



Planning Committee Map

Site address: 61 Beverley Gardens, Wembley, HA9 9RB

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This map is indicative only.

RECEIVED: 14 March, 2014

WARD: Barnhill

PLANNING AREA: Kingsbury & Kenton Consultative Forum

LOCATION: 61 Beverley Gardens, Wembley, HA9 9RB

PROPOSAL: Removal of condition 7 (use as single family dwellinghouse Use class C3a only) of full planning permission reference 10/1478, approved under appeal ref: APP/T5150/A/11/2146393 dated 15/07/2011 for Erection of two-storey, end-of-terrace dwellinghouse with single-storey rear and side extension and front porch, installation of vehicle access, provision of car-parking, refuse-storage to front and landscaping

APPLICANT: Mr Ray & Ms Jane Dwek & Brannan

CONTACT: Christopher Wickham Associates

PLAN NO'S:
Refer to Condition 2

RECOMMENDATION

Grant Consent

CIL DETAILS

As this application is a Section 73 application, it is not liable to any CIL Levy as no additional floorspace is to be created.

CIL Liable?

Yes/No: No

EXISTING

The application site concerns land next to No. 61 Beverley Gardens. Planning permission was granted in 2011 under appeal for a new dwellinghouse attached to No. 61 Beverley Gardens. This new dwellinghouse is known as 61A Beverley Gardens and is the subject of this application.

The site is not located within a conservation nor is it a listed building. The Barn Hill Conservation Area is located to the south of the site.

PROPOSAL

Removal of condition 7 (use as single family dwellinghouse Use class C3a only) of full planning permission reference 10/1478, approved under appeal ref: APP/T5150/A/11/2146393 dated 15/07/2011.

HISTORY

Planning history for new dwellinghouse known as 61a Beverley Gardens

E/13/0160: Enforcement investigation into the erection of a new dwelling without planning permission - **enforcement notice served on 22 August 2013, currently being appealed.**

12/0867: Details pursuant to conditions 8 (landscaping), 9 (i) windows, (ii) chimney stack, (iii) ground levels, (iv) bin storage, 10 (materials), 11 (implementation of roof), 12 (construction method statement) of full planning permission reference 10/1478, approved under appeal - **Granted, 14/06/2012.**

10/1478: Full Planning Permission sought for erection of two-storey, end-of-terrace dwellinghouse with single-storey rear and side extension and front porch, installation of vehicle access, provision of car-parking, refuse-storage to front and landscaping (alteration to previously approved scheme 09/1888 to include single-storey side extension) - **Allowed on appeal (ref: APP/T5150/A/11/2146393) dated 15/07/2011.**

09/1888: Full Planning Permission sought for erection of two-storey, end-of-terrace dwellinghouse with single storey rear extension and front porch, installation of vehicle access, provision of car-parking, refuse storage to front and landscaping to site subject to a Deed of Agreement dated 19th October 2009 under Section 106 of the Town and Country Planning Act 1990, as amended - **Granted, 21/10/2009.**

Planning history for original dwellinghouse known as 61 Beverley Gardens

E/13/0882: Enforcement investigation into the change of use of the premises to 2 flats - **no breach established, enforcement case closed on 09/08/2013.**

E/12/0574: Enforcement investigation into the installation of a vertical vent on the roof of the premises - **no breach established, enforcement case closed on 09/10/2012.**

09/0876: Full Planning Permission sought for erection of single storey rear extension with 1 skylight to dwellinghouse - **Granted, 09/06/2009.**

09/0877: Certificate of Lawfulness sought for proposed rear dormer window, 2 front rooflights and new front porch to dwellinghouse - **Lawful, 09/06/2009.**

07/3047: Full Planning Permission sought for formation of a vehicular crossover to front elevation of dwellinghouse - **Granted, 07/12/2007.**

POLICY CONSIDERATIONS

Brent's Core Strategy 2010

CP21: Maintaining a Balanced Housing Stock

Brent's UDP 2004

H10: Containment of Dwellings

H22: Protection of Residential Amenity

BE7: Public Realm - Streetscape

BE9: Architectural Quality

TRN11: The London Cycle Network

TRN23: Parking Standards - Residential Developments

CONSULTATION

Consultation Period: 20/03/2014 - 10/04/2014

39 neighbours consulted - 39 objections received on the following grounds:

- Property will be more intensely used as HMO;
- Increased parking and pressure in already congested road;
- More rubbish created;
- Loss of privacy as a result of overlooking from first floor windows to neighbouring gardens;
- Use of living room at first floor level will impact on neighbouring properties - increased noise levels from TVs, audio and household noise;
- Loss of family house which is a shortage in the area;
- Loss of character in area as a result of conversion of property into flats;
- Layout of property including two boiler flues (one on front and one on back of house) and separate lights on front entrance suggest that it will be converted into flats.

Barn Hill Residents Association - Proposal would generate additional traffic pressures in the area due to 6 unrelated people living in one household.

Internal Consultation

Environmental Health - no objections raised.

Transportation - no objections raised.

REMARKS

Background

1 Planning permission was allowed on appeal for a new dwellinghouse with a single storey side extension attached to No. 61 Beverley Gardens on 15 July 2011. The appeal was allowed subject to a number of planning conditions. This application follows a previous planning permission for a new dwellinghouse (which did not include the single storey side extension) in 2009.

2 One of the Conditions (condition 7) attached to the planning permission restricted the use of the property to only be used as a single family dwellinghouse and for no other purpose (including any other purpose in Use Class C3 specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that order with or without modification. The reason for imposing this condition was to prevent the use of the property as flats due to concerns regarding intensifying pressure for on street parking and associated level of activity for use in connection with flats that would be out of keeping with the locality. It should be noted that this condition replicated a condition imposed on the first planning permission in 2009.

3. It should be noted that no reference is made within the appeal decision to the use of the property within use classes C3(b) or (c) or a House in Multiple Occupation including one falling within Use Class C4.

Recent planning history

4. The new dwellinghouse allowed under appeal is the process of being constructed with the new building significantly complete. The new house has not been built in accordance with the approved plans for application ref: 10/1478 and associated discharge of conditions application ref: 12/0867. The areas which differ from the approved plans relate to the roof of the dwellinghouse, front porch and entrance door.

5. An enforcement notice was served on 22 August 2013 due to come into effect on 1 October 2013 with three month period for compliance (E/13/0160). This required the new house as built to be demolished or to be rebuilt to accord with the approved plans for application ref: 10/1478 and associated discharge of conditions application ref: 12/0867. The enforcement notice has however been appealed by the applicant and at the time of writing this report no decision had been made by the Planning Inspectorate.

Proposal

6. This application seeks to remove Condition 7 of planning permission ref: 10/1478 to allow it to be used within use classes C3(a), (b) and (c) and use class C4. The planning considerations of the removal of the condition are discussed below:

Changes to planning legislation

7. The Government introduced an amendment to the Use Classes Order on 6th April 2010. This split the former Class C3: Dwellinghouse into two classes - C3: Dwellinghouses and C4: Houses in multiple occupation.

8. The wording of 'Class C3. Dwellinghouses' now relates to: "Use as a dwellinghouse (whether or not as a sole or main residence) by –

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

9. The wording of 'Class C4. Houses in multiple occupation' covers: "Use of a dwellinghouse by not more than six residents as a 'house in multiple occupation'." In broad terms this use occurs where tenanted living accommodation is occupied by persons as their only or main residence, who are not related, and who share one or more basic amenities.

10. This separation into two distinct uses was made as a result of problems caused by high concentrations of HMO's in a number of towns and cities across the country, particularly towns and cities with

universities. Local Planning Authorities can introduce an Article 4 Direction to remove the permitted change from dwellinghouse (Use Class C3) to an HMO (Use Class C4) where it can justify doing so. There are no such Article 4 Directions in Brent.

11. An amendment was also made on 6 April 2010 to Part 3 of Schedule 2 of the General Permitted Development Order to allow permitted development rights (i.e. development that does not require planning permission) for a change of use from C4 to C3 and a further amendment in October 2010 allowed further permitted development rights from C3 to C4. It should be noted that large scale HMOs (i.e. over 6 occupants) will still require planning permission from use class C3.

Planning considerations of removing condition 7 at No. 61A Beverley Gardens

12. As described in paragraph 2 above, Condition 7 restricts the use of the new dwellinghouse for use by a single family dwellinghouse only (i.e. falling within use class C3(a)). The reason why the Planning Inspector imposed this condition was to prevent the use of the property as flats due to concerns regarding intensifying pressure for on street parking and associated level of activity for use in connection with flats that would be out of keeping with the locality. This reflects a condition imposed on the original planning permission in 2009.

13. Whilst it is acknowledged that this condition was imposed by the Planning Inspectorate at the request of the local planning authority to replicate those conditions imposed on the 2009 permission, following review of the reasoning for the imposition of this condition, it is not considered that it is reasonable as planning permission would be required to convert the property to flats. Further consideration of this is set out below. It is noted that in both the 2009 planning permission and within the appeal decision, no reference is made to concerns regarding the use of the property within use classes C3(b) or (c) or a small scale HMO within use class C4. [

14. In considering whether the removal of condition 7 can be supported consideration needs to be given to the character of the application property and the wider area. Your officers are of the opinion that there are not sufficient grounds to justify retaining condition 7 for the reasons as described below:

- The new dwellinghouse is relatively small compared to other properties in the area.
- The planning permission for the new dwellinghouse includes a condition that restricts permitted development rights under Part 1, Schedule 2 of the GPDO. This means that no additions, external alterations or extensions can be undertaken to the new dwellinghouse without needing planning permission (including roof extensions and roof lights). This allows the Local Planning Authority to not only consider the design implications of such extensions but also consider the intensification of use and impact on the occupants of the dwellinghouse and wider area. It should be noted that other dwellinghouses in the area outside of the Conservation Area can undertake larger roof extensions without needing planning permission.
- Brent does not have an Article 4 Direction in place to remove permitted development rights from use class C3 to C4 within the Borough. This means that any dwellinghouse within the area can be converted into a small scale HMO without needing planning permission.
- Converting the property either from a dwellinghouse within use class C3 or a small scale HMO within use class C4 into self contained flats will require planning permission. This has been the case since before the Inspector allowed the appeal in 2011. Any planning application will be considered in accordance with the statutory development plan and will have regard to local amenity and highway pressures.
- As the property will still be in use as one household there has not been an significant increase in parking standards. The UDP requires 1.6 spaces for a three bedroom house One off street parking will still be provided as approved as part of application ref: 10/1478. Even though this application is not proposing a large scale HMO, it should also be noted that the Council's parking standards for large scale HMOs only require 1 car parking space per 16 bedrooms.
- If further rooms on the ground floor are used as additional bedrooms, the parking standard would increase to 2 spaces for a four bedroom+ house. This is an increase of 0.4 spaces which is not considered to be detrimental on the local highway network.

Response to objections raised

15. A total of 39 objections have been received from properties in Alverstone Road, Beverley Gardens, West Hill and Uxendon Hill. A table setting out the objections together with response to the objections is set out below:

Point of objection

Property will be more intensely used as HMO including more rubbish

Increased parking and pressure in already congested road.

Loss of privacy as a result of overlooking from first floor windows to neighbouring gardens.

Use of living room at first floor level will impact on neighbouring properties - increased noise levels from TVs, audio and household noise.

Loss of family house which is a shortage in the area.

Loss of character in area as a result of conversion of property into flats.

Layout of property including two boiler flues (one on front and one on back of house) and separate lights on front entrance suggest that it will be converted into flats.

Response

The property would still be used in effect as one household as a small scale HMO and is not considered to result in a significant intensification of use compared to a C3 dwellinghouse.

Please refer to paragraph 14 above.

The degree of overlooking will be no worse than the use of the property as a single family dwellinghouse. This degree of overlooking was considered acceptable by the Planning Inspector. Furthermore permitted development rights have been removed so any additional windows etc will require planning permission.

The layout of the property does not suggest that there will be a living room at first floor level. It however should be noted that a living could be introduced to any house in the area at first floor level with it still operating as one household and the increased noise levels will be no greater to that of any other house in the area.

The Planning Inspector did not secure condition 7 due to shortage of family houses within the area. The layout and nature of the property as a small scale HMO would allow it to revert back into a family house. This application does not seek to convert the property into flats. Such works will require planning permission. Please see paragraph 14 and the response above.

Planning conditions and Section 106 Agreement

16. With the exception of condition 7 it is recommended that all of the conditions imposed as part of planning permission ref: 10/1478 are attached to any forthcoming consent. It is recommended that they are appropriately reworded to take into account the details approved as part of the discharge of conditions application ref: 12/0867.

17. Planning permission ref: 10/1478 was subject to an unilateral undertaking for a financial contribution of £9000. This contribution has been paid to the Council. No further contributions are required nor is the scheme liable to Community Infrastructure Levy as no new floorspace will be created as a result of this application.

Conclusions

18. In conclusion, it is considered that the removal of condition 7 of full planning permission ref: 10/1478 to allow the property to be used within use class C3(a), (b) or (c) or use class C4 would not have a significant impact on the local area in terms of character of a significant increase in vehicle traffic .

19. Approval is accordingly recommended for the reasons as outlined above and as set out in the decision notice.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

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

Brent Unitary Development Plan 2004

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 15 July 2011.

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):

Please refer to application ref: 10/1478 for the following plans:

DS/513B S01a 1:1250 location plan
DS/513B S02c 1:200 existing site plan
DS/513B S03a 1:100 existing site as seen from Beverley Gardens
DS/513B S04b 1:200 existing site cross sections
DS/513B S05d 1:200 proposed site plan
DS/513B S06c 1:100 proposed layout plan
DS/513B S07e 1:100 proposed front elevation as seen from Beverley Gardens
DS/513B S08d 1:100 proposed side and rear elevations

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

- (3) Notwithstanding the provisions of Classes A, B, C, D, E and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be extended, the roof altered or ancillary buildings erected unless a formal planning application is first submitted to and approved by the Local Planning Authority.

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

- (4) Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or glazed doors, other than those expressly authorised by this permission, shall be constructed on the southern flank wall of the development hereby permitted.

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

- (5) The first floor windows on the western rear wall of the development hereby permitted shall not be converted to glazed doors.

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

- (6) The roof of the rear extension hereby permitted shall not be used for a roof terraced.

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

- (7) The hard and soft landscaping scheme approved as part of application ref: 12/0867 on 14 June 2012 shall be completed in full accordance with the approved details. The hard landscaping shall be completed prior to first occupation of the dwellinghouse hereby approved and the soft landscaping shall be completed within the first available planting season following

first occupation of the dwellinghouse hereby approved. A list of approved plans include:

- Condition 8 (i): Arboricultural Implications Assessment;
- Condition 8. Hard and Soft Landscaping Scheme; Proposed Soft Landscaping Plan (March 2012)
- Drawings - S01b; P02f; P04e; and P05c

Any trees, shrubs or hedging plants which form part of the approved landscaping scheme and die, are removed, are seriously damaged or become diseased within five years of the initial planting shall be replaced with trees, shrubs or hedging plants of the same species and of similar height unless the local planning authority agrees to any variation. Any walls and fences which form part of the approved landscaping scheme shall be retained thereafter.

- (8) Details of the windows and chimney to the new dwellinghouse, existing and proposed ground levels and details of the bin store as part of application ref: 12/0867 on 14 June 2012 shall be completed in full accordance with the approved details. A list of approved plans include:

- Condition 9. Details of specified elements (i) to (iv);
- Drawings - S01b; S02c; S03, S04; S05; P04e; P06c; P07c

Reason: In the visual interest of the locality.

Heather brick- Hanson London Brick supplied by Keyline

Redland antique rustic concrete roofing tile

Buxton Charcoal - concrete paving slab

- (9) The external materials for the new dwellinghouse hereby approved shall be completed in accordance with the details approved as part of application ref: 12/0867 on 14 June 2012. A list of approved materials include:

- Heather brick- Hanson London Brick supplied by Keyline
- Redland antique rustic concrete roofing tile
- Buxton Charcoal - concrete paving *slab*

Reason: In the visual interest of the locality.

- (10) Construction of the new dwellinghouse hereby approved shall be carried out in full accordance with the construction method statement approved as part of application ref: 12/0867 on 14 June 2012.

Reason: To safeguard the amenity of the neighbours by minimising impacts of the development that would otherwise give rise to nuisance.

- (11) In accordance with the details approved as part of application ref: 12/0867 dated 14 June 2012, the dwellinghouse hereby approved shall not be occupied until the roof of No. 61 Beverley Gardens has been completed. Fourteen days written notice shall be provided to the local planning authority of the occupation of the dwellinghouse hereby permitted.

Reason: To ensure a satisfactory development.

INFORMATIVES:

None Specified

Any person wishing to inspect the above papers should contact Victoria McDonagh, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5337

