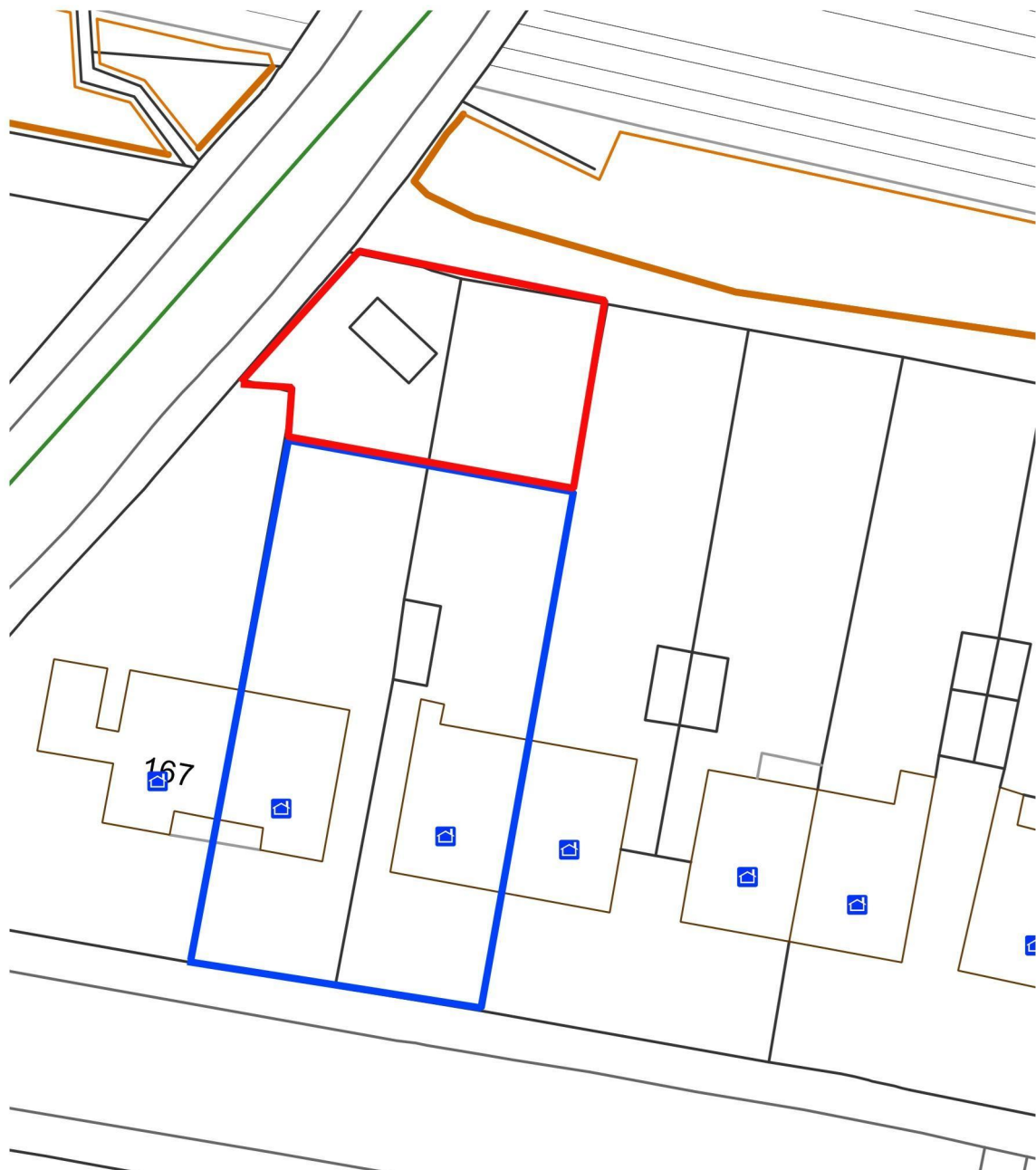




**Planning Committee Map**

Site address: 163 & 165 Chatsworth Road, London, NW2 5QT

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This map is indicative only.

**RECEIVED:** 14 May, 2014

**WARD:** Brondesbury Park

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** 163 & 165 Chatsworth Road, London, NW2 5QT

**PROPOSAL:** Change of use of land to rear of 163 & 165 Chatsworth Road to incorporation into the residential curtilage of 163 Chatsworth Road

**APPLICANT:** Mr & Mrs Ampofo

**CONTACT:** Collins & Coward

**PLAN NO'S:**  
See condition 2

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## **RECOMMENDATION**

Approval subject to conditions set out after paragraph 10 of this report

## **CIL DETAILS**

The application is concerned with the use of land and does not propose any new floorspace. As such, the application does not attract a CIL liability.

## **CIL Liable?**

Yes/No: No

## **EXISTING**

The subject site comprises of land to the rear of 163 & 165 Chatsworth Road with an area of approximately 320m<sup>2</sup>. To the west the site fronts directly on to Lydford Road where there is an existing vehicular access. To the north the site is bound by the adjacent railway embankment. The site is largely vacant except for a derelict garage building.

The site lies within a designated Wildlife Corridor which runs along the railway embankment and encompasses the rearmost parts of the gardens to the properties along this side of Chatsworth Road. The railway embankment itself is also designated as a Site of Borough (Grade I) Nature Conservation Importance.

## **PROPOSAL**

As above

## **HISTORY**

Historically the subject site would have formed part of the rear gardens to 163 and 165 Chatsworth Road. However, the land was annexed from these properties to form a separate site prior to the submission of a planning application (08/2780) in 2008 which proposed the erection of a 2-storey, 3-bedroom dwellinghouse. This application was refused.

In 2009 a second planning application (09/1482) was submitted on the site which proposed a revised 2-storey 3-bedroom dwellinghouse. This application was also refused and the decision was upheld on appeal.

In 2013 an enforcement notice was served on the site for the "change of use of the premises from residential to a mixed use as residential and storage and deposit of building and scrap materials". The Enforcement Team are yet to confirm compliance with the notice.

A similar planning application (13/2000) to that now under consideration was withdrawn prior to determination,

## **POLICY CONSIDERATIONS**

### **National Planning Policy Framework**

### **London Plan 2011 (as amended 2013)**

### **London Borough of Brent Core Strategy 2010**

### **London Borough of Brent Unitary Development Plan 2004 ('saved' policies)**

BE6                Public Realm: Landscape Design

## **CONSULTATION**

Consultation letters, dated 29th June 2014, were sent to 17 neighbouring owner/occupiers. In response objections have been received from 5 local residents. In summary the concerns of the objectors relate to the following issues.

- The boundaries of the property cannot be amended by Brent Council, this is a matter for Land Registry.
- The land registry boundaries show the application site belonging to 163 and 165 Chatsworth Road.
- The revised boundary creates a larger site to enable another attempt to build a house in a garden.
- The proposal would increase the garden area for 163 Chatsworth Road allowing bungalow buildings to be constructed over half of the area without planning permission.

## **REMARKS**

### **CHANGE OF USE**

1. The application site formerly comprised of the rearmost part of the rear gardens to 163 and 165 Chatsworth Road. Currently 163 Chatsworth Road is a residential dwellinghouse (Use Class C3) and 165 Chatsworth Road is a house in multiple occupation (sui generis). Both of the properties are owned by the applicant.

2. The purpose of the application is to allow the entire application site to be used as part of the garden of the dwellinghouse at 163 Chatsworth Road. As part of the application site is land which would have been part of the garden to a house in multiple occupation in planning terms a change of use is required in order for the land to be used in association with the dwellinghouse at 163 Chatsworth Road.

3. In planning terms, the main impact arising from the proposal would be the reduction in amenity space for occupiers of 165 Chatsworth Road. Notwithstanding the fact that the garden has already been subdivided, which in itself does not constitute a breach of planning control, in planning land use terms the proposal would effectively reduce the area of the garden of the HMO at 165 Chatsworth Road from approximately 350m<sup>2</sup> to approximately 220m<sup>2</sup>. Whilst this is a significant reduction the resulting amenity space would far exceed what would be expected in the case of new development and therefore it is considered that the resulting garden space would still provide sufficient amenity space for occupiers of 165 Chatsworth Road.

## **CONSIDERATION OF OBJECTIONS**

<b>Objection</b>	<b>Officers Response</b>
The boundaries of the property cannot be amended by Brent Council, this is a matter for Land Registry.	See para 4
The land registry boundaries show the application site belonging to 163 and 165 Chatsworth Road.	See para 5
The revised boundary creates a larger site to enable another attempt to build a	See para 6&7

house in a garden.	
The proposal would increase the garden area for 163 Chatsworth Road allowing bungalow buildings to be constructed over half of the area without planning permission.	See para 6

4. The current application relates to the planning use of the land involved and does not affect any of the legal property boundaries that exist.. Should the owner of the site wish to amend the property boundaries contained in the title deeds as indicated by the objectors then this matter would need to be referred to the Land Registry.

5. Officers are aware that a recent land registry search indicates that from a property perspective the application site forms part of the curtilage of both 163 and 165 Chatsworth Road. This will not change as a result of any permission issued pursuant to this application. However, this permission will allow, in planning terms, the land currently associated with 165 Chatsworth Road to be lawfully used as part of the garden of 163 Chatsworth Road.

6. The proposal would permit a larger garden to the single family dwellinghouse at 163 Chatsworth Road which would then enjoy permitted development rights as set out under Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 1995, as amended (GPDO). It is acknowledged that under these permitted development rights the owner may normally be permitted to erect, without planning permission, an outbuilding within the garden to be used for purposes incidental to the enjoyment of the dwellinghouse. The size of any outbuilding would need to comply with the tolerances set out in the GPDO and even if this were to allow a large single storey structure the owner would need to be able to demonstrate that the building would be required for purposes incidental to the dwellinghouse. For the information of Members permitted development rights would not allow an outbuilding to be constructed for use as a residential dwelling or to be used as a primary form of residential accommodation. Given the planning history set out above it is inevitable that some residents may feel that this application is submitted in order to allow the applicant to circumvent, in some way, planning policies.

7. In connection with this particular point the 2009 appeal mentioned above was dismissed on 2 principle grounds, namely the unacceptable impact on the character of the area and the detrimental impact that the proposed house would have on the designated Wildlife Corridor and Site of Borough Nature Conservation Area Importance on this site. In terms of the first point the future erection of a house here would once again need to be considered on its own planning merits in due course and that is the case regardless of the decision that is made with this application. However, the situation is slightly different as far as the prime function and value of the Wildlife Corridor is concerned. The Inspector found that it is the continuity of these Corridors as they link sites of known nature conservation value, and avoid their ecology becoming isolated that is important. They concluded in dismissing the appeal that:

*"The proposal would, by virtue of its design, introduce light spillage, noise and general activity and disturbance associated with residential occupation directly into the Wildlife Corridor, including the SNCAI. Although the appellant has argued that the boundary landscaping proposed would ameliorate the effect of light spillage, I share the concern of the Council and others over the long term and on-going effectiveness and practicality of such boundary planting so close to the proposed dwelling. I also note the suggestion by the appellant that special glazing could be conditioned to further reduce the light spillage particularly from the proposed full height windows on the north elevation, but do not consider that this would be sufficient to overcome the overall harm arising from domestic activity to the continued functioning of the Wildlife Corridor".*

8. The proposed dwelling would have been sited some 2m from the northern boundary with the railway and occupy a site with a maximum depth of some 25m from Lydford Road. The Inspector stated that *"Whilst not physically severing the corridor, I consider that this would constitute a substantial constriction, within an otherwise predominantly open corridor, compromising its effectiveness and adversely affecting its nature conservation function as a conduit for the movement of wildlife"*. As a result of this clear indication that planning harm might result from the erection of a building here it is considered that this is an exceptional case whereby it is necessary to remove permitted development rights for outbuildings meaning that they would need formal planning permission from the Council. This is not to say that planning permission would not be granted for the outbuildings, but rather that the Planning Authority would be able to exercise control over them in order to prevent the problems clearly identified by the Inspector being repeated here.

9. If the owner of the site did intend to building a dwellinghouse within any part of the proposed curtilage of 163 Chatsworth Road, then they would still require planning consent. As set out in the history section of this report two previous planning applications for the erection of a dwellinghouse on the application site have been refused by the Council, one of which was upheld on appeal. Whilst it is not the purpose of this report to prejudge the outcome of any further applications that may come forward for the site, officers do not consider that the current proposal would significantly change the planning considerations associated with the assessment of any further planning applications for the erection of a dwellinghouse on the site and in any event this current application must only be considered on the basis of material planning considerations relevant to it.

## **SUMMARY**

10. Overall, officers consider that the proposal constitutes an appropriate change of use that, providing that permitted development rights are controlled as described above, would not give rise to any material harm that would justify the refusal of planning permission. As such approval, is recommended.

## **REASONS FOR CONDITIONS**

**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

## **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:

C&C/1

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

- (3) No outbuildings shall be constructed within the curtilage of the dwellinghouse subject of this application, notwithstanding the provisions of Class E 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.

Reason(s):

In view of the restricted nature and layout of the site and its relationship with a Wildlife Corridor and Site of Borough Nature Conservation Area Importance no outbuildings should be allowed without the matter being first considered by the Local Planning Authority.

**INFORMATIVES:**

None Specified

**REFERENCE DOCUMENTS:**

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