

Committee Report
Planning Committee on 11 December,
2013

Item No.

Case No.

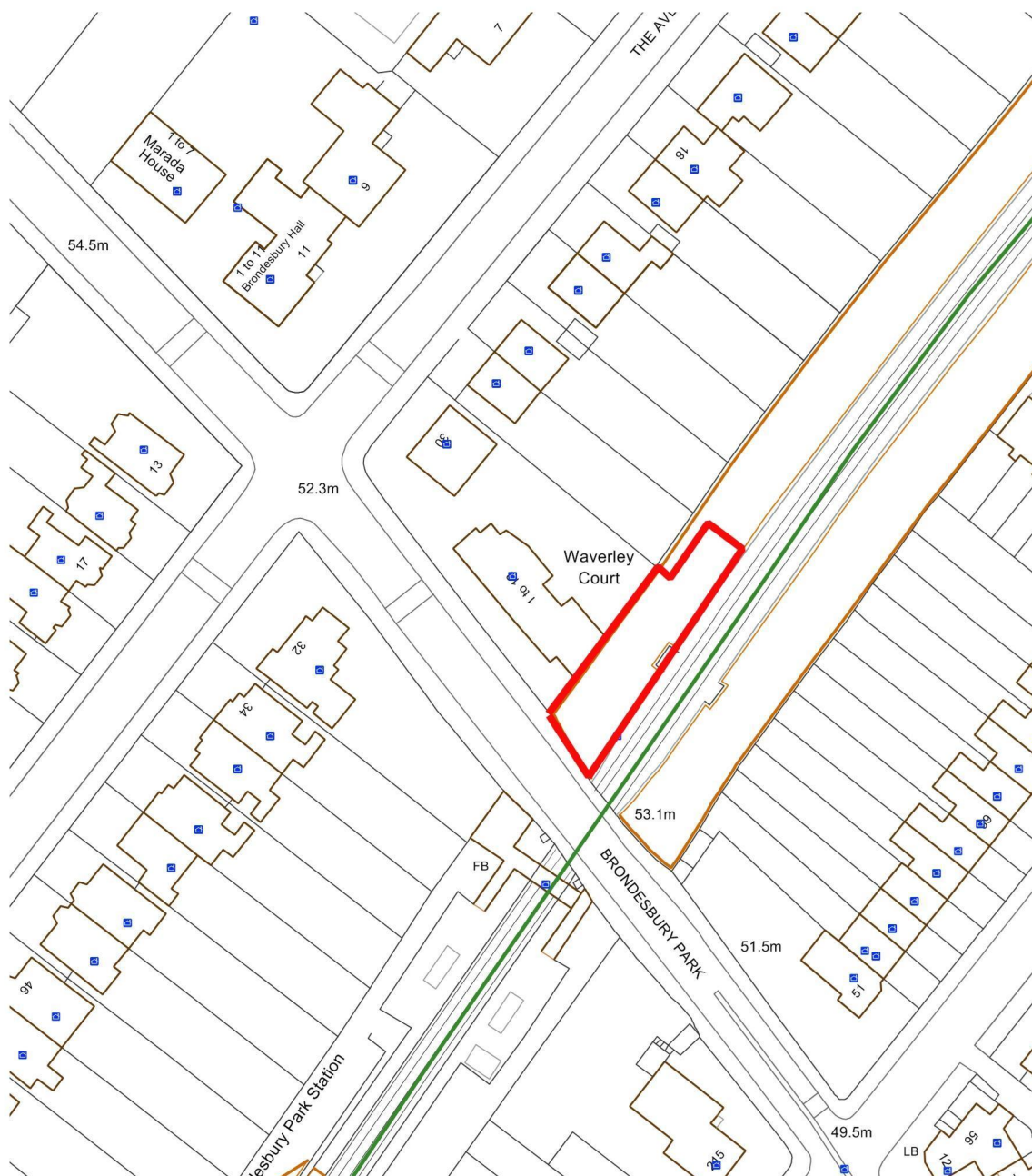
13/1773



Planning Committee Map

Site address: Land next to Waverley Court, Brondesbury Park, Kilburn, London

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This map is indicative only.

RECEIVED: 25 June, 2013

WARD: Brondesbury Park

PLANNING AREA: Kilburn & Kensal Consultative Forum

LOCATION: Land next to Waverley Court, Brondesbury Park, Kilburn, London

PROPOSAL: Erection of a 6 storey building comprising 5 flats (1 x 3 bedroom and 4 x 2 bedroom) with associated landscaping and car-parking

APPLICANT: Ms Judith Taylor

CONTACT: ROH Architects

PLAN NO'S:

L1000
P101 RevB
P102 RevA
P103
P104 RevB
P105
P106
P107
P108

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 Mary Arnold

Date and Reason for Request

20th September 2013

I wish to call in this application as there are local concerns about this site which has been an eyesore for some time.

I understand there is a problem about timing and about a previous application which seems unsuitable to tackle the issues on the site

Details of any representations received

Yes, Queen's Park residents

Name of Councillor

Councillor James Denselow

Date and Reason for Request

25th September 2013

Problem about timing and about a previous application which seems unsuitable to tackle the issues on the site.

Details of any representations received

Only discussions with fellow Cllrs

Name of Councillor

Councillor Michael Adeyeye

Date and Reason for Request

25th September 2013

I am calling in this application because this site has been an eyesore for some time.

The timing and issues about a previous application need clarification.

Details of any representations received

Yes, local resident in Queen's Park

RECOMMENDATION

Refusal

EXISTING

The site is an area of open land, 513sqm in size, located, and accessed from, the north-eastern side of Brondesbury Park, opposite Brondesbury Park overground station. To the north-west the site sits adjacent to Waverley Court a four-storey residential block of flats, to the south-east the site is bound by the railway line and to the north-east the site is bound by the railway embankment.

The subject site is located wholly within a Site of Borough (Grade 1) Nature Conservation Importance and wildlife corridor as designated on the Core Strategy proposals map. These sites are also referred to as Sites of Importance for Nature Conservation (SINC).

PROPOSAL

As above.

HISTORY

On 22nd October 1998, planning permission (98/1081) was granted for the erection of a new dwellinghouse on the site. This application is discussed in further detail under the remarks section of the report as it is of particular relevance to the assessment of the current application.

There are other historic planning records on the site but these are not considered less relevant to the determination of the current application.

POLICY CONSIDERATIONS

National Planning Policy Framework

The NPPF was published on 27th March 2012 and replaced Planning Policy Guidance and Planning Policy Statements with immediate effect. It is intended to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. It includes a presumption in favour of sustainable development in both plan making and decision making.

Saved policies from the adopted UDP have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. Core Strategy policies also need to be in conformity with both the London Plan and the NPPF and have considerable weight.

Where LDF Core Strategy, UDP saved policies and SPG's are referred to in the report below they have been considerations in the assessment of the application. However, the recommendation is considered to comply with the NPPF.

London Plan 2011 and the Mayors Housing SPD

Core Strategy 2010

CP2 Population and Housing Growth

CP17 Protecting and Enhancing the Suburban Character of Brent

| | |
|------|---|
| CP18 | Protection & Enhancement of Open Space, Sports and Biodiversity |
| CP21 | A Balanced Housing Stock |

UDP 2004

| | |
|-------|---|
| BE2 | Townscape and Local Character |
| BE3 | Urban Structure: Space & Movement |
| BE5 | Urban Clarity & Safety |
| BE6 | Public Realm: Landscape Design |
| BE7 | Public Realm |
| BE9 | Architectural Quality |
| H12 | Residential Quality - Layout considerations |
| TRN3 | Environmental Impact of Traffic |
| TRN11 | The London Cycle Network |
| TRN23 | Parking Standards – Residential Development |
| TRN34 | Servicing in New Development |
| PS14 | Parking Standards |
| OS12 | Development on SSSIs and Sites of Metropolitan and Borough (Grade 1) Nature Conservation Importance |
| OS14 | Wildlife Corridors |

Supplementary Planning Guidance Note 17: Design Guide for New Development Supplementary Planning Document: S106 Planning Obligations

SUSTAINABILITY ASSESSMENT

The proposal does not exceed the threshold that would require the submission of a formal sustainability statement or checklist.

CONSULTATION

Public Consultation

Consultation letters, dated 25th July 2013, were sent to 107 neighbouring owner/occupiers. In response 3 letters of objection have been received. In summary the objectors raised the following issues.

- The proposal will block light to and overshadow neighbouring residential properties.
- Concerns that the excavations associated with the proposal could affect the foundations of Waverley Court.
- Water collected on the roof of the proposed building could pool/spill onto the roof of Waverley Court.
- Can a 'permit-free' agreement be enforced?
- Access to and from the site, in close proximity to the railway bridge would cause highway and pedestrian safety problems.
- Advertising screens could cause glare and affect the privacy of residents (NB the advertising screens have since been removed from the proposal)

Internal Consultation

Environmental Policy & Projects Officer - Objects to the proposal on the grounds that the development would harm the nature conservation value of the SINC

Environmental Health - Recommend conditions relating to the control of noise and vibration, due to the proximity of the site to the railway line, and in relation to contaminated land investigations due to the history of fly-tipping on the site.

Transportation Unit - Require amendments to the layout and amount of off-street parking to provided and further details of the front boundary treatment, in order to assess visibility splays, before Transportation can support the application

Urban Design - Raised concerns regarding the elevations treatments, ground floor layout and proximity to the railway line.

Statutory Consultees

Network Rail - Due to the close proximity of the development to the railway line Network Rail have set out a

number of criteria that need to be adhered to in order to avoid any interference with the operation of the railway line during or after construction. In particular, it is required that the development be set away from the joint boundary by at least 2m (3m in the case of an overhead line) and that a 1.8m trespass proof fence be provided along this boundary. The building does appear to be sufficiently set back from the boundary with the railway line, details of fencing have not been provided at this stage.

Thames Water - Raise no objection subject to recommended conditions and informatives.

REMARKS

Previous permission

1. As set out in the 'history' section of this report, on the 22nd October 1998 the Council granted planning permission on the site for the erection of a single 5-bedroom dwellinghouse. This dwellinghouse has not been constructed and there are no obvious signs of any attempt to construct the building on the site. There is also no record of any of the pre-commencement conditions attached to the permission having been discharged. However, the applicant contends that works to implement the permission were commenced prior to the expiry of the application and that the permission therefore remains extant and could be completed at any time. The applicant has provided documentation, including documents relating to a Building Control application that was submitted to the Council, as evidence to demonstrate that prior to the expiry of the planning application the development was commenced in the form of excavations undertaken in order to form the foundations of the approved dwellinghouse. An opinion was sought from the Council's Legal Services as to whether, in light of the documentation submitted, it would be expedient for the Council to challenge the applicants view that the permission remained extant. Having inspected the documentation submitted, and in the absence of any further evidence to the contrary, Legal Services are of the opinion that it would be difficult for the Council to argue that the permission had not been lawfully implemented and therefore for the purposes of assessing this application Members are advised to consider the permission to be extant and as a material consideration in the determination of the application.
2. Notwithstanding the above, it should be noted that a formal decision by the Council as to whether it would now be lawful, or not, to implement the previous permission on the site can only be made should an application be submitted to the Council for a Certificate of Lawful Development for the proposed works.

Sites of Importance to Nature Conservation (SINC) and Wildlife Corridors

3. The subject site is located wholly within a designated SINC and a wildlife corridor. The Council's relevant planning policies set out in the Core Strategy and UDP seek to resist development within these areas unless it can be demonstrated that there would be no adverse affect on nature conservation. The SINC in this particular case runs along the railway between Willesden Junction and Brondesbury and provides important habitat for birds, reptiles, mammals and insects, in the form of scrub, tall herbs and scattered trees. Clearly, the development of a residential block, which would appear 6 storeys in height when viewed from the railway embankment, would have a significant and adverse impact on the nature conservation importance of the site, as important habitat would be removed and activity associated with residential occupation would intrude on, and reduce, the nature conservation value of any remaining habitat within the locality.
4. The applicant argues that as it appears there is an extant permission for the development of a dwellinghouse on the site, that this fallback position should be used as justification for the Council to consider favourably the principle of granting a further planning permission for the current proposal as the development would not cause any greater harm to the nature conservation value of the site than that which would be caused by implementing the development that has already been approved. It is therefore important to consider the differences between the approved dwellinghouse and the current scheme
5. Firstly, reviewing the Council's Planning Committee report on the approved development, it appears that at the time of the decision the site was not designated within the local plan as being within a SINC or a Wildlife corridor. The designation does appear in the Unitary Development Plan that was adopted in 2004, some 6 years after that decision. Whilst an extant planning permission is a material consideration it should be noted that s.70 of The Town & Country Planning Act 1990 sets out that *"In dealing with such an [planning] application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."* As such, as well as giving weight to the extant permission, weight also needs to also be attached to the Council's current

development plan policies which appear to have changed since the previous development was approved.

6. Secondly, in this case, the scale of development has increased, both in terms of the physical envelope of the building but also in terms of the intensification of use. The front section of the proposed building would appear to be five storeys in height when viewed from Brondesbury Park, and six storeys when viewed from the railway embankment due to the provision of a lower ground level, which is significantly taller than the 2/3 storey element that was approved as part of the dwellinghouse. This element is also wider than the approved dwellinghouse, particularly as it splays towards the front to match the front building line of Waverley Court (the approved dwellinghouse was set back). Towards the rear, whilst the height of the buildings would be similar at one-storey in height, the proposed development projects further into the site and is wider than the approved dwellinghouse. The building would therefore occupy more of the site and results in a greater loss of open space and habitat. The proposed development would comprise of 5 flats as opposed to a single dwellinghouse and is therefore likely to be more intensely occupied. This would result in greater intrusion of the remaining wildlife habitat within the locality in terms of increased movement, noise disturbance and light spillage.
7. Thirdly, the applicant has argued that as part of the new development a new wildlife garden would be created and that this would be a major benefit over the approved development. However, it is noted that the conditions for the approved dwellinghouse have not yet been discharged and that this includes a condition requiring the submission of landscaping proposals for the site. As such, given the current policy context of the site the Council, if the dwellinghouse were to be implemented the condition would need to be discharged and the Council could reasonably expect the landscaping proposals for the site to respond to the nature conservation importance of the site.
8. A Wildlife and Nature Conservation assessment prepared by the applicants agent has been submitted in support of the proposal. This summarises an assessment of the nature conservation value of the site and sets out proposals for a wildlife garden on the site. This document has been inspected by the Council's Environmental Policy and Projects Officer and it is not considered that this sufficient to overcome concerns regarding the likely impact of the development on the nature conservation value of the site. Overall, Officers are of the opinion that, notwithstanding the prospect that the previous permission might be implemented, that the current proposals would have a far more adverse impact on nature conservation importance of the site than what has previously been approved.

Urban Design

9. As discussed, the scale and massing of the building are of concern in terms of their impact on the nature conservation value of the site and there are also concerns about the bulk and massing in terms of its relationship with Waverley Court.
10. The main concerns in design terms relate to the bulk, elevational detail and setting of the development. Following the removal of two large advertising hoarding's from the proposals, the rear of the building has an unpunctuated blank elevation which would accentuate the bulk of the building, and to the front the building also lacks elevational detail and fails to respond appropriately to the rhythm and proportions of the adjoining building, Waverley Court. There are particular concerns regarding the legibility and residential quality at the front of the building and its relationship with the street. The area in front of the building would comprise of a forecourt parking area, comprising of 100% hardstanding, enclosed by a high boundary wall (approximately 3m in height), which would be constructed from blue engineering brick. Whilst, the submission explains that the boundary treatment is designed to make reference to the adjoining railway bridge it is considered that this would constitute an overbearing and oppressive feature which would act as a visual barrier between the development and street harming the legibility and residential quality of the development.
11. The forecourt area would be primarily used for parking and refuse storage and there appears to be little in the way of physical separation to provide safe, designated routes for pedestrians using the site. The height of the boundary wall is of concern in terms of its effects on sight lines and could give rise to conflicts between pedestrians and vehicles using the site. The ground floor of the front elevation suffers from being dominated by undercroft parking and access to plant which, when combined with the unsympathetic treatment of the forecourt, results in an unsatisfactory and unwelcoming environment for potential residents.

Transportation

12. The subject site is located on Brondesbury Park, a busy distributor road where there is no capacity for additional on-street parking demand. As such, the development will need to provide sufficient off-street

parking to meet the demand generated. The maximum parking standard for the proposed flats would be 6.4 spaces. The Council's Transportation Unit would expect the actual demand generated to be approximately 75% of the maximum standard and therefore a minimum of 4 on-site parking spaces would need to be provided to meet the likely demand generated by the development.

13. Despite the location of the site close to Bronsdesbury overground station, the site is located in an area of moderate public transport accessibility (PTAL 3) and therefore a 'permit-free' agreement cannot be supported in this case.
14. The proposal indicates the provision of 3 spaces on the site, 2 in undercroft spaces and one on the forecourt. As discussed, above there are concerns regarding the impact of undercroft spaces on the appearance of the building, but in any case, the provision of only 3 spaces is insufficient to meet the likely demand generated by the development and this could give to additional demand for on-street parking in a location with no capacity for this to be safely accommodated. The inability to safely provide sufficient car parking in order to the adopted Council standards is further indication that the application seeks to get much development on this restricted site.
15. The Council's Transportation Unit have also raised concerns regarding the proposed boundary treatment, discussed above, in terms of its impact on visibility splays for vehicles entering and exiting the site. In terms of exiting vehicles this is of particular concern given the proximity of the access to the brow of the nearby railway bridge.

Impact on Adjoining Occupiers

16. Although the taller front element of the proposed building would be significantly taller than dwellinghouse previously approved, this additional height would sit adjacent to the flank wall of Waverley Court, which has no windows or other openings, without projecting beyond either the front or rear building lines, and therefore there would be no additional impact on occupiers of Waverley Court as a result of this additional height. Towards the rear, where the proposed building would project beyond Waverley Court, despite the increased width and depth, the height of the rear projection would be comparable to that of the approved dwellinghouse which would mean the building is set at a low level in comparison to the nearest windows to the rear of Waverley Court. Overall, it is not considered that there would be any unreasonable impact on the outlook, light or privacy of neighbouring occupiers.

Residential Quality

17. All of the residential units meet the minimum internal space standards set out in the Mayors SPD and habitable rooms with sufficient forms of outlook and daylight. The vertical stacking of units is generally appropriate. Suitable facilities for the storage of refuse/recycling and cycles is provided within the development.
18. Other than the 3-bedroom unit on the lower ground floor, which has access to a generous garden, amenity space for all other units would be provided in the form of a corner balcony with an area of 15.7sqm, which is below the guidance of 20sqm as set out in SPG 17. However, if Members were minded to grant permission it is considered that these balconies could be increased by condition to meet the minimum standard but as the submission stands this is a further indication that too much development is proposed here.
19. Overall, there are no significant concerns regarding the quality of the residential accommodation proposed.

CIL

20. If Members were minded to approve the development against the recommendation of officers it is likely, assuming that the units will be private, that the scheme would attract a Brent CIL liability of approximately £118,600 and Mayoral CIL liability of approximately £20,755.

Consideration of Objections

21. The concerns raised by the objectors are summarised and addressed below

| Objection | Officers Comments |
|--|-------------------|
| The proposal will block light to and overshadow neighbouring | Paragraph 15 |

| | |
|---|---|
| residential properties. | |
| Concerns that the excavations associated with the proposal could affect the foundations of Waverley Court. | This is normally a matter for the Building Regulation and/or Party Wall Act |
| Water collected on the roof of the proposed building could pool/spill onto the roof of Waverley Court | Adequate drainage would need to be provided to comply with Building Regulations |
| Can a 'permit-free' agreement be enforced? | 'Permit(car)-free agreements operate and are enforced on a number of other developments within the borough. However, this site is not appropriate for a permit free scheme.(para 13). |
| Access to and from the site, in close proximity to the railway bridge would cause highway and pedestrian safety problems. | Paragraph 14 |
| Access to and from the site, in close proximity to the railway bridge would cause highway and pedestrian safety problems. | The applicant has amended the proposals to remove the advertising screens. |

Summary

22. Officers have fundamental concerns regarding the principle of the proposed development and its impact on the nature conservation value of the site. It is not considered that the proposed development would have an equal or lesser impact on the nature conservation value of the site in comparison to the dwellinghouse which was previous approved. Furthermore, there are concerns about the design and transport impacts of the proposal which are also considered to be contrary to the relevant planning policies and guidance. As such, refusal is recommended

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) The proposed development, by reasons of its siting within a site of Borough (Grade I) Nature Conservation Importance and a wildlife corridor, and the conditions created by residential occupation of the site, would be detrimental to the nature conservation function of these designated areas contrary to policy CP18 of the London Borough of Brent LDF Core Strategy and saved policies OS12 and OS14 of the London Borough of Brent Unitary Development Plan 2004
- (2) The development fails to provide sufficient on-site parking provision to meet the demand likely to be generated by occupiers of the residential units, on a site adjacent to a Distributor Road and in an area where there is no capacity for further on-street parking within the local side streets which are heavily parked, without causing unreasonable harm to local highway and pedestrian safety contrary to policies TRN3, TRN23 and TRN24 of the London Borough of Brent Unitary Development Plan 2004.
- (3) The proposed development, by reason of its bulk, poor elevational detailing, lack of appropriately proportioned and sited window openings, excessive hardstanding and height and appearance of its front boundary treatment, would result in a form of development that appears oppressive and illegible, lacking in residential quality and failing to relate to the street to the detriment of the streetscene and surrounding area, contrary to saved policies BE2, BE3, BE5, BE6 and BE7 of the London Borough of Brent Unitary Development Plan 2004.
- (4) The proposed development, given the height of the front boundary treatment and forecourt

layout, which fails to provide any form of separation to prevent conflicts between pedestrians and vehicles, would fail to provide sufficient visibility for pedestrians and vehicles entering and existing the site and for other road users on Brondesbury Park, in close proximity to the brow of a railway bridge. This would result in conditions that would be prejudicial to highway and pedestrian safety and would be contrary to saved policies TRN3, TRN13, TRN20 and BE5 of the London Borough of Brent Unitary Development Plan 2004

INFORMATIVES:

None Specified

REFERENCE DOCUMENTS:

Planning application 98/1081

GIGL report for SINC

Any person wishing to inspect the above papers should contact Ben Martin, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5231