant development. Neither, bearing in mind the previously permitted significant extension and alteration to the property, would it result in a visual imbalance to the semi detached pair. In so far as it relates to the

proposed roof form, the development complies generally with the aims of Policies BE2, BE7 and BE9 of the Council's UDP 2004.

9. As regards the rear dormer, the Council criticise the detailing, design and fenestration. However, these are generally in keeping with that of the rear elevation. The proposed alteration to the gabled end would lessen the impression of its current box like appearance, and noticeably so in side views above the sloping roofline of the side extension. This would be a material improvement compared with current views from the public realm, even though these are somewhat limited. However, as regards width, the SPG states that rear dormers should be no wider than half that of the original roof plane. The rear dormer, owing to its full width, would appear as a large and visually prominent feature on the rear section of the main roof. This would be apparent from some properties to the rear and from neighbouring gardens. This would detract from the appearance of the property and the surroundings.
10. The appellant draws attention to various other full width rear dormers, including one nearby at 10 Allonby Gardens. However, no information has been submitted to suggest that this or the others he mentions post-date the Council's SPG. Nor, evidently, are they typical of such dormers within the area.
11. Drawing matters together on the planning merits, with the exception of the rear roof dormer, the development is considered not to result in a materially detrimental effect on the character and appearance of the property or the surroundings. The rear dormer does however create harm to the appearance of the building, although the visual impact of this is confined to rear views from neighbouring properties.

Fallback

12. The appellant refers to a fallback position, whereby he could firstly re-instate a fully hipped roof and reduce the rear dormer to accord with the earlier extant 2012 planning permission, following which he could then bring the development back to what currently exists by exercising his permitted development rights. The Council recognise this as a material consideration, on the basis that the cumulative sum would not exceed 50 cubic metres. However, given the cost and disruption to the appellant, the Council are not satisfied that the fallback position is a realistic one.
13. It does seem surprising that, given the necessarily abortive work to reach the current status quo, the appellant would contemplate such action. It also rather calls into point the purpose for his seeking and obtaining planning permission previously for a number of different schemes with less accommodation in the roof space. However, the appellant states categorically that if the appeal fails he would implement the earlier approved 2012 scheme and then undertake the re-instatement to the existing development. He is categorical on this matter because of his need for space. He has provided evidence of his finances to demonstrate his ability to pay for the works involved, plus a contractor's estimate for implementing the 2012 planning permission and subsequent re-instatement to its current form. There is therefore a reasonable possibility that if planning permission were to be refused, the current form of the property would lawfully be re-instated. This would be less desirable than that for which planning permission is sought. In this case, therefore, the fallback position carries significant weight.

14. The significant weight of the fallback position outweighs the limited extent to which the development, because of the width and impact of the rear dormer, harms the character and appearance of the building and the surroundings.

Other Matters

15. An additional concern of the Council relates to landscaping. They state that following conversion of the former garage into a habitable room the appellants have failed to provide soft landscaping improvements to the frontage, resulting in an excessive amount of hard landscaping to the detriment of the setting of the property and the street scene. Soft landscaping was shown on the approved plans relating to an earlier application (LPA Ref: 08/1695). In this case, as noted by the appellant, the Council's concern can be overcome by a suitable condition attached to the grant of planning permission.

Conditions

16. In addition to a landscaping condition, all of the other conditions suggested in outline by the Council, except one, are necessarily being imposed. A period of 6 months will be given to complete the alterations. The development will provide no opportunity for the creation of a balcony roof and it is not therefore necessary to impose the suggested condition to prevent this.

Conclusions

17. For the above reasons the appeal is being allowed.

David Leeming

INSPECTOR



Appeal Decision

Site visit made on 12 November 2012

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 December 2012

Appeal Ref: APP/T5150/C/12/2173993

Land at 130 Vivian Avenue, Wembley HA9 6RT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr M Khan against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/10/0175.
 - The notice was issued on 27 February 2012.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a brick-built building in rear garden of the premises.
 - The requirements of the notice are to demolish the building in the rear garden of the premises, remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal was made on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 as amended. No appeal was made on ground (a) but since the prescribed fees were paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
 - An application for costs was made by Mr M Khan against the Council of the London Borough of Brent. This application is the subject of a separate Decision.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons

Appeal on ground (c)

2. The erection of the brick-built building amounted to the carrying out of development, which was not disputed by the Appellant. The issue is whether the matter constitutes a breach of planning control and more specifically whether the building is development permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended (the GPDO).
3. Article 3(1) of the GPDO grants planning permission for the classes of development set out in Schedule 2 to the Order. Part 1 of Schedule 2 sets out the forms of development permitted within the curtilage of a dwellinghouse.
4. The Appellant relies on Class E of Part 1. In summary Class E permits 'the provision of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such'. This

provision is qualified by E.1, which states the circumstances when development is not permitted. It is common ground that the building complies with all the limitations on siting and size.

5. Case law has established certain principles that should be applied in deciding whether a building falls within Class E¹. The use of the building should not be for accommodation that could be considered to be adding to the normal living space of the dwelling, such as a bedroom, bathroom or kitchen. In order to be permitted development, all of the building must be required for a purpose conducive to the very condition of living in the dwellinghouse. Whilst it is a matter primarily for the occupier to determine what incidental purposes he proposes to enjoy, an objective test of reasonableness should be applied, taking account of all the circumstances of the particular case. The scale of the proposed activities is important. The physical size of the building may also be an important, although not a conclusive, consideration.
6. The dwelling is a semi-detached house, with extensions to the side and rear and living accommodation in the roof space. The new building, erected in the back garden, is some 12 x 5 metres. It is sited about 7 metres from the dwelling and more than 2.5 metres from the boundaries of the property. It takes up a significant part of the garden. The walls are of brick and the roof has a shallow pitch. There is a double door on the elevation facing the house and two doors and two windows on the elevation facing the street, reflecting the internal division of the building. Inside the decoration and finish is to a good standard with central heating (connected to a boiler in the main house) and a number of electric sockets. There is a door between the two main rooms and separate small areas have been formed for a shower room and store. Additional storage space is available below the roof. The property is on a corner plot and as a result the building forms part of the street frontage on Wyld Way. Taking account of its siting, size, design and construction, and the typical pattern of development nearby, the building looks as if would lend itself to residential use.
7. The stated purpose of the building is to provide a gym for use by the Appellant and members of his family. The size and layout of the building is to enable male and female family members to exercise separately for cultural and religious reasons. The Appellant has explained in a statutory declaration that his hobby is keeping fit and weight training. His wife also enjoys keep-fit as a hobby. The decision to build a home gym with segregated facilities followed the difficulties experienced in using a public gym. With reference to a number of sworn statements by relatives, friends and neighbours, the Appellant talked about and was making plans for his gym project back in 2008.
8. A home gym is a common aspiration and has been accepted as being incidental space, as indicated by numerous appeal decisions. Even so, a relevant consideration is whether the building was designed and built with this purpose in mind. The gym is somewhat generous in size for domestic use and was designed to provide an alternative facility to use of a public gym. Such considerations call into question the scale of activities. However, two personal trainers have assessed the space requirements and the range of items of

¹ Judgements include *Emin v Secretary of State for the Environment and Mid Sussex CC* [1989] 58 P&CR 416, *Wallington v Secretary of State for Wales* [1991] 62 P&CR 150, *Holding v First Secretary of State* [2003] EWHC 3138 Admin

- equipment. Their opinion is that the space would allow for efficient use and is an indication of the family's priority to their health and fitness.
9. The probability is that the size and layout of the building were derived primarily from religious requirements and the Appellant's reasonable wish and ability to build to a more spacious standard within the size limits of the GPDO. Various items of gym equipment were in the building at the time of the site visit. There is not the inconsistency of evidence seen in the Crossways and Brampton Road appeal decisions². The Appellant also explained that the equipment could not be accommodated within the extended dwelling because the space in the house was required for bedrooms or was physically unsuitable. As to the other elements, a shower room may be regarded as a complementary facility to a gym. The Appellant, who is an electrician by trade, has adequately explained that the tool store would be for DIY purposes.
10. Within the Appellant's supporting material is a suggestion that the gym may be used not only by Mr Khan and his immediate family living at number 130 but also by other relatives, friends and neighbours. Nevertheless, the statements by Mr Khan place emphasis on the personal use by himself and his family. Also, there is no requirement for the use of a building under Class E to be limited solely to the occupiers of the dwelling. It would be a matter of fact and degree if any future use of the gym by non-residents of the house led to a material change of use of the planning unit³.
11. In conclusion, on the particular facts of this case and weighing all material considerations, the Appellant has demonstrated that the building was erected, and is reasonably required, for a purpose incidental to the enjoyment of the dwellinghouse as such. Therefore it is development permitted by Class E of Part 1 of the GPDO and a breach of planning control has not occurred. The appeal succeeds on ground (c). Accordingly the enforcement notice will be quashed. In these circumstances the appeal under ground (f) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not need to be considered.

Diane Lewis

Inspector

² Land at 10 Brampton Road NW 9 9DD dated 8 December 2010 Ref. APP/T5150/C/10/2130410 and Land at Crossways Macclesfield SK10 4QL dated 13 February 2009 ref APP/C0630/X/2081098

³ A similar approach to future use was adopted in the Beech Coppel appeal decision dated 21 April 2010 ref. APP/R0660/X/10/2120459.



Appeal Decision

Site visit made on 26 November 2012

by Keith Turner LLB(Hons) DipArch(Dist) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 December 2012

Appeal Ref: APP/T5150/C/12/2173824

Flats 1-7, 237A Kilburn High Road, London NW6 7JN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by the Company Secretary of H W B Estates against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/11/0103.
 - The notice was issued on 29 February 2012.
 - The breach of planning control as alleged in the notice is the change of use of the premises from the upper floor maisonette to seven self-contained flats.
 - The requirements of the notice are to cease the use of the premises as seven self-contained flats and its occupation by more than ONE household, remove all items, materials and debris associated with the unauthorised change of use, including ALL kitchens, except ONE, and ALL bathrooms, except TWO from the premises.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed and the enforcement notice is quashed.

Ground (b)

2. The Appellant contends that the allegation in the notice is incorrect in describing the former use of the appeal premises as a maisonette in single family occupation prior to the alleged unauthorised change to seven flats. A considerable number of documents have been submitted which support the Appellant's version of the previous planning history of the property.
3. It is claimed that even when acquired by the present owner in 1972 the premises were occupied by three separate tenants each on occupying a separate floor. In 1993 they were let on a three year lease¹ to J Lyons. A survey dated 5 October 1993 describes some fixtures and contents which do not indicate that the premises were, at that time used as flats. Only one set of kitchen fittings is referred to and one bathroom. The remaining rooms appear to have been furnished as bedrooms or living spaces. It could have been in use as an HMO at that time. Further leases confirm the Appellant's statement that it was let to the same person between 1993 and 2001.

¹ Copy of lease at Appendix N(2) of the Appellant's statement

4. From at least 2002 it is claimed that the premises were used as an HMO. This is confirmed by a telephone log², which refers to the premises being described as vacant Class C3 use – 3 self-contained en-suite bedsits and 4 en-suite bedsits without cooking facilities. Plans³ of proposed works to the premises, dated October 2003, show a layout comprising three self contained flats and four bedsits with en-suite facilities but with a shared kitchen in the mezzanine half landing beyond the first floor. It appears from a letter⁴ that these works were to be imminently carried out. Whilst a letter⁵, dated 6 February 2004, from surveyors who had inspected the property, refers to kitchen and shower facilities being installed in the first, second and third floors, this does not mean that the layout was materially altered.
5. Case law⁶ indicates that the change in the use of three rooms from use as non-self-contained units within a house in multiple occupation to a use as three self-contained units, by virtue of the installation of integral bathrooms had not brought about a material change of use, because there was no change in the number or type of lettings and certain facilities and services were still shared. Consequently, even if the subdivision into en-suite units occurred after 2002, the use was not materially changed.
6. In the absence of any evidence from the Council to the contrary, I find that, on the balance of probability, the premises were not used as a maisonette for occupation by a single household prior to the Notice being issued. Furthermore, on the balance of probability, the evidence before me, supports the Appellant's contention that, the premises were used either as an HMO for at least ten years prior to the Notice being issued, or as a mixed use of HMO and three self-contained flats. That use is confirmed to have existed by December 2002 based on the telephone log, and there is nothing to indicate that it was not so used before then. Consequently, in the absence of any evidence to the contrary, I find that the mixed use was lawful by virtue of Ss 191(2)(a) and 171B(3) of the Act.
7. For the above reasons I find that the appeal under Ground (b) succeeds to this limited extent. However, it remains necessary to consider the further grounds of appeal.

Ground (c)

8. The next matter to be addressed is whether, in the light of my findings about the former use of the appeal premises, the present use constitutes a material change of use for which planning permission is required. If it does, then a breach of planning control has occurred. However, the Appellant contends that whilst there have been changes to the arrangement of and facilities associated with the residential occupation, they are not material in planning terms.
9. I have found above that the premises were occupied as 3 self-contained flats and 4 en-suite bedsits without cooking facilities. From my inspection⁷ the disposition of the accommodation is similar to that shown on the plan referred to above. However, whereas there was a separate communal kitchen for four

² Appendix N(7) of the Appellant's statement

³ Appendix N(9) of the Appellant's statement

⁴ Appendix N(8) of the Appellant's statement

⁵ Appendix N(12) of the Appellant's statement

⁶ *Gojkovic ex parte Kensington and Chelsea RBC* [1993] JPL 139

⁷ Access to Flat 5 was not possible, but the Appellant's representative confirmed that the layout was the same as Flat 3 immediately beneath it.

bedsits, cooking facilities have now been incorporated into each. The use has, therefore, changed to seven self-contained bedsit flats. Their self containment extends to separate lockable doors on each, separate electricity meters, and a fire alarm system for common areas. However, the number of occupants is, in all probability, the same as it appears to have been for the ten years prior to the notice being issued because the rooms are similar in size.

10. The Appellant contends that the change from bedsits with en-suite facilities but communal cooking facilities to self-contained flats is not a material change of use and cites three appeal decisions⁸ which support of this view. Whilst all of those decisions date back to the early 1990's they were all made during the currency of the present Principal Act.
11. Conversion of an HMO into separate flats is not necessarily a material change of use⁹. If, as in this case, there are only internal works and no increase in the number of units then, provided there is no change in the overall character of the use there is no material change of use. Sub-division of the planning unit may have occurred, but that of itself, is not a material change of use¹⁰. Such a change becomes material only if, as a matter of fact and degree, such a division has planning consequences.
12. In this instance the number of occupants is the same. Consequently, there would be no material change in traffic generation or parking requirements, no increase in general activity, refuse generation or other service requirements. Therefore I find that there would be no planning consequences which would alter the character of the use. Accordingly, I conclude that there has been no material change of use arising from the alterations made in 2009 when the four en-suite bedsits were converted into self-contained bedsits.
13. For the above reasons the appeal under Ground (c) succeeds on the basis that no material change of use has occurred from the previous lawful use and, therefore, no breach of planning control has occurred as alleged in the Notice. The remaining grounds of appeal do not fall to be considered.

Keith Turner

⁸ T/APP/C/93/G2625/630108; T/APP/C/93/T5150/630021; APP/G/91/N1405/2

⁹ Lipton v SSE (1976) P&CR 95

¹⁰ Winton v SSE [1984] JPEL 188



Appeal Decisions

Site visit made on 28 November 2012

by **Alan Woolnough BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2012

Appeals A & B: APP/T5150/C/12/2170669 & 2170670 26 Brownlow Road, London NW10 9QL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Mohammad Ishaq and Mrs Shamim Akhtar against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/11/0770.
- The notice was issued on 6 January 2012.
- The breach of planning control as alleged in the notice is: 'Without planning permission, the change of use of the premises from a single family dwellinghouse to ten self-contained flats; the erection of a rear dormer window and hip to gable end roof extension; demolition of a garage to side and the erection of single storey extensions to side and rear of the premises'.
- The requirements of the notice comprise the following steps:
 1. Demolish the single storey rear extension in the rear garden of the premises, remove all items and debris arising from that demolition and remove all materials associated with the unauthorised (*sic*) from the premises.
 2. Demolish the single storey side extension, remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 3. Demolish the rear dormer and hip to gable end roof extension from the premises (*sic*), remove all items and debris arising from that demolition, and remove all materials associated with the unauthorised development from the premises. Restore the roof back to its original condition before the unauthorised development took place.
 4. Cease the use of the premises as self-contained flats and its occupation by more than ONE household, remove (*sic*) all items, materials and debris associated with the unauthorised change of use, including ALL kitchens, except ONE, and ALL bathrooms, except TWO, from the premises.
- The period for compliance with the requirements is six months.
- Appeal A (2170669, Mr Ishaq) is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid on Appeal B (2170670, Mrs Akhtar) within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered in that case. Appeal B is therefore proceeding on grounds (c) and (f) only.

Summary of Decisions: Appeal A is allowed in part on ground (a) and planning permission for that part is granted. The appeals are otherwise dismissed and the enforcement notice is upheld subject to corrections.

The notice

1. The alleged breach of planning control set out in schedule 2 of the enforcement notice should refer to a *material* change of use, this being the act of

development as defined by statute. The word 'development' is missing from step 1 in schedule 4, whilst steps 3 and 4 require amendment in the interests of grammatical accuracy. I will direct that the notice be corrected accordingly. No injustice to any party arises in doing so.

The appeals on ground (c)

2. In appealing on ground (c), the Appellants must demonstrate on the balance of probabilities that the matters stated in the enforcement notice do not amount to breaches of planning control. In this regard, the Appellants' case is confined to the demolition of the garage and the erection of the single storey side and rear extensions, rear dormer window and hip to gable end roof extension.
3. The Appellants rely on the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the GPDO). Article 3 grants deemed planning permission for works defined by Schedule 2 to the GPDO as permitted development. Class A of Part 1 of Schedule 2 defines as permitted development the enlargement, improvement or other alteration of a dwellinghouse (excluding alterations to any part of the roof) subject to certain conditions and limitations. Class B does the same for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. The Appellants contend that all the relevant limitations and conditions have been adhered to in this case.
4. The Council points out that the rear extension projects beyond the rear wall of the original dwellinghouse by more than 3 metres and, therefore, fails to comply with limitation A.1(e)(i) of Class A. I concur, a measurement of 3.7 metres having been agreed between the parties during the course of my visit. The Council also suggests that the ridge of the original hipped roof of the property has been raised to accommodate the flank wall of the hip to gable end roof extension, such that it exceeds the highest part of the original dwellinghouse. It thus cites non-compliance with limitation A.1(b) of Class A. However, as an alteration to the roof is involved I find limitation B.1(a) of Class B, which essentially imposes the same height restriction, to be more relevant.
5. The Appellants contend that the ridge of the roof of the original dwellinghouse has not been raised as part of the appeal development. However, this has not been demonstrated by means of cogent evidence and drawings they supply that purport to depict the property prior to the works being undertaken show the ridge height as having been the same as that of the adjoining property, No 24, whereas at present it is visibly greater. As the burden of proof rests firmly with the Appellants and has not been met in this regard, I am not in a position to give greater weight to their version of events.
6. I note that the ridge of the appeal property remains below the top of the parapet wall that divides the roofs of Nos 24 and 26. Although I am unable to tell whether this in itself remains unaltered, page 32 of the CLG publication *Permitted development for householders – Technical guidance* (August 2010) make it clear that chimneys, firewalls, parapet walls and other protrusions above the main ridge line should not be taken into account when considering the height of the highest part of the roof of the existing house for the purposes of Class B.

7. However, notwithstanding the above, I find more pertinent the Council's further argument that none of the subject additions to the appeal property benefit from permitted development rights pursuant to Part 1 of Schedule 2 to the GPDO as these do not apply to a building subdivided into flats. The Appellants assert that the works in question were carried out in stages. On their account, the various extensions were commenced and completed in September/October 2011, at which time it was their intention to renovate the property and rent it out as a single dwellinghouse. Discussions with various departments of the Council led them to opt instead for conversion of the property to a house in multiple occupation (HMO), a regularisation form to this effect was submitted to Building Control and a second set of alterations was undertaken by a different building contractor in November 2011. Only then did they decide to put the building to use as self-contained flats.
8. However, there is no cogent evidence before me to substantiate the Appellants' assertion that their project evolved in this way. The drawings they supply depict an internal layout that includes additions similar to those eventually provided and which, potentially, could facilitate use as a single dwellinghouse. However, these are not sufficient to establish that the implementation of such a scheme is likely to have taken place. In particular, I have seen nothing to demonstrate that the various additions to the building were put to use in such a way as to form part and parcel of the lawful use of the property as a single dwellinghouse before the flats conversion occurred. In the absence of substantive material to the contrary, I consider it more likely that all these extensions were constructed for the express purpose of facilitating a conversion to a HMO or flats. This being so, Part 1 permitted development rights would not apply.
9. I conclude on the balance of probabilities that the demolition of the garage and the erection of the single storey side and rear extensions, rear dormer window and hip to gable end roof extension did not benefit from permitted development rights. Nor has express planning permission been granted for these works. They therefore amount to a breach of planning control and the appeals on ground (c) fail.

The appeal on ground (a)

Main issues

10. The main issues in determining the appeal on ground (a) are:
 - the effect of the development on the character and appearance of the host property and the surrounding area;
 - the implications of the development for the adequacy of the Borough's housing stock, with particular reference to the need for family dwellinghouses;
 - the adequacy of the living conditions of the occupiers of the appeal property, with particular reference to room sizes, room stacking and cycle storage; and
 - the effect of the development on the living conditions of neighbouring residents, with particular reference to noise, refuse storage and parking provision.

Planning policy

11. The development plan includes the Council's Core Strategy 2010 (CS) and certain policies of the Unitary Development Plan 2004 (UDP) that have been saved following a Direction made by the Secretary of State.
12. Paragraph 214 of the National Planning Policy Framework (NPPF) advises that until 27 March 2013 decision-takers may continue to give full weight to relevant policies in development plan documents adopted in accordance with the 2004 Act, such as the CS, even if there is a limited degree of conflict with the NPPF. Paragraph 215 adds that due weight should be given to policies in other existing plans, such as the saved UDP policies, according to their degree of consistency with the NPPF.
13. I find no significant conflict with the NPPF in respect of the development plan policies cited by the main parties in this case. Accordingly, I afford them full weight insofar as they are relevant to the appeal. Reference is also made to Supplementary Planning Guidance (SPG) 17: *Design Guide for New Development*, adopted by the Council in 2001. As this was subject to public consultation, is referenced in the development plan and does not conflict with the NPPF it carries substantial weight.

Reasoning

14. I acknowledge that, if the property were to be returned to its lawful use as a single dwellinghouse, additions similar in size and location to those that are the subject to this appeal could be made with the benefit of deemed planning permission pursuant to the GPDO, albeit that on the evidence before me the roof addition might need to be marginally lower and the rear extension would need to be 0.7 metres shorter in order to comply with the relevant limitations. However, the weight to be attributed to a fallback position of this kind is a matter of fact and degree and is dependent on the likelihood of it being implemented.
15. As previously indicated, the preparation of drawings depicting a single dwelling layout does not in itself demonstrate the likelihood of such a scheme being implemented. I am also mindful that the property was large enough to accommodate a sizeable family before the works were carried out and that off-street parking space is likely to prove important to such a household. This being so, I think it unlikely that any of these additions would be required were the dwelling to be occupied as a single unit, no case to this effect having been put forward. I do not therefore consider it probable that any component of the fallback position would be implemented should the appeals be dismissed and, accordingly, afford this possibility little weight in determining the appeal on ground (a).

Character and appearance

16. The area in the immediate vicinity of the appeal property is characterised for the most part by two storey terraced dwellings which appear to date from the late 19th century. It is not a conservation area and it is apparent that some houses have been altered substantially. Nonetheless, the retention of many original features, such as three sided front bays with decorative surrounds and sash windows at first floor level, contribute to a particularly attractive and distinctive sense of place which is eroded to only a limited degree by plainer, more recent development in Suffolk Road.

17. In a departure from the predominant house form, the appeal property comprises half of a semi-detached pair with 24 Brownlow Road. It is apparent that, prior to the appeal development being carried out, the pair exhibited a pleasing degree of symmetry, particularly by reason of its hipped roof. However, this has been eroded substantially by the straight gable end to the subject roof extension, the unbalancing effect of which is particularly noticeable at distance along Goodson Road, which is opposite the site.
18. I note that both 22 and 32 Brownlow Road, in close proximity to the appeal property, also have straight gable ends. However, both terminate substantial terraces and, consequently, do not introduce such a jarring degree of asymmetry to the street scene. I found any sense of balance that the appeal development establishes with the flank wall of No 32 to be more than countered by the incongruity of the lop-sidedness of the roof of the host pair.
19. The flat-roofed single storey side extension targeted by the enforcement notice is similarly detrimental to the host property and the local townscape. Although it has replaced the former garage, which was of similar footprint and also had a flat roof, photographic evidence confirms that it is significantly higher than that structure and has an uglier front roofline and unduly prominent side parapet wall. Moreover, as a feature typical of a modern street scene the garage, in all probability, did not appear particularly incongruous and would not have drawn the eye. Whilst I note the Appellant's contention that it was an unused eyesore in poor condition, it is not apparent that it was beyond renovation and re-use.
20. By contrast, the eye is immediately drawn to the front elevation of the replacement extension by reason of its inappropriate window. This has a horizontal emphasis at odds with other fenestration at the front of the property and is far from typical of the street scene. It compounds the visual detriment arising from the utilitarian design of the structure, which draws to no significant degree on the prevailing architecture of the locality, and detracts markedly from the appearance of the appeal property itself and the wider townscape.
21. Although the flat roofed dormer is at the rear of No 26, its south-facing cheek is readily visible from Brownlow Road and far more of the structure can be seen in public views from Suffolk Road. It occupies most of the rear roof slope and, particularly from the latter viewpoint, appears unduly bulky, over-dominant, ugly and incongruous. It again draws the eye as an obtrusive and unsightly feature and causes significant harm to both building and street scene. Whilst flat roofed dormers have been added, or are integral, to other properties in the vicinity, they are far from typical of the area. Where they do exist, they are mostly smaller or less prominent than the appeal development and, in any event, are unworthy of replication.
22. Although the flat roof of the single storey rear extension can be glimpsed from Suffolk Road it has little effect on public perceptions of No 26 or the wider street scene. On the contrary, the structure is only readily visible in private views from the rear windows of a limited number of properties in the immediate vicinity. Moreover, although the subdivision of the appeal property into flats has inevitably generated a greater number of comings and goings and has resulted in more refuse bins being placed at the front of the property than would usually be associated with a single dwelling, the use itself is not, in my assessment, so obvious as to impact significantly on the character of the building or the wider area.

23. However, this does not outweigh the visual harm caused by the side extension and the additions to the roof. I therefore conclude that these elements of the appeal development are harmful to the character and appearance of the host property and the surrounding area and thus contrary to saved UDP Policies BE2, BE9 and H18, SPG17 and the relevant provisions of the NPPF. As the fallback position carries little weight for the reasons I have already explained, it does not provide justification for a departure from these policies.

Housing stock

24. Saved UDP Policy H17 records specifically that flat conversions will be permitted unless certain criteria apply. Of these, the only criterion relevant to the appeal property is that which concerns its original floorspace. The policy specifies that if a property has an original (unextended) floor area of less than 110 square metres, conversion to flats will not be permitted. It is clear from the supporting text that the aim of the policy is to ensure the retention of small purpose-built family dwellings, which meet a specific housing need in a Borough with a disproportionately high number of larger families.
25. Estimates of the floor area of the original dwelling vary between the parties. Nonetheless, it is common ground that this exceeded 110 square metres and, indeed, the plans supplied by the Appellant, the accuracy of which has not been challenged by the Council, suggest that this was the case. However, Policy H17 also records that, if the property is in a location where conversions are restricted, this floorspace threshold rises to 140 square metres, which all agree is significantly larger than the appeal property prior to its extension.
26. Although Policy H17 cites Policy H22 for the purposes of identifying restricted locations, this is clearly erroneous. The relevant clarification is instead found in saved UDP Policy H19, which advises that restricted locations are essentially those where on street parking would be unacceptable because a section of street is already heavily parked or the location presents particular traffic safety hazards. However, on the evidence before me, neither situation applies in this case. This part of Brownlow Road is a quiet cul-de-sac with no apparent traffic safety hazards. Moreover, at the time of my early afternoon mid-week visit ample on-street parking was available to local residents and the Council has provided nothing to substantiate its assertion that take-up of available kerbside space is significantly greater at other times.
27. I conclude, in the absence of cogent evidence to the contrary, that there is no policy presumption against the principle of converting No 26 to flats and, accordingly, that the Council's objectives with regard to the profile of its housing stock would not be compromised should the property not revert to a single dwelling. This being so, I find no significant conflict with CS Policy CP21 or saved UDP policies H17 or H19.

Living conditions of the appeal property's occupiers

28. The Appellant portrays the appeal development as good quality social housing which could be held up as an example for others to emulate. He also points out that various Council departments agree that the development has been carried out to a high standard. Having viewed it for myself, I find this to be so in some respects, including safety, security and cleanliness. Nor do I question that some of the accommodation could cater for some disabled persons and could be readily adapted for wheelchair access. However, saved UDP Policy

H18 sets out to uphold specific standards of accommodation, including those set out in SPG17, which this conversion clearly does not comply with in relation to internal floorspace.

29. The provisions of SPG17 include, at section 3.5, a minimum floorspace threshold for studio flats of 33 square metres. Simple arithmetic confirms that, if the four flats facilitated by the unauthorised enlargement of the property are excluded, the average floorspace of the remaining six flats falls well below this standard. Whilst I note that organisations such as Brent Private Housing Services, Community Support Service and Housing Solutions Service all welcome the availability of this accommodation, it is not apparent from the evidence before me that their letters of general endorsement are underpinned by professional assessments that have taken into account the relevant spatial standards. Indeed, none makes specific reference to the floorspace of the various units.
30. I acknowledge that the SPG is prescriptive guidance to which the decision maker should have regard, rather than a set of stringent standards from which there can be no departure other than in exceptional circumstances. Nonetheless, the discrepancy between guidance and actuality is too great in this case to be set aside. Indeed, I find it to confirm the impression gleaned during my internal inspection of the property that some flats are simply too small to provide their occupiers with adequate living conditions.
31. Notably, Policy H18 also militates against the erection of significant side or rear extensions to raise the number of flats and specifies that roof space should be large enough to contain a one-bedroom unit to development plan standards without extension unless the property is on a large plot. Whilst I note that the roof contained accommodation pre-conversion, I have not been made aware of what this comprised. Moreover, both policy and SPG seek to avoid the 'stacking' of bedrooms above or below living room or kitchen areas. It is not readily apparent from the information before me that this has been achieved in this case, although I acknowledge that sound proofing might resolve any associated problems.
32. The desirability of suitable cycle parking and refuse storage facilities promoted by the policy and/or SPG adds to my concern. The only available location for the refuse bins is at the front of the property, where they detract from the street scene. Whilst the Appellant suggests that cycles could be stored in the rear garden, the only access to this at present is along a narrow internal corridor which serves the ground floor flats and would be difficult to negotiate with a bicycle.
33. I conclude that the conversion at the appeal property does not provide its occupiers with acceptable living conditions by reason of inadequate internal floor areas and layout. Whilst facilities appear to have been provided to a high standard in other respects, this does not outweigh the fundamental requirement to supply sufficient living space. I therefore find the appeal scheme to be contrary to saved UDP Policy H18 and SPG17 in this regard.
34. I am aware of no special circumstances that might justify such a marked departure from the relevant standards in this case. This being so, a grant of planning permission pursuant to this appeal could seriously undermine the Council's planning objectives in seeking to maintain adequate living conditions for the residents of the Borough.

Living conditions of neighbouring residents

35. Whilst I acknowledge that subdivision into ten flats is likely to have resulted in more residential activity than would otherwise have been associated with the property, this does not necessarily mean that noise thus generated is likely to reach unacceptable levels or could not be adequately addressed by means of soundproofing. I have seen no technical evidence to this effect and, in its absence, am not persuaded that increased comings and goings at the property have, in themselves, disrupted the enjoyment of neighbouring dwellings by their occupiers.
36. Nor do I find any of the additions to the property that are the subject of this appeal to impact unacceptably on the amenities of neighbouring occupiers. The dormer does not introduce significant additional overlooking and the side extension has little additional impact on the rear curtilage or elevation of 5 Purcell Mews, to the south, over and above that likely to have been caused by the garage it has replaced.
37. The Council has focused in this regard on the projection of the unauthorised rear extension by 3.7 metres beyond the rear of the appeal property and its height of a little over 3 metres, asserting that maximum dimensions specified in the UDP are thus exceeded. The relevant UDP policy has not been drawn to my attention and I suspect that, if such restrictions exist, they are more likely to be found in SPG which I have not been provided with in association with this appeal. I shall nonetheless assume for the purposes of my decision that there is guidance to this effect within the local planning framework, whilst bearing in mind that prescriptive standards of this kind should be applied with flexibility and discretion.
38. There is nothing to be gained in requiring rigid adherence to such standards in circumstances where a departure therefrom would not cause harm to interests of acknowledged importance. In this case, it is not apparent that any adverse impact on the enjoyment of No 24 by its occupiers has been caused by way of loss of light or outlook. There are steps leading to first floor level at the rear of that property adjacent to the subject extension. Consequently, I think it most unlikely that unacceptable encroachment on windows or significant parts of the rear garden has resulted from the appeal development. The Council has not demonstrated to the contrary and, tellingly, the occupier of No 24 has written to support the appeals. A departure from guidance prescribing maximum dimensions in the interests of safeguarding amenity is justified in such circumstances.
39. Although the appeal property has no parking space, the nature of the accommodation within it and the sustainable location close to public transport facilities are such that it is likely to attract relatively low levels of car ownership. In any event, as previously indicated, it has not been shown that demand for kerbside parking in Brownlow Road and surrounding streets is subject to high demand, such that parking generated by the appeal scheme would be likely to cause inconvenience for others wishing to park their vehicles on-street. I therefore find no serious conflict with saved UDP Policy TRN24.
40. The only consideration that strikes me as running counter to the Appellant's case in the context of this issue is the increased number of refuse bins stationed at the front of the property. It has not been demonstrated that there is scope for keeping these within bin stores in accordance with saved UDP

Policy H18 and SPG17 and, accordingly, there is potential for odour nuisance to adjacent occupiers. I conclude on the evidence before me that the appeal scheme has only limited adverse implications for the living conditions of neighbouring residents, by reason of odour associated with inadequate refuse storage. Therefore, in relation to this particular issue I find conflict with the development plan and associated guidance in this regard only.

Summary

41. I find most of the operational development targeted by the enforcement notice to detract markedly from the character and appearance of the host property and the wider street scene. The only addition which is acceptable in planning terms is the rear extension which, despite its depth, does not impact on visual or residential amenity. I am therefore minded to grant planning permission for this element of the appeal scheme alone and to refuse it for the other built additions.
42. Turning to the use of the building as flats, I find on the evidence before me that there can be no valid policy objection in principle thereto in circumstances where kerbside parking in the immediate area has not been shown to be particularly high. Consequently, the appeal scheme appears to have no significant adverse consequences for the profile of the local housing stock or on-street parking in the area. Impact on the living conditions of neighbouring residents is also limited.
43. However, I find these considerations to be outweighed by the inadequate living conditions afforded to the occupiers of the appeal conversion, primarily by reason of inadequate floorspace and layout. I am not therefore minded to grant planning permission for the use of the property as flats.

Other matters

44. I have considered all the other matters raised. The Appellant advises that, if necessary, he would accept a temporary planning permission for the appeal development. However, Circular 11/95: *The Use of Conditions in Planning Permissions* makes it clear that the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one.
45. In seeking more time in which to serve eviction notices and explore alternatives with the Council, it would have been more appropriate for the Appellant to seek an extended period in which to comply with the requirements of the enforcement notice by means of an appeal on ground (g). Notwithstanding the absence of such an appeal, it remains within the Council's power to further extend the period for compliance under section 173A(1)(b) of the 1990 Act as amended, should a convincing case for doing so be made.
46. I note the Appellant's comments to the effect that in carrying out the conversion works and enlarging the property he has improved its physical condition. However, it is not apparent that this could not have been achieved by means that were acceptable in planning terms or, indeed, did not fall within the remit of planning control. I acknowledge that the conversion scheme maximises the use of the available space within the property and meets some of the criteria set out in saved UDP Policies BE9 and H18. However, it clearly fails to comply with other policy requirements.

47. It is clear from the statements of various Council departments that there is a shortage in the Borough of accommodation for single people on housing benefit and I note the Appellant's comments to the effect that current tenants were previously homeless, in hostels or living with friends and on community services waiting lists and jobseeker's allowance. However, the existence of a pressing need does not in itself justify the use of accommodation that fails to provide adequate living conditions in accordance with the Council's adopted standards.
48. The Appellant is willing, if need be, to reduce the number of units within the conversion, provide shared facilities and amend its internal layout accordingly. However, merely combining the second floor units and converting the side extension to a store, as suggested, would not resolve the problems that I have identified. Other options that go beyond these limited steps would represent a marked departure from the deemed planning application before me and, in any event, no plans depicting such alternatives have been submitted for my consideration. Possibilities of this kind would be more properly explored with the Council by means of a new planning application.
49. I have noted the Appellant's reasons for pressing ahead with the conversion without the benefit of planning permission and have taken into account the support of the neighbouring occupier. However, neither these nor any other matters are of such significance as to outweigh the considerations that have led to my conclusions on the main issues.

Conditions

50. Neither the Appellant nor the Council has suggested conditions that might be attached to a grant of planning permission. My considerations in this regard are confined to the erection of the rear extension.
51. Having regard to the advice in Circular 11/95 I am satisfied that no conditions are required, other than to restrict the use of the rear extension to purposes incidental to the use of the property as a whole as a single dwellinghouse. Such a condition is prudent in the interests of residential amenity, given the limited size of the self-contained unit that the extension accommodates and that the deemed planning application, insofar as it relates to the erection of this extension, could be construed as seeking permission for a continuation of that existing use.

The appeals on ground (f)

52. My considerations in relation to this ground of appeal do not relate to the erection of the rear extension, for which I am minded to grant planning permission. In appealing on ground (f), the Appellants must show that the steps specified in the enforcement notice in relation to the remaining components of the appeal scheme exceed what is necessary to remedy the breach of planning control thus constituted or, as the case may be, any injury to amenity arising therefrom.
53. However, an amended layout with shared facilities and a reduced number of units, as suggested, would not fulfil the purpose of the enforcement notice or overcome the objections I have identified. Rather, options of this kind would in themselves require planning permission and thus are more properly considered in the context of an appeal on ground (a). Having done this already, I have found such measures to be far from adequate. I conclude that the

requirements of the notice are not excessive and, accordingly, the appeals on ground (f) do not succeed.

Conclusions

54. For the reasons given above and having regard to all matters raised, I conclude that Appeal A should succeed on ground (a) so far as it concerns the erection of the rear extension. Planning permission will therefore be granted on the deemed planning application in relation to that matter.
55. However, I further conclude that both appeals should otherwise be dismissed. It will therefore be directed that the enforcement notice be upheld subject to corrections and planning permission will be refused on the deemed planning application for the remainder of the development.
56. Although planning permission is granted for the erection of the rear extension, it will not be directed that step 1 in schedule 4, which requires its demolition and removal, be deleted from the notice. Instead, reliance is placed on section 180 of the 1990 Act as amended, by reason of which the notice ceases to have effect so far as it is inconsistent with the planning permission granted on the deemed planning application.

Formal decisions

Appeal A: APP/T5150/C/12/2170669

57. It is directed that the enforcement notice be corrected by:
- (i) in schedule 2, the insertion of the word 'material' before the words 'change of use of the premises';
 - (ii) in step 1 in schedule 4, the insertion of the word 'development' after the word 'unauthorised';
 - (iii) in step 3 in schedule 4, the deletion of the words 'from the premises' after the word 'extension' and their reinsertion after the word 'demolition'; and
 - (iv) in step 4 in schedule 4, the deletion of the word 'remove' and the substitution therefor of the word 'removing'.
58. Subject to the above corrections, the appeal is allowed insofar as it relates to the rear extension referred to in the enforcement notice and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the erection of a single storey extension to the rear on land at 26 Brownlow Road, London NW10 9QL, subject to the following condition:
- 1) The extension hereby permitted shall be used solely for purposes incidental to the use of the property as a whole as a single dwellinghouse.
59. Subject to the above corrections, the appeal is otherwise dismissed and the enforcement notice is upheld insofar as it relates to the material change of use of the premises to ten self-contained flats, the demolition of the garage and the erection of a single storey extension to the side, a rear dormer window and a hip to gable end roof extension. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended in relation to those matters.

Appeal B: APP/T5150/C/12/2170670

60. The appeal is dismissed.

Alan Woolnough

INSPECTOR



Appeal Decision

Inquiry opened on 3 October 2012

Site visit made on 30 October 2012

by Brian Cook BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2012

Appeal Ref: APP/T5150/C/12/2179050

8 Craven Park, London NW10 8SY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Veni Properties Limited against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/12/0676.
 - The notice was issued on 28 May 2012.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the premises to twelve residential flats ("The unauthorised change of use").
 - The requirements of the notice are cease the use of the premises as residential flats and its occupation by more than ONE household, remove all items, materials and debris associated with the unauthorised change of use, including all kitchens, except ONE, and all bathrooms except TWO, from the premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) and (f) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed and the enforcement notice is quashed.

Applications for costs

2. At the Inquiry applications for costs were made by the Council against the appellant and by the appellant against the Council. These applications are the subject of separate Decisions.

Procedural matters

3. The appellant explained that the personal circumstances of Mr Kyte had prevented display of the site notice for the required period prior to the Inquiry opening. However, given the Council's notification of the event (Document 1) it was agreed that no prejudice to any interest would have been caused.
4. The Inquiry opened on 3 October and was adjourned when it became clear that it would not be possible to complete the evidence and closing submissions within the day previously indicated by the parties as sufficient. By the time of the adjournment Mr Clarke had completed the case for the appellant.
5. It transpires that the appeal property was sold by the appellant to another party on 19 October 2012. However, there is a retention on the contract of

- sale concerning, as I understand it, the outcome of these proceedings and the change of ownership therefore is not material to my decision.
6. Notwithstanding the completion of the appellant's case a further substantial bundle of evidence (Document 6) was submitted during the adjournment. At my request the Planning Inspectorate wrote to the parties on 22 October asking Mr Clarke to explain on the resumption:
 - (a) why this information was not available when the Inquiry opened, particularly as Mr Kyte's letter suggested that it was provided to the Council not later than 20 August as part of another application.
 - (b) how this was now to be introduced to the Inquiry.
 - (c) who was to be called/recalled to answer any questions about it that Mr Wicks and/or I may have.
 7. The Inquiry resumed on 30 October. Having considered the response, which included the suggestion that the appellant's case would need to be re-opened with one witness being recalled and another witness giving evidence for the first time, I agreed that in the circumstances explained the evidence should be received. However, in the interests of natural justice I also agreed to the Council's request for an adjournment so that Mr Wicks could properly consider the documents and prepare questions about them. Mr Clarke was asked to submit the additional proofs of evidence that he indicated would be required not later than 17:00 on 2 November. To minimise the additional Inquiry time needed the formal site inspection took place following the adjournment.
 8. The Inquiry resumed for a second time on 27 November.
 9. All the oral evidence was given under oath.

The notice

10. Mr Wicks explained that he had been instructed in this matter after the appeal had been lodged and therefore had no part in the enforcement investigation or the drafting of the notice. He had however reviewed the evidence on which the notice was based and had not considered it necessary or appropriate to advise any alternative course of action to the Council.
11. As a planning authority, the Council appears to have first become aware of a potential breach of planning control at the property when the appellant submitted an application (ref: 12/0506) for a certificate of lawful existing use as 12 self-contained studio flats (the LDC application). This was refused on 8 May 2012. Only the decision notice has been provided in evidence and Schedule B, which sets out the reasons for the decision, is somewhat confusing. However, it appears that the reason was that the Council did not accept that the building was arranged as claimed. The basis for this appears to be that there were shared facilities on the top floor and one of the units did not benefit from WC facilities. As such all the units were not self-contained as claimed. The decision notice also confirms that the site was visited sometime in April 2012.
12. Document 11 also reveals that an enforcement case was then opened on 8 May with a further site visit being carried out on 11 May. A letter was sent to the owners on 17 May with the notice that is the subject of this appeal following on 28 May.

13. Document 11 and the draft notice forming part of it reveal that the officer preparing it considered the breach to be a 'change of use....to self-contained and non self-contained flats'; no number is given. This would be consistent with the refusal of the LDC application where the Council appears to have concluded that not all of the flats were, as a matter of fact and degree, actually self-contained dwellinghouses. This however was changed prior to issue to the breach recorded in the summary details above and one of the draft reasons for issuing the notice was deleted. No explanation for this is given in the evidence and in the breach alleged there is no reference to the flats being self-contained or otherwise. On the face of it therefore the breach eventually alleged appears to be that which the Council concluded had not occurred when refusing the LDC application.
14. It is apparent from a comparison of the 'reasons' in the draft notice with those in the issued notice that the only other changes are the deletion of the words 'from a single family dwellinghouse to self-contained and non self-contained', the addition of references to the National Planning Policy Framework and the deletion of '...and 10 years'. Notwithstanding the evidence of Mr Wicks on this point, as put in the notice to which the appellant must respond the Council does not appear, in this case, to identify any different planning consequences arising whether the units within the building are self-contained or not. This suggests that, in this case, a change of any unit from non self-contained to self-contained or vice versa is not considered by the Council to amount to a material change in the use of the building as a whole. Since no number was included initially, it is not clear either why a number of units different to 12 would give rise to materially different planning consequences.
15. Having seen the building for himself on 30 October, Mr Wicks suggested during his evidence that the description of the breach of planning control alleged was probably wrong. However, he did not invite me to correct it nor did he suggest what it should be. Mr Clarke confirmed that the appellant had initially understood it to mean 12 self-contained flats and had proceeded on that basis. He urged me in the particular circumstances of this matter (which are the appellant's efforts to establish the lawfulness of the existing use of the building) not to quash the notice on the basis of a badly described breach if I considered that this could not be corrected without causing injustice.
16. Flats are dwellinghouses for the purposes of the Act and the courts have determined what constitutes a dwellinghouse. In the context of a change of use of a building to separate dwellinghouses a degree of individual self-containment is implied. While both parties appear at the outset to have had the same understanding of what the notice is intended to mean this was not the case by the end of the Inquiry. Notwithstanding the various inconsistencies that I have noted I consider that in the very specific circumstances of this case it is in the best interests of all concerned that I should determine the appeal on the basis of the notice as issued, that is a change of use to 12 residential flats with no reference to their self-containment or otherwise.

The appeal on ground (d)

Background and Introduction

17. The Statement of Common Ground (SoCG) (Document 5) and the evidence establish a number of important matters. The appeal building was erected as a three-storey single dwellinghouse around 1900 but, when purchased by the

appellant in November 2000, it was arranged as four self-contained flats, all of which were vacant at the time. No express planning permission has ever been granted in respect of any development at the appeal building and there is no record of any certificates pursuant to s191 of the principal Act having been issued.

18. Mr Christides owns a large number of properties. Now it is about 70 although at other times it has been in excess of 400. There was some uncertainty in his evidence as to the number of buildings involved. For example, the appeal premises is considered to be one building but 12 properties. Nevertheless, it is an extensive property portfolio and Mr Christides confirmed during his evidence-in-chief that he never dealt with the tenants as he had more important things to do in connection with the business.
19. In respect of the appeal property that business is providing accommodation to assist, principally, the London Borough of Brent meet its statutory duties to the homeless and other vulnerable people. He confirmed that this meant meeting the precise needs of the Council at any point in time. These varied, sometimes requiring accommodation for families, sometimes for single people. In order to continue in business he explained that he had to reconfigure the appeal property from time-to-time to ensure that these requirements could continue to be met. The evidence from Mr Latham confirms that such reconfiguration occurred on a reasonably regular basis.
20. In appeals on the legal grounds the burden of proof rests with the appellant. The appellant's own evidence does not need to be corroborated by independent evidence and, unless the local planning authority has evidence of its own or from others to make the appellant's version of events less than probable, there is no good reason to dismiss the appeal provided that the appellant's evidence alone is, on the balance of probabilities, sufficiently precise and unambiguous on its own¹.
21. Since there is no appeal on either ground (b) or ground (c) within s174 of the Act the appellant accepts that the breach of planning control alleged (as Veni Properties Limited understands it) has occurred as a matter of fact. The appeal on this ground is that at the time when the notice was issued the period during which the Council could take enforcement action had passed. It is common ground that this period is four years from the date of the breach (s171B(2) of the Act). There are therefore two matters for my determination in respect of this ground of appeal. The first is the date when the breach occurred and the second is whether there has been continuous occupation of the flats for any four year period since that date.

The evidence

22. The appellant has provided a bundle of evidence for each of the 12 flats. The structure is the same for each and much of the information is common to all. These include sworn statements by a number of people most of whom gave evidence to the Inquiry, details of the property when it was placed for auction on 20 October 2010 (the auction details) and a valuation report by Anderson, Wilde & Harris dated 19 April 2006 (the 2006 report). The evidence specific to each flat is principally in Tab 4 which includes tenancy agreements, remittance advices from the Council as a housing authority and other correspondence with

¹ Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements para 8.15

the tenants relevant to that flat. Document 6 comprises photocopied pages from a number of books and ledgers. The originals were produced on 30 October and were examined by both Mr Wicks and myself. There is no dispute that Document 6 contains true copies although clearly not all the pages in those original documents have been reproduced. Most of the appellant's evidence goes to establishing the continuous use of each flat.

23. The Council has very little evidence of its own and, instead, relies on its examination of that produced by the appellant and what it considers to be the inconsistencies within it and the anomalies that, in its view, cannot be explained. It does however produce a valuation report for 10 Craven Park (a property next door to the appeal property and also owned by the appellant and arranged in a similar way), the 2006 report and the auction details, receivership details for Veni Properties Limited, some photographs taken on 11 May 2012 and the transcript of *Swale BC v First Secretary of State and Roger Lee* [2005] EWCA Civ 1568 (Swale).

The date when the breach occurred

24. In the light of my review of the notice I consider that the primary task under this heading is to determine when the building was first converted to 12 flats and whether there was any material change to the number thereafter. Given that the Council does not appear, for the reasons set out above, to have distinguished between self-contained and non self-contained flats in the reasons for issuing the notice I give less weight to such changes in coming to my decision.
25. The initial reconfiguration of the building was into 12 self-contained flats and this work appears to have been completed sometime late in 2001 or early 2002. Ms Vlasceanu started with the appellant in August 2001 as a self-employed cleaner and over time she became, in effect, the manager of the appeal building for the appellant. Mrs Christides gave a fuller account of her duties which included collecting moneys due from tenants, establishing when they had finally left the premises and advising Veni Properties Limited of this so that a vacancy notification could be made to the Council.
26. She says in her sworn Statutory Declaration that during a nine year period between 2001 and 2010 she worked at the appeal property and the building next door (also owned by the appellant) six days a week. At the outset her duties included cleaning all the rooms and communal areas, changing the bedding on a weekly basis and providing breakfasts for the tenants. This arrangement continued for about a year, which would place it sometime around August 2002, when the tenure arrangements moved from nightly bookings to Assured Shorthold Tenancies (AST). In my view, the use described in the early period is not that of a building in use as self-contained residential accommodation.
27. There are some inconsistencies in the evidence concerning precise dates. Given what should be her more detailed knowledge of the circumstances at the appeal building I consider on the balance of probabilities that on this particular matter Ms Vlasceanu is more likely to be correct. Indeed, on other matters too Mrs Christides invited me to prefer the evidence of Ms Vlasceanu where there was an apparent inconsistency. I therefore conclude that the breach of planning control alleged first took place around August 2002. I now consider

whether at any point thereafter a material change in the number of flats provided has occurred.

28. In both her written and her oral evidence Ms Vlasceanu says that during the 2001 to 2010 period 'there were always 12 self-contained studios at 8 Craven Park'. When the meaning of 'self-contained' was explained to her she was emphatic that each had a shower, toilet and kitchen and that these facilities were not shared with any other flat. This was also the sworn evidence of Mr Christides (Document 4) in connection with the application for a certificate under s191 of the Act that prompted the enforcement action leading to this appeal. Here he says that 'all the flats 1-12 have been used continuously as self-contained studios since 2002...'
29. This is, however, inconsistent with other evidence provided by the appellant. In his sworn statement for this appeal Mr Christides confirms that sometime after the initial conversion to 12 self-contained flats the toilets and showers were removed from flats 3, 5 and 10 to meet the requirements of the Council set out above for accommodation for larger families. This appears to mean by providing more space within a flat rather than combining two or more to provide a single, larger one. Tenants would have used shared facilities available on the ground and first floors. This is consistent with the business model he described and has followed. Although he is not certain in his statement, he thinks this occurred 'around 2002/3'. It is not in dispute that flat 11 does not have a WC within it although the Council does not accept that this flat necessarily has the exclusive use of the top floor WC contended by the appellant and stated in the sworn Statutory Declaration of the occupant since 2004. Its main evidence for this view comes from the formal site inspection on 30 October when the absence of a lock and a particularly worded sign on the door were noted. As a matter of record, this visit took place after the ownership of the building had changed.
30. There are two independent sources of evidence that offer some assistance. The first is the information on registrations for Council Tax purposes set out in the SoCG while the second is the 2006 report prepared on behalf of Barclays Bank. However, these are not entirely consistent with one another.
31. For whatever reason the flats were not registered separately as a dwelling for Council Tax purposes until 5 May 2004. However, at that date, the Council has flats 3 and 5 registered as a single entity which would give only 11 flats but would support the fact that showers and toilets in both would be unlikely. These two were not registered as separate flats for Council Tax purposes until March 2011 (SoCG). The remittance evidence does however suggest that at times during this period there were tenants in both flats 3 and 5 so there is an anomaly in this evidence.
32. The property was inspected on 18 April 2006 for the purpose of the 2006 report. At several points within it there are conclusions which in my view could only have been arrived at if an internal inspection had been undertaken. That this was the case is confirmed within the document. It includes a schedule of accommodation which lists 12 rooms and describes rooms 3, 5, 10 and 11 as having kitchens only with no WC or shower present. Separate showers and WCs are noted as being available on each of the three floors. Why then at more than one point it refers to 13 flats is not easy to understand. The description of the tenure is also inconclusive. At one point it is described as 'bed-sit accommodation', at another as 'AST-studio (bedsit)', at another as

appearing to be 'used as a house in Multiple Occupation' and then again, on the same page, as 'house in multiple occupation'.

33. The evidence of Mr Christides is that the showers and WC were replaced in flats 3, 5 and 10 and the shared bathrooms on the ground and first floors removed after the 2006 report visit. In this context 'removed' may mean physically removed or it could mean incorporated into an existing flat by repositioning of partition walls. In support of this contention an invoice/estimate dated 8 November 2006 details several items of work carried out to both 8 and 10 Craven Park. Mr Latham explained that this was one of many such invoices which were usually prepared after the work had been carried out and the cost known. One entry on it states 'new electric showers + WC to (rooms 3, 5 + 10) (No 8)'. However, Mr Latham was adamant in his oral evidence that only one toilet had been fitted but he could not recall to which room.
34. Mr Christides stated that no changes to the layout of the building were made after these works in 2006. There are two independent sources of evidence during this period. The first is the Council Tax registration details which show that flats 3 and 5 were not registered as two separate dwellings until 3 March 2011.
35. The second is the auction details included by both parties in their evidence. Although these say that the auctioneers have been unable to fully inspect the property it nevertheless says that 'there is no shower/wc in room 5 or kitchen fittings'. At this point the property was in the hands of the Receiver and was being auctioned on his instruction. Mr Christides assumed that the details had been provided by the Receiver. My understanding is that during this period of receivership (24 August 2010 to 31 January 2011) the appellant did not have unrestricted access to the property since one of the first acts of the Receiver is to change the external door locks to the property. I have no evidence to suggest that the auction details are inaccurate.
36. What they record is the presence of 12 flats, some of which are vacant and one of which (number 5) has 'fittings removed'. The appellant explained that it was not unusual for tenants to damage the fixtures and fittings to such an extent that the flat had to be completely refurbished before re-letting. This could explain the description of flat 5. However, the auction details also note a shower/WC on the first floor which is inconsistent with the appellant's evidence.
37. Drawing all this evidence together I believe it is clear that the building has undergone frequent alteration and refurbishment to deliver the appellant's business model. While the appellant does not regard this work as significant it has nevertheless resulted in changes to the size of the individual flats and the facilities within them, the degree to which shower/WC facilities have been shared or exclusive and thus the number of self-contained flats of residential accommodation provided. However, the only evidence that there have ever been fewer than 12 flats is that contained within the Council Tax registration details for the period 2004 to 2011 where flats 3 and 5 are recorded as one for Council Tax purposes. At two separate dates within this period independent inspections of the property record 12 flats and there is some evidence from the remittance details that each of flats 3 and 5 have each been occupied by tenants during this period also. On the balance of probabilities I therefore conclude that the building has been physically arranged as 12 flats since late 2001 or early 2002.

38. As the Council draws no distinction in terms of planning consequences between self-contained and non self-contained accommodation I give little weight to the various changes that have occurred in this regard. On the balance of probabilities it seems to me that each of the 12 flats has provided one or the other accommodation type either since about August 2002 when the tenure pattern changed to ASTs or, at the very latest, mid to late 2006 when the final significant reconfiguration to self-contained accommodation seems to have taken place. In this regard, I consider on the balance of probabilities that at the date when the notice was issued flat 11 was provided with facilities for the exclusive use of the occupant even though the WC was not within the flat itself. On the evidence before me I therefore consider the date when the breach of planning control in the terms alleged first took place to be at least four years before the notice was issued.

Whether there has been continuous occupation of the flats for any four year period since the breach of planning control occurred

39. Overwhelmingly, tenants, characterised as explained above (paragraph 19), are nominated by the London Borough of Brent and throughout the appellant's evidence the contact officers over the period since 2002 have been identified. Checks could therefore have been easily made with those officers or their records.
40. In their respective accounts Mr and Mrs Christides differ on some of the detail. Mrs Christides explained how tenants were identified and taken on, how payments were made and moneys collected and how flats came to be vacated. She also readily acknowledged that the appellant's record keeping was not as comprehensive as it could have been. Considering her evidence and that of Ms Vlasceanu when she was recalled the cycle can be summarised as follows:
- (a) Once Ms Vlasceanu is clear that a flat has been permanently vacated she (or the building manager) notifies the appellant's office staff. It is not always as obvious as it might seem as many tenants have few possessions, are sometimes arrested, jailed or staying with friends or partners elsewhere or simply disappear.
 - (b) When ready for re-letting the Council is notified of the vacancy either verbally (the usual method) or in writing. An example of the latter is given in the evidence. Flats may need anything from a simple clean to a complete refurbishment depending on the condition left by the outgoing tenant.
 - (c) Usually very quickly a Council officer will visit with a prospective tenant. If acceptable to all, the tenant will be confirmed. Mrs Christides explained that the appellant very rarely declined to accommodate a tenant since this would lead to a continued vacancy and consequent loss of income. This also means that the Council is able to monitor the standard of the accommodation available.
 - (d) An AST is then signed by the appellant and the tenant. For this reason, Mrs Christides is confident that the start date of each tenancy given in the evidence is accurate.
41. Most tenants are in receipt of full housing benefit, at least at the outset of the AST. As I understand it, irrespective of the stated rent in the AST, in those circumstances the actual rent becomes the housing benefit payable. This is paid to the appellant by the Council by bank transfer every four weeks. Only

one transfer is made with the tenants identified and the amount paid in respect of each shown. These are the remittance advices which form a substantial part of the appellant's evidence on occupancy.

42. However, if the tenant's entitlement to full housing benefit alters for any reason (gaining employment for example) the payment is either reduced or terminated. In the latter case Mrs Christides explained that while the tenant's name would then disappear from the remittance advices, this did not necessarily mean that the tenant had vacated the flat. It may be that s/he had reverted to being a private tenant subject to the terms of the AST and paying rent and other charges due direct to the appellant. These payments were collected, usually by Ms Vlasceanu, and a note kept in the exercise books and ledgers from which the material in Document 6 is drawn.
43. Mrs Christides also explained that tenants did not always advise either the appellant or the Council of changed circumstances. This could result in often large overpayments to the appellant by the Council which, when identified, were always reclaimed as a balancing item through the four-weekly bank transfers; examples are included in the evidence. It was for the appellant to then recover the money owed from the tenant; this explains some of the invoices and, ultimately, eviction notices included in the appellant's evidence.
44. Mrs Christides readily accepted that the end dates for tenancies implied by the appellant's own evidence were unlikely to be wholly accurate. Furthermore she accepted that for some flats there appeared from the evidence to be quite lengthy periods of vacancy over and above those that might be expected while an extensive refurbishment was undertaken following damage caused by an outgoing tenant. She was however quite emphatic that no flat would ever be left vacant for such a lengthy period since the business could not and did not operate on that basis.
45. In my view, the evidence of Mrs Christides was both clear and credible in all material respects. Reviewing this evidence I conclude on the balance of probabilities that the documents provided by the appellant do not give a complete picture of the periods during which each flat has been occupied. Although there appear to be some lengthy gaps in the occupation of some flats, in most cases I consider the explanation of Mrs Christides for this more likely than not to be correct and the actual gaps therefore correspondingly shorter than would seem from the evidence collated and provided. I note also that the Council has no evidence of its own to contradict that of the appellant; rather, it relies on exposing what are acknowledged to be anomalies and inconsistencies.
46. In any event, for the purposes of s171B(2) it is the use of the building (or any part thereof) not its occupation that is material. My attention has been drawn by the Council to Swale. In that judgment Keene L. J. said:
I accept that whether a building is, or was, being used for a particular purpose at a particular time or times is largely a question of fact. But it is not, in the planning law context, wholly such. It is necessary, as the Thurrock decision demonstrates, for the decision-maker to adopt the proper approach as a matter of law to his decision on that question. It is not always an easy question to answer.
He then went on to identify the legally correct question in terms of whether the building has been used throughout the whole of the relevant period so that the planning authority could at any time during that period have taken enforcement action.

47. In this case there does not appear to be any period of significance, if indeed there is one at all, when the entire property was vacant. In the main, it seems that several flats would always have been occupied even when others might have been vacant and either awaiting the next tenant or in the process of refurbishment so that it could be notified as vacant to the Council. In other words, at any point in time each of the 12 flats would have been at some point on the four-step cycle of 'use' that I have identified from the evidence.
48. In these circumstances it seems to me that had the Council visited the property at any time throughout the period since 2002, it would have concluded that the property was in use as 12 flats and would not have felt precluded from taking action because of any partial vacancy. Whilst some of the longer gaps might seem significant when taken in isolation, when taken in the round and in relation to their effect on the use of the property as a whole as 12 flats, I find them to be *de-minimis*. They did not, in the circumstances of this particular case, break the continuity of the use as 12 flats. This also seems to be the essence of paragraph 7 of the Inspector's decision quoted by the judge in paragraph 11 of Document 7 which the Council also invited me to consider, albeit for a different point.
49. For these reasons I conclude on the balance of probabilities that the use of 8 Craven Park as 12 residential flats has been continuous for a period of at least four years since the breach of planning control alleged occurred.

Conclusion on the appeal on ground (d)

50. For the reasons given above I conclude that the appeal should succeed on ground (d). Accordingly the enforcement notice will be quashed. In these circumstances the appeal under the various grounds set out in section 174(2) to the 1990 Act as amended does not need to be considered.

Brian Cook

Inspector

APPEARANCES

FOR THE APPELLANT:

Rory Clarke of Counsel	Instructed by the appellant through the Public Access Scheme
He called	
Ancuta Vlasceanu	Former employee of Veni Properties Limited
Graham Latham	Builder and decorator and employee of Veni Properties Limited
Evangelos Christides	Director of Veni Properties Limited
Peter Kyte MRTPI	Enabling Projects (Town Planners)
Anita Christides	Veni Properties Limited

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Wickes BTP Dip Law MRTPI	Instructed by the Director of Planning for the Council gave evidence and represented the Council
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DOCUMENTS

- 1 Letter of notification of the Inquiry dated 10 September 2012 submitted by the Council
- 2 Statement of Neil Andrew Evans and attached bundle of extracts from the Register of Local Land Charges submitted by the Council
- 3 Summary of Craven Park tenants 01 January 2008 to 31 December 2011 submitted by the Council
- 4 Statutory Declaration of Evangelos Christides dated 16 March 2012 submitted by the Council
- 5 Statement of Common Ground submitted by the appellant
- 6 Bundle of extracts from various folders and exercise books submitted by the appellant on 18 October 2012
- 7 *The Queen on the application of ZZZ Incorporated v Secretary of State for Transport, Local Government and the Regions* [2003] EWHC 1092 Admin submitted by the Council
- 8 Extract explaining the banding of multi-occupied homes for Council Tax purposes submitted by the Council
- 9 Statement by Anita Christides dated 2 November 2012
- 10 Undated statement by Ancuta Vlasceanu prepared between 30 October and 1 November 2012
- 11 Enforcement officers' delegated report dated 17 May 2012 submitted by the Council
- 12 Council Tax extract submitted by the Council

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