

## Committee Report

Planning Committee on 16 December, 2009 Case No. 09/2240

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**RECEIVED:** 2 November, 2009

**WARD:** Kensal Green

**PLANNING AREA:** Harlesden Consultative Forum

**LOCATION:** 147-153 High Street, London, NW10 4TR

**PROPOSAL:** 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)

**APPLICANT:** Albemarle Trust plc

**CONTACT:** Robin Bretherick Associates

**PLAN NO'S:** 507GE00 REVP1; 507GE01 REVP1; 507GS01 REVP1; 507GS02 P1; 507GS03 REVP1; 507GAB1 REVP1; 507GA00 REVP1; 507GA01 REVP1; 507GA02 REVP1; 507GA03 REVP1; 507GA04 REVP1; 507GA05 REVP1.

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### MEMBERS CALL-IN PROCEDURE

In accordance with Part 5 of the Constitution and Section 10 of the Planning Code of Practice, the following information has been disclosed in relation to requests made by Councillors for applications to be considered by the Planning Committee rather than under Delegated Powers

#### Name of Councillor

Councillor Bertha Joseph.

#### Date and Reason for Request

30th November 2009

Proposed development contravenes Council guidelines: it is an over development of the site; is far too close to properties in Rucklidge Avenue and will cause loss of privacy, overlooking, and loss of light.

#### Details of any representations received

Representations received by the Residents' Association' and several tenants.

#### Name of Councillor

Councillor Reg Colwill

#### Date and Reason for Request

30th November 2009

Proposed development contravenes Council guidelines: it is an over development of the site; is far too close to properties in Rucklidge Avenue and will cause loss of privacy, overlooking, and loss of light.

### **Details of any representations received**

Approached by Ward Councillor.

### **RECOMMENDATION**

Refusal.

### **EXISTING**

The application relates to a vacant site situated on the northeast side of High Street, Harlesden. The building was most recently in use as a petrol filling station (*sui generis*) but has since been demolished and cleared. The site is not within a conservation area or area of distinctive residential character, and is not within any designated centre. The High Street is a London Distributor Road.

### **PROPOSAL**

Outline application (matters included: access, appearance, layout and scale) for erection of a 4/5 storey building (with basement) comprising 23 affordable self contained flats (2 one-bed, 9 two-bed and 12 three bed).

### **HISTORY**

Planning reference 07/2829 was refused at Planning Committee 19th December 2007, for the "Erection of four-storey building comprising 449m<sup>2</sup> 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, formation of roof terrace at first-floor and third-floor level to rear and third-floor front, new vehicular access to front, provision of 2 car-parking spaces, cycle storage for 19 cycles, refuse and recycling stores, hard and soft landscaping to site".

The applicants subsequently appealed the Council's decision, the appeal was dismissed 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**

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 15 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.

**H10** – New residential accommodation should be self-contained unless it is designed to meet the known needs of a named institution.

**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.

**H14** – Planning permission will be refused where development would under-utilise a site, where there are no pressing considerations to protect the character of an area. Outline permission will be subject of a condition specifying a minimum number of dwellings at reserved matters stage.

**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

#### **SUSTAINABILITY ASSESSMENT**

The development proposal aims to achieve a minimum Code Level 3 for sustainable homes with the potential to reach Code Level 4.

#### **CONSULTATION**

Consultation letters, dated 11th November 2009, were sent to 91 neighbouring owners/occupiers. Twelve letters of objection were received the following comments were made:

- Concerned of the height of the proposed building and its impact upon sunlight upon garden areas and habitable rooms, five stories at the southern end of the building is overbearing;
- "Right of Light Act 1959 & Prescription Act 1832" the proposed development would restrict the

- amount of daylight and increase energy consumption;
- Permanent loss of outlook;
- Overlooking, SPG17 states there should be a minimum of 20m between facing windows and this scheme is 15m;
- Balconies are closer than 20m;
- Additional noise;
- The overall size of the building;
- The design does not take into account the constraints or possibilities of the site, has ignored rights to privacy, overlooking and daylight;
- No parking on site for residents, and will have a negative effect on local parking conditions;
- The side flank of Number 155 High Street had always been visible from the street and a gap retained between Numbers 155 and 153 High Street;
- Privacy issues in relation to side windows at Number 139 High Street;
- Proposed front balconies are out of character in relation to the street-scene;
- The guard rails are not a natural feature and are out of character with the locality;
- The proposed multi-bed units have low areas of residential amenity and the communal area of amenity is restricted;
- No private units have been proposed and will thus encourage opportunities for crime.

Ward Councillors were notified of the proposed development. One letter of objection was received by Councillor Joseph, the following comments were made:

- The height of the proposed would over dominate the existing gardens and severely diminish natural daylight;
- The proposed five stories is out of character with the two-storey dwellings on Rucklidge Avenue;
- The applicant has not taken into account policy or guidelines, as the separation distance between facing habitable windows is less than 20m;
- The proposed design will therefore have a severely negative impact on properties on Rucklidge Avenue.

The issues highlighted above are discussed in detail below.

#### **Internal Consultation:**

The following consultees were notified of the proposed development:

Transportation Engineer;

Landscape Officers;

Design & Regeneration Manager;

Policy and Research Manager;

Environmental Health Officers;

Housing Officers;

StreetCare Officers.

Comments from: Transportation, Environmental Health and Housing Officers are included within the remarks section below.

#### **REMARKS**

The subject site is located on the north-eastern side of High Street, Harlesden, a London Distributor Road. The site is currently vacant and has been cleared. The applicant has sought

Outline planning permission for the erection of a 5 & 4 storey building (with basement) comprising of 23 affordable self contained flats (2 one-bed, 9 two-bed and 12 three bed).

### **Appeal decision 07/2829**

As indicated earlier in this report, scheme for 14 flats and retail floorspace at ground floor level was dismissed at appeal following a Hearing to discuss the case. As a result of this decision, a critical consideration here is to assess how this revised proposal takes account of the Inspectors decision letter of July 2008.

For clarity, the proposed building is higher than the one considered at appeal (by approx. 1.5 metres) in one particular part of the development and lower, by a similar amount, on other sections of the building. The number of flats has increased from 14 to 23 and the previously proposed commercial floorspace at ground floor has been replaced by additional residential accommodation. Duplex units are proposed arranged over the two lower ground floors and the site is being excavated to reduce overall height as much as is considered possible.

The 2008 Inspector stated that *"I consider that the main issue in this appeal is the effect of the proposal on the living conditions of neighbours."*

The gardens to the rear are very short (6-7 metres) and are on a higher level than this site. Even though the previous scheme complied with SPG17's 45 degree line (and 30 degree line) the Inspector concluded that the building would have a greater impact because of the small gardens. *"If the adjacent gardens were a minimum of 10m deep there would be areas of the garden further from the proposal where its visual impact would be less."*

In terms of privacy, the 2008 Inspector referred to SPG17 (in particular the required 20m separation between windows and 10m from window to boundary). There were "numerous windows" proposed at first floor level approx 3.0 metres from rear boundary, whilst screening was not considered to overcome the problem. The current scheme is considered to represent a significant improvement in terms of direct overlooking.

### **Principle of Development**

The loss of the petrol filling station use is acceptable as the Council does not consider a petrol station to be a local employment site. The site is not designated within any centre and therefore the principle of residential development is considered acceptable. As indicated above, this scheme is 100% residential and this is considered to be acceptable, subject to detailed design/amenity considerations as set out below.

### **Housing Mix**

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

Bedroom Size	Number	Percentage
1	2	8.69%
2	9	39.13%
3	12	52.17%

The proposed housing mix provides 12 large family units, 7 of which are duplex units located on the ground and lower ground floors with immediate access to outside amenity, 5 of the three bedroom units are located on the first and second floors with balconies varying between approximately 11m<sup>2</sup> and 14m<sup>2</sup>. Although there is a communal area of amenity space proposed to the rear of the site this is only approximately 52m<sup>2</sup> and this is not deemed sufficient for the proportion (and total number of people) proposed in terms of larger family units. Therefore, it is considered that the proportion of large family units is not suitable for the subject site, contrary to policy H9 and H18 of the UDP 2004.



Housing Officers are supportive of the principle of 100% affordable housing. However, as advised at pre-application stage, Officers are concerned with the occupancy levels of some of the large (6 person) family units which lack amenity space and will only support the proposal if they are reduced.

### **Residential Quality for Future Residents**

Supplementary Planning Guidance 17 indicates minimum unit sizes for flats, the Council's current standards seek the following flat sizes as a minimum:

- 1-bedroom flat – 45 square metres.
- 2-bedroom (3-person) flat – 55 square metres.
- 2-bedroom (4-person) flat – 65 square metres.
- 3-bedroom flat (5/6 person) – 80 square metres.

An assessment of the current scheme indicates that all flats shown on the plans either meet, or are in excess of, the Council's guidelines.

All habitable rooms should have natural daylight. The proposed internal arrangement of the duplex units located on the ground and lower ground floors, are inappropriate. For example, bathrooms are located to the frontage whilst kitchens are within the centre of the units, which will require constant artificial lighting. Members will be aware that kitchens are considered to be habitable rooms. This arrangement is also contrary to policy BE5 of the UDP 2004, as habitable rooms should be located at front elevations to aid natural surveillance.

### **Design and Appearance**

Although it is considered that the design has improved from the appeal submission, it is noted that due to the combination of the overall width and height of the proposed building and its relationship with boundaries, the proposal would have an unacceptable impact on the character and appearance of the locality. The proposed rear elevation is poor, lacking a variation of materials and significant breaks, thus adding to the overall bulk and sense of overbearing of the scheme contrary to policy BE9 of the UDP 2004. Whilst no longer proposing the stepped arrangement envisaged with the appeal scheme, which meant that the building was further away from the rear boundary the higher up you were, this has been replaced by a building with a more uniform rear elevation, resulting in something of a sheer view when considered from the rear. This relationship needs to be considered in conjunction with the overall width and height of the proposed building referred to above.

### **Scale and Massing**

Council guidance SPG17 and policy BE9 of the UDP 2004 state that proposals should be of a scale, massing and height that are appropriate to its setting. The applicant has been advised to remove the upper storey and to demonstrate that a building of this size would not relate unacceptably to people living nearby. Whilst the development has been reduced in order to respond to the height of buildings along High Street they have, however, neglected to illustrate a building which respects the size and scale of residential dwellings to the rear in Rucklidge Avenue. Although the proposal does meet the guidance on building heights, using 30° and 45° lines as described in SPG17, the proposal continues to fail to respect the characteristics and residential nature of Rucklidge Avenue.

The applicant has submitted a daylight and sunlight report. It is noted that in terms of daylight for affected windows in Rucklidge Avenue, the proposal fully satisfies the 'Vertical Sky Component (VSC) Daylight Distribution and Average Daylight Factor Guidelines'. Whilst the report notes that the results for sunlight availability are very good, one window will experience an impact. Although, it is stated that this window is recessed back between original rear projections and faces south-west, it is recognised that sunlight is lower than the standard in this instance. Members will

be aware that 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.

### **Amenity**

The proposed duplex units on the ground and lower ground floors have their own access to rear private amenity space of approximately 41m<sup>2</sup>. This amount of amenity space is considered acceptable in relation to the large family units. All units located on the upper floors have access to private balconies and a communal garden of approximately 52m<sup>2</sup> and whilst this may be acceptable for the proposed one and two bedroom units, the size and quality of amenity space for family accommodation is contrary to Council policy H18 of the UDP 2004 and adopted guidance SPG17.

### **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. In consideration that the site is located on a major London Distributor Road where demand for on-street parking is high and with no scope for overspill parking, a "car free" agreement would have been sought, which restricts the right of future residents to apply for parking permits, in the event that consent was forthcoming.

Officers recognise that the area allocated for bicycle storage has been reduced, to accommodate storage bins for family units, and could only house 16 bicycles. However, the private garden areas of the 7 ground/lower floor units should be sufficient for bicycle storage. The area designated for refuse is internal and located to the front of the building which allows for routine collection.

### **Impact on neighbouring residents**

The appeal inspector for the previous refusal (07/2829) considered the main issues of the proposed development were the effect upon the living conditions of neighbouring occupiers. The Council's Supplementary Planning Guidance 17 offers guidance on how the potential impact of proposals will be assessed in terms of their impact on neighbouring residents.

Privacy standards for residential development are: 10m separation between habitable windows on the rear flank of the development and the rear boundary; and 20m distance between habitable rooms which face each other. The distance between windows on the main rear elevation and the rear boundary are 9.0m on the lower ground and ground floor, a reduced separation is considered detrimental in relation to outlook and overlooking. The proposed windows at first and second floor levels are likely to impact the amenities of existing and future residents, as the separation distance varies between 15.4m and 18.2m. The inspector considered these shortfalls "*add to the unacceptable effects of the proposal on the living conditions of neighbours*" making a specific point of attaching weight to the small gardens in Rucklidge Avenue and meaning that the impact on these external spaces needs to be even more carefully considered. The proposal would thus be detrimental in terms of privacy and create an undue sense of overlooking contrary to policies BE9 of the UDP 2004 and SPG17.

### **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. If this application were being recommended for approval a condition requiring a site investigation focusing on sensitive areas (rear gardens) with soil samples analysed for a full suite of potential contaminants would have been requested.

### **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. However, the applicants have requested that the staging of the payments and the total sum paid, be subject to future viability testing. This has not been proven to the Council's satisfaction at this stage.

Sustainability measures also need to be more fully addressed. As a result, in the event that the application is refused then a reason for refusal covering the failure to secure a legal agreement to provided education, sustainable transportation, open space and sport contributions would need to be attached to the decision. In addition, [a separate one for sustainability measures and affordable housing would also need to form part of the formal decision.](#)

## **Conclusion**

In summary, Officers have previously noted that the principle of residential development at the subject site is acceptable. However, proposals need to be developed in relation to the sites context and ensure that the amenities of neighbouring occupiers are maintained. In this particular instance, the existence of an appeal Inspectors decision letter, where an earlier scheme was dismissed, is also a material consideration here. The proposed development in terms of height, width and proximity to neighbouring residents of Rucklidge Avenue is considered to be overbearing and does not respect the character and nature of this residential street. Furthermore, whilst the proposed units meet floorspace standards, the quality of accommodation of some of the units is poor in terms of their internal arrangement and levels of external amenity, which is contrary to policy H18 of the UDP 2004 and SPG17.

**RECOMMENDATION:** Refuse Consent

## **CONDITIONS/REASONS:**

- (1) 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."
- (2) 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".
- (3) 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.
- (4) 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.

- (5) In the absence of a legal agreement to control the matter, the development would result in an increased demand for school places within the Borough, without providing any contribution to building new school classrooms or associated facilities; pressure on transport infrastructure, without any contribution to sustainable transport improvements in the area; and increased pressure for the use of existing open space, without contributions to enhance that open space or make other contributions to improve the environment. As a result, the proposal is contrary to policies CF6, TRN10, OS18 and H7 of Brent's adopted Unitary Development Plan 2004.
- (6) In the absence of a legal agreement to control the matter, the proposal fails to comply with the principles of sustainable development and would be harmful to the aims and objectives of the Council, which seek to ensure that new development and land uses achieve sustainable development, and is therefore contrary to Policies STR14 and BE12 of the Brent Unitary Development Plan 2004 and the guidance contained within Supplementary Planning Guidance SPG19: "Sustainable Design, Construction and Pollution Control.
- (7) In the absence of a legal agreement to control the matter, the development would result in an unacceptable transport impact and would be detrimental to highway and pedestrian safety. As a result the proposal is contrary to policy TRN23 of the Unitary Development Plan 2004.
- (8) In the absence of a legal agreement to control the matter, the proposal would result in the increase in the number of units without the provision for securing affordable housing. As a result, the proposal is contrary to policy H3 of Brent's adopted Unitary Development Plan 2004.

**INFORMATIVES:**

None Specified

**REFERENCE DOCUMENTS:**

- Brent UDP 2004
- Supplementary Planning Guidance 17
- Housing and Planning Statement
- Brent Sustainable Development Checklist
- Sustainability Statement
- Daylight and Sunlight Report
- Remedial Implementation and Verification Report
- Design and Access Statement
- 12 letters of objection

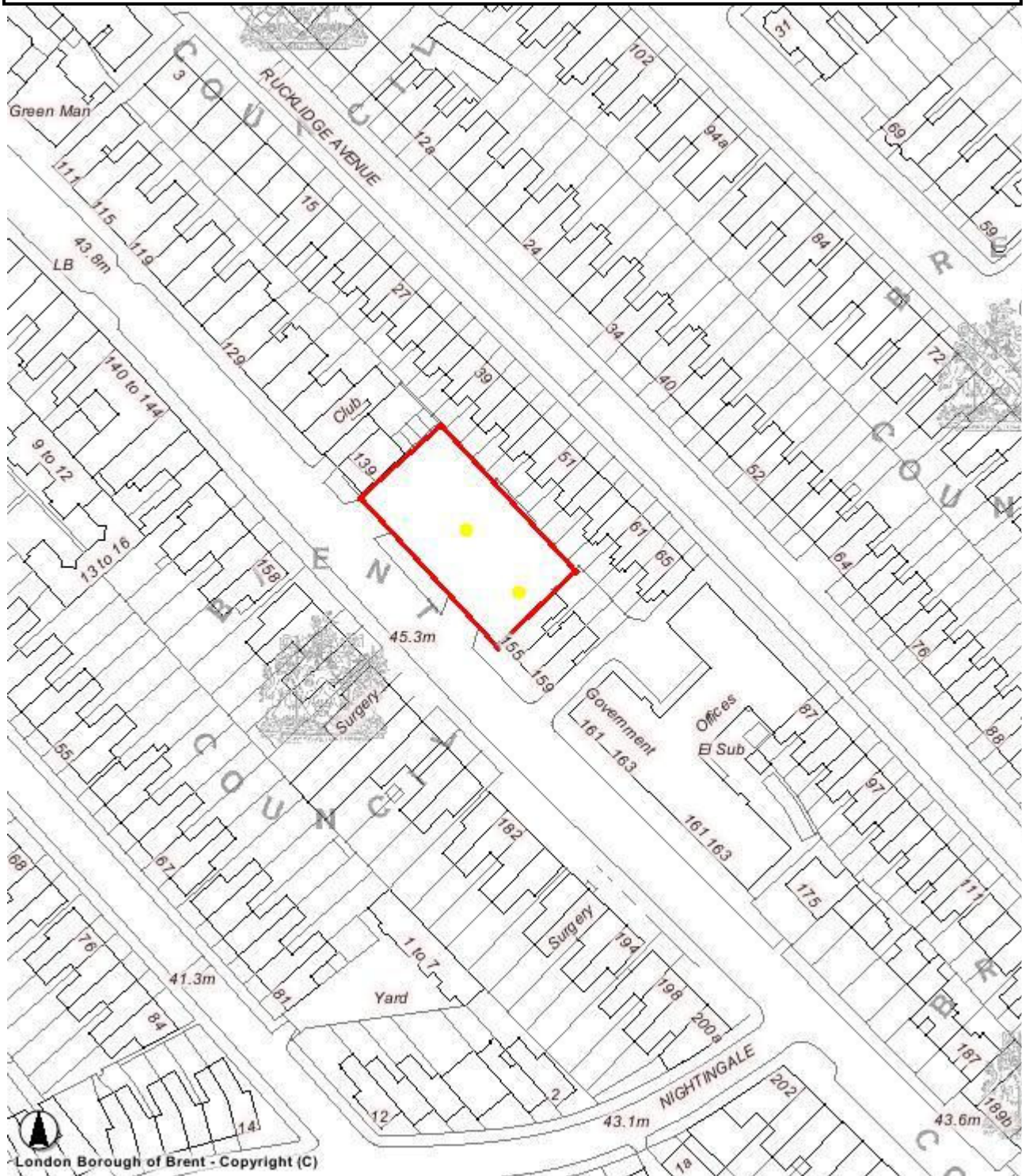
Any person wishing to inspect the above papers should contact Nicola Butterfield, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5239



# Planning Committee Map

Site address: 147-153 High Street, London, NW10 4TR

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