

Committee Report
Planning Committee on 20 July, 2010

Item No. 1/02
Case No. 10/1088

RECEIVED: 7 May, 2010

WARD: Queensbury

PLANNING AREA: Kingsbury & Kenton Consultative Forum

LOCATION: 3 Burnt Oak Broadway, Edgware, HA8 5LD

PROPOSAL: Extension to time limit of application 05/0380 dated 12/05/05 for demolition of existing building and replacement with a 5- and part 6-storey building to provide a mixed-use development including basement car-parking, retail at ground and mezzanine levels, and 73 flats in 2 separate blocks and subject to a Deed of Agreement dated 12th May 2005 under Section 106 of the Town and Country Planning Act 1990, as amended. This represents a car free development

APPLICANT: Devenshire (South) Ltd

CONTACT: PAD Consultancy Ltd

PLAN NO'S:
See Codition 4

RECOMMENDATION

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Director of Environmental Services to agree the exact terms thereof on advice from the Borough Solicitor

SECTION 106 DETAILS

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

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
- 40% Affordable Housing – unless otherwise agreed by the Council
- A contribution of £266,400 (£3000/£2400 per additional bed space) due on material start and index linked from the date of committee for Education, Sustainable Transportation, Open Space & Sports in the local area.
- Sustainability - submission and compliance with the Sustainability check-list ensuring a minimum of 50% score is achieved and Code for Sustainable Homes level 4 for the residential and BREEAM level "Excellent" for non-residential, with compensation should it not be delivered. In addition to adhering to the Demolition Protocol.
- Offset 20% of the site's carbon emissions through onsite renewable generation. If proven to the Council's satisfaction that it's unfeasible, provide it off site through an in-lieu payment to the council who will provide that level of offset renewable generation.

- Join and adhere to the Considerate Contractors scheme.
- Permit Free
- Travel Plans for the retail and residential elements of the development
- Car Park Management Plan;
- An agreement under Section 38 of the Highways Act 1980 to reconstruct the service road to the rear of the site to an adoptable standard and thereafter offer it to Brent Council for adoption as highway maintainable at the public expense and to facilitate the reconstruction of the length of rear service road to the rear of 1 Burnt Oak Broadway to adoptable standards under the Private Street Works code of the Highways Act 1980 (with a view to future adoption under S.228 of the Highways Act 1980);

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

EXISTING

The site at present occupies a stated area of 2,740 sq. metres. The site fronts Burnt Oak Broadway along a distance of approximately 74 metres. The site is currently occupied by a three storey structure with a large scale retail facility at ground floor level, parking at first floor level and ancillary office space at 2nd floor level. There is an approximate drop of 2 metres in levels across the site from north to south.

PROPOSAL

Extension to time limit of application 05/0380 dated 12/05/05 for demolition of existing building and replacement with a 5- and part 6-storey building to provide a mixed-use development including basement car-parking, retail at ground and mezzanine levels, and 73 flats in 2 separate blocks and subject to a Deed of Agreement dated 12th May 2005 under Section 106 of the Town and Country Planning Act 1990, as amended. This represents a car free development

HISTORY

05/0380. Full planning permission sought for Demolition of existing building and replacement with a 5 and part 6 storey building to provide mixed use development including basement car parking retail at ground and mezzanine levels and 73 flats in 2 separate blocks. Granted 12/05/2005.

There is also a development currently under construction nearing completion at the neighbouring Theoco Site. This development was approved in 2003. Demolition of existing building and erection of a new car showroom with ancillary facilities to the ground floor, basement car-parking and 53 flats above (03/3436).

POLICY CONSIDERATIONS

National

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development (2005)

This PPS supports the reform programme and sets out the Government's vision for planning, and the key policies and principles, which should underpin the planning system. These are built around three themes: sustainable development – the purpose of the planning system; the spatial planning approach; and community involvement in planning.

Planning Policy Statement 3 (PPS3): Housing (2006)

This document's objective will be to deliver new homes at the right time in the right place and will reflect the need for flexibility in planning between urban and rural areas, and in areas experiencing high or low demand. The aim is that the planning system is used to its maximum effect to ensure the delivery of decent homes that are well designed, make the best use of land, are energy efficient, make the most of new building technologies and help to deliver sustainable development.

Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth (2009)

PPS4 consolidates the key economic policies of PPG4, PPG5 and PPS6 (and part of PPS7). It sets out how planning can help achieve the Government's objective of sustainable economic growth by: improving the economic performance of cities, towns, regions, sub-regions and local areas; reduce the gap in economic growth rates between regions, promoting regeneration and tackling deprivation; deliver more sustainable patterns of development, reduce the need to travel, especially by car and respond to climate change; promote the vitality and viability of town and other centres as important places for communities.

To achieve this, the Government wants: new economic growth and development of main town centre uses to be focused in existing centres; competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres; the historic, archaeological and architectural heritage of centres to be conserved and, where appropriate, enhanced; raise the quality of life and the environment in rural areas

Greater Flexibility for Planning Permissions (2009)

This was brought into force on 1 October 2009 via the Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009 (SI 2009 No. 2261). This measure has been introduced in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve. LPAs are instructed to take a "positive and constructive approach" towards those applications which improve the prospect of sustainable development being taken forward quickly.

Regional

London Plan (consolidated with alterations since 2004)

The London Plan, which was adopted in February 2004 and revised in 2006 and 2008, sets out an integrated social, economic and environmental framework for the future development of London. The vision of the Plan is to ensure that London becomes a prosperous city, a city for people, an accessible city, a fair city and a green city. The plan identifies six objectives to ensure that the vision is realised:

Objective 1: To accommodate London's growth within its boundaries without encroaching on open spaces

Objective 2: To make London a healthier and better city for people to live in;

Objective 3: To make London a more prosperous city with strong, and diverse long term economic growth

Objective 4: To promote social inclusion and tackle deprivation and discrimination;

Objective 5: To improve London's accessibility;

Objective 6: To make London an exemplary world city in mitigating and adapting to climate change and a more attractive, well-designed and green city.

The London Plan sets targets for the provision of new homes and the proportion of affordable dwellings together with the accessibility of dwellings in relation to the Lifetime Homes standards and the proportion of wheelchair or easily adaptable units.

The London Plan sets out policies relating to climate change, setting out the Mayor's energy hierarchy (using less energy, supplying energy efficiently, using renewable energy) which includes consideration of the feasibility of CHP/CCHP and a reduction in carbon dioxide emissions of 20% from on site renewable energy generation.

Housing – Supplementary Planning Guidance (2005)

This guidance relates to the housing policies within the London Plan and covers policies on housing provision (following draft SPG published for consultation in December 2004) and policies on affordable housing (following draft SPG published for consultation in July 2004). It gives detailed guidance for boroughs on how to develop sites for housing and how to determine housing mix and density for any individual site. It emphasises that new developments should make the most effective and appropriate use of the land available, consistent with the principles of Sustainable Residential Quality. The Mayor is concerned that new housing in London should meet the full range of housing needs. The guidance sets out how this must include in particular a higher level of new family housing than is currently being built in London.

Providing for Children and Young People's Play and Informal Recreation – Supplementary Planning Guidance (2008)

This Planning Guidance seeks to ensure that a high quality environment is provided for all residents with sufficient high quality play and recreation space accessible by children and young people of different ages. Targets are set for the amount and types of play and recreation space based on the child yield of the development and accessibility of the existing and proposed play and recreation facilities.

Sustainable Design and Construction – Supplementary Planning Guidance (2006)

The SPG provides guidance on the way that the seven measures identified in the London Plan 2004 Policy 4B.6 (Policy 4A.3 of the 2008 amendment to the London Plan) can be implemented to meet the London Plan objectives.

The seven objectives are as follows:

- Re-use land and buildings
- Conserve energy, materials, water and other resources
- Ensure designs make the most of natural systems both within, in and around the building
- Reduce the impacts of noise, pollution, flooding and micro-climatic effects
- Ensure developments are comfortable and secure for users
- Conserve and enhance the natural environment, particularly in relation to biodiversity
- Promote sustainable waste behaviour in new and existing developments, including support for local integrated recycling schemes, CHP schemes and other treatment options

Local

Brent Unitary Development Plan 2004

Set out below is a summary of the key policies within the adopted Brent UDP 2004 which are directly relevant to the determination of the application. The policies prior to adoption were subject to an Equalities Impact Assessment.

Strategy

STR 1–4 (prioritising locations and land uses to achieve sustainable development)

STR 5 & 6 (reducing the need to travel)

STR 11–17 (protecting and enhancing the environment)

STR 19 & 20 (meeting housing needs)

STR 37–38 (meeting community needs)

The Built Environment

BE 1 (which requires the submission of an Urban Design Statement)

BE 2 (townscape; local context and character)

BE 3 (urban structure; space and movement)
BE 4 (access for disabled people)
BE 5 (urban clarity and safety)
BE 6 – 7 (public realm; landscape design and streetscape)
BE 9, (which requires developments to be of high architectural quality)
BE 11 (intensive and mixed-use developments)
BE 12 (sustainable design principles)

Environmental Protection

EP 2 (noise and vibration)
EP 3 (local air quality management)
EP 6 (contaminated land)
EP 10 (protection of surface water)
EP 15 (infrastructure).

Housing

H 4 (off-site affordable housing)
H 8 (dwelling mix)
H 10 (housing on brownfield sites)
H 12 (residential quality)
H 29 (accessible housing).

Transport

TRN 1 (transport assessment)
TRN 2 (public transport integration)
TRN 3 (environmental impact of traffic)
TRN 4 (measures to make transport impact acceptable)
TRN 10 (walkable environments)
TRN 11 (the London Cycle Network)
TRN 12–13 (road safety)
TRN 16 (the London Road Network)
TRN 22–25, 28 (parking)
TRN 34 (servicing)
TRN 35 (transport access for disabled people).

Town Centres and Shopping

SH 1 (network of town centres)
SH 3 (major town centres and district centres)
SH 19 (rear servicing)

Open Space, Sport and Recreation

OS 18 (play areas for children)

Waste

W8 (construction/demolition/commercial waste)
W9 (construction/movement of spoil)

Core Strategy - Proposed Submission DPD June 2009

Declared sound by Inspector following Examination in Public (EIP) in April 2010, the Core Strategy has 12 strategic objectives:

- Objective 1: to promote economic performance & regeneration
- Objective 2: to meet employment needs and aid the regeneration of industry and business
- Objective 3: to enhance the vitality and viability of town centres
- Objective 4: to promote the arts and creative industries

Objective 5: to meet social infrastructure needs
Objective 6: to promote sports and other recreational activities
Objective 7: to achieve housing growth and meet housing needs
Objective 8: to reduce the need to travel and improve transport choices
Objective 9: to protect and enhance Brent's environment
Objective 10: to achieve sustainable development, mitigate & adapt to climate change
Objective 11: to treat waste as a resource
Objective 12: to promote healthy living and create a safe and secure environment

CP 1 (spatial development strategy)
CP 2 (population and housing growth)
CP 11 (Burnt Oak/Colindale Growth Area)
CP 16 (town centres and the sequential approach to development)
CP 19 (Brent strategic climate mitigation and adaptation measures)

Brent Supplementary Planning Guidance

SPG4 – “Design Statements” adopted 2004

Provides guidance on the preparation and content of coherent and comprehensive design statements as required by Policy BE1 of the Adopted UDP.

SPG17 – “Design Guide for New Development” adopted October 2001

Provides comprehensive and detailed design guidance for new development within the Borough. The guidance specifically sets out advice relating to siting, landscaping, parking, design, scale, density and layout.

SPG19 – “Sustainable Design, Construction & Pollution Control” adopted April 2003

Provides design and planning guidance on complying with Policy BE12 of the adopted UDP which requires developments to embody sustainable design principles. The guidance covers measures to ensure energy and water conservation, selection of sustainable materials, environmentally friendly landscape design, sustainable demolition and construction practices and reduction of pollution in the operation of developments.

SPG21 – “Affordable Housing” draft consultation (2003)

This SPG note seeks to ensure that all appropriate new housing developments makes it proper permanent contribution towards alleviating Brent's affordable housing needs. This SPG note amplifies national guidance, supplements the policies of the UDP and sets out in detail the considerations the Council will apply in determining planning applications.

SPD “Section 106 planning obligations” October 2007

Provision for a standard charge for planning obligation contributions.

SUSTAINABILITY ASSESSMENT

Sustainability and energy sources are considered the key policy areas to have changed since the application was determined (see *Remarks* section, below).

At the regional level, the London Plan, originally published in 2004, has been revised to include a requirement for developments to “achieve a reduction in carbon dioxide emissions of 20% from onsite renewable energy generation (which can include sources of decentralised renewable energy)” (Policy 4A.7 Renewable Energy, 2008: p205).

At the local level, Brent's Core Strategy, found sound by Inspector's binding report in April 2010, includes policy CP19 *Brent Strategic Climate Mitigation & Adaptation Measures* which requires Code for Sustainable Homes Level 4 (CSH4) in Housing Growth Areas and BREEAM Excellent for non residential development.

Turning to the changes to local planning policies, the proposal is in the Burnt Oak/Colindale Housing Growth Area (as identified in the Core Strategy, policy CP11) where major proposals are required to meet CSH4 and BREEAM 'Excellent', subject to feasibility. The original S106 agreement sought BREEAM 'Very Good' or the Code for Sustainable Homes equivalent. The increased weight attributed to the Core Strategy following it being found sound by the Inspector in April 2010 means the provisions of policy CP19 *Brent Strategic Climate Mitigation & Adaptation Measures* should be sought.

A sustainability checklist was submitted with the original application this had a score of 31% which was considered to be fairly positive at the time. While this is below the 51% currently this policy was in effect at the time of the previous application. However it is considered that the proposed deed of variation to the section 106 will result in an improvement of the sustainability checklist rating.

CONSULTATION

A site notice was displayed at 2 points adjacent to the site and 94 letters were sent out to neighbouring residents that may be affected. In response to this 1 objection has been received from a resident on Lemsdale Gardens who objects on the following grounds:

- The proposed development in conjunction with other recent approvals for high density development on the Edgware Road will overload the existing infrastructure in particular the transport system. These comments are addressed in the remarks section of the report

A number of external agencies were also consulted on the proposed extension. The comments are summarised below:

TFL have no objection to the proposal but consider that conditions should be attached to ensure that highway and transport issues are acceptable. Conditions should be attached in relation to the following matters:

- 1) Full construction management plan and construction logistics plan should be submitted and approved before commencement of works to minimise impact on A5 during construction. This could be done by condition or a clause in the section 106
- 2) No construction vehicles should park or drop-off on the footway and carriageway on A5 at any time without prior consent.
- 3) Deliver and servicing plan should be submitted prior to works commencing.
- 4) The applicant shall obtain further approval from the local planning authority when the exact use of the proposed (i.e. whether it is food or non-food retail).
- 5) The proposed retail space must not be sub-divided into small units for multiple use without prior consent

They also recommend that the number of cycle parking spaces be increased and that residential and work place travel plans should be produced.

- In response to the matters relating to the first 3 requests are covered in existing and proposed additional conditions. In relation to the additional control of the retail space these are matters that were not included as conditions at the application stage and there is no additional alterations to policy to justify adding these at this stage.

The Council's Highways Engineer has no objection to the proposed extension subject to an amended Section 106 Agreement to secure:-

- (i) a financial contribution of £100,000 towards non-car access/highway safety improvements and/or parking controls in the area;
- (ii) Travel Plans for the retail and residential elements of the development;
- (iii) a Car Park Management Plan; and
- (iv) an agreement under Section 38 of the Highways Act 1980 to reconstruct the service road to the rear of the site to an adoptable standard and thereafter offer it to Brent Council for adoption as highway maintainable at the public expense and to facilitate the reconstruction of the length of rear service road to the rear of 1 Burnt Oak Broadway to adoptable standards under the Private Street Works code of the Highways Act 1980 (with a view to future adoption under S.228 of the Highways Act 1980);

together with a condition requiring an increased in the bicycle parking provision of nine spaces in the basement car park and eight publicly accessible spaces along the site frontage, there would be no objections on transportation grounds to the extension of this planning permission for a further period.

Landscape Design have not changed their comments and request that a section 106 contribution is made toward landscape improvements. This is covered in the standard charge set out in the section 106 paragraph above.

The Environment Agency have no objections to the extension of time limit but request that a condition restricting the use of piling or other foundation designs unless written consent is received from the LPA. This is required to demonstrate that there will be no unacceptable risk to groundwater in the deep aquifer. A condition has been attached to this effect.

Environmental Health have no objection to the proposal provided that the same conditions are applied as to the original permission.

REMARKS

Introduction

This application is for extension of the time limit on the original permission granted on 12 May 2005. As discussed below, the development proposed in this application for extension has by definition been judged to be acceptable in principle by members. The issues discussed in the original reports will not be discussed in this report unless the relevant policies have changed.

Background

The recession has had a significant impact on the development industry over the past two years. The ability for developers to raise finance to purchase and construct schemes has been restricted as bank lending has contracted. Demand for retail space has declined in the face of reduced household income and the ability of potential homeowners to secure mortgage finance has been severely limited, although house prices have remained surprisingly resilient.

As a result a number of consented schemes are at risk of not being commenced within three/five years of the permission being issued. The need for homes remains, however, and it is expected that the construction sector, which makes a significant contribution to the economy, will recover as the recession eases and liquidity returns to the credit markets.

Government response

In 2009 the Government recognised the difficulties facing the industry and introduced legislation to help maintain the delivery of sustainable development in the face of the UK recession. As of October 2009 applicants have been able apply to their Local Planning Authority (LPA) for a new

planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development. This has been introduced in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve.

Procedural matters

The process is referred to as 'extension' for convenience. More formally, a new permission will be granted, with a new reference number, for the development granted permission by the original decision. This new permission will be subject to a new standard timescale condition and all original conditions and S106 obligations will be retained. There is scope to impose additional conditions and obligations if necessary, to overcome minor policy changes (see below).

Communities and Local Government stresses that, although this is not a rubber-stamp exercise, "development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date" (2009: 7-8).

How Brent should approach such applications

Guidance titled 'Greater Flexibility for Planning Permissions: Guidance' has been published by the Government and this document informs LPAs how to approach these types of applications (Communities and Local Government, 2009). LPAs are instructed to take a "positive and constructive approach" towards those applications which improve the prospect of sustainable development being taken forward quickly (2009: 7). The focus of attention in determining the application should be on those development plan policies and other material considerations (including national or regional policies) "which may have changed *significantly* since the original grant of permission" (2009: 8, author's emphasis).

Policy changes since 12 June 2005

Below is a table of the main policy changes to have occurred since planning permission was granted. Not all policy changes affect the scheme and of those that do, not all would make the scheme unacceptable. If any policy is now at odds with the scheme, its significance should be balanced against the guidance from the Government that LPAs take a positive and constructive approach to deciding these applications, which should be given substantial weight.

<i>Level</i>	<i>Document</i>	<i>Adopted?</i>	<i>Changed since 12th May 2005?</i>
Brent	Unitary Development Plan 2004	2004	Yes, since 27 September 2007 a number of the policies have been deleted, including policies H2 and H3. The application is considered against the saved policies
	Supplementary Planning Guidance	Various, none after May 2005	No
	Supplementary Planning Document - s106	October 2007	Yes, wholly new. Most s106 financial contributions are calculated using the standard charge.
	Local Development Framework	Emerging	Yes
	Core Strategy	Emerging	Yes, found sound at Examination in Public (EIP). To be adopted 12/07/10
Regional	London Plan (consolidated)	February	Yes,

	with alterations since 2004)	2008	
	London Plan 2009 (draft)	Emerging	Yes, currently undergoing Examination In Public
National	Planning Policy Statement 1 (PPS1): Delivering Sustainable Development	January 2005	Yes, supplement to PPS1, entitled Planning and Climate Change published December 2007
	Planning Policy Statement 3 (PPS3): Housing	November 2006	Yes, replaces PPG3
	Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth	December 2009	Yes, see below for more detail
	Planning Policy Guidance 13 (PPG13): Transport	April 2001	No

Although there are a number of revised or new national policy statements these have not changed significantly the way in which LPAs should consider individual cases. National policy statements explain statutory provisions and provide guidance to local authorities and others on planning policy and the operation of the planning system. Although the guidance is relevant to development management decisions on individual planning applications and appeals, they are also important for plan-making. Local authorities must take their contents into account in preparing their development plan documents. Changes to the national policy framework will be incorporated into Brent's local development framework and development plan documents, a process which is under way.

Regional policy changes

London Plan (consolidated with alterations since 2004)

At the regional level, the London Plan, originally published in 2004, has been revised to include a requirement for developments to "achieve a reduction in carbon dioxide emissions of 20% from onsite renewable energy generation (which can include sources of decentralised renewable energy)" (Policy 4A.7 Renewable Energy, 2008: p205). The implications of this are discussed in the *Sustainability Assessment* section above.

Draft London Plan 2009

The draft London Plan is currently undergoing Examination In Public which is scheduled to be concluded in October 2010. The draft plan includes policy 3.5 relating to the quality and design of housing developments. this states:

"The design of all new dwellings should take account of factors relating to 'arrival' at the building and the 'home as a place of retreat', meet the dwelling space standards set out in Table 3.3, have adequately sized rooms and convenient and efficient room layouts, meet the changing needs of Londoners over their lifetimes, address climate change adaptation and mitigation and social inclusion objectives and should be conceived and developed through an effective design process"

As this is draft policy and has not yet been adopted, limited weight when assessing the extension of time limit to this application. However an assessment of the proposed accommodation has been made in relation to the draft dwelling space standards set out in Table 3.3 of the Mayor's draft London Plan. Of the private units there are 15 1-bed flats that would be below the 50sqm standard for a 1-bed flat while of the affordable units there are 7 1-bed units that would be below this guidance. Given that the units are all in compliance with Council guidelines for minimum floor areas and the number that are marginally below the GLA draft standards is small, the proposal is considered to be acceptable. The applicant has not stated the number of persons for each unit which is a requirement of the draft guidance however, if each unit is assessed on the basis that

they will provide the minimum number of persons per bedroom, the remainder of the units would comply with this table. Notwithstanding this it should be noted that the policy is only at draft stage it is not considered to have sufficient weight to warrant refusing permission for the extension of time.

Local policy changes

Brent Core Strategy

The process to replace Brent's Unitary Development Plan (2004) with a Local Development Framework (LDF) had begun prior to the decision to grant planning permission in 2007. The Core Strategy DPD was submitted to the Secretary of State on 30 September 2009. The Core Strategy has now been examined and the Council received the Inspector's report on 16 April 2010. This concludes that the Strategy is sound subject to a number of recommended changes. This increases the weight to be given to the Core Strategy policies; those of particular significance are CP 11 and CP 19, relating to Housing Growth Areas, of which Burnt Oak/Colindale is one, and sustainability and climate change mitigation measures. The implications of this are discussed in the *Sustainability Assessment* section above.

Changes to the scheme

No changes to the scheme considered and approved by members at committee in May 2005 are proposed. Any changes required to satisfy new or revised climate change policy objectives can be incorporated into the reports required to be submitted to the Council for approval before commencement of works as secured in the S106 agreement; it is standard practice to leave these aspects of a development until after permission has been secured as the expensive and technically demanding process of designing the building to meet the agreed standards requires the certainty of what is to be built that permission confers.

Alterations to conditions and section 106

To reflect the changes in policy described above, the following changes are made to the decision notice:

1. Update 'Summary reasons for approval'
2. Add condition listing approved plans
3. Add condition requiring provision of 73 cycle parking spaces
4. Removal of conditions of conditions relating to travel plans, car park management plan and adoption of service road.

The S106 agreement will be subject to a deed of variation to reflect the agreed heads of terms as set out in section 106 and the *Sustainability Assessment* section, above. The proposed level of contribution is now in accordance with the requirements of *SPD: S106 Planning Obligations*, and have been agreed in principle with the applicant.

Three of the Transportation conditions attached to the original permission have been included in the S106 deed of variation to reflect the amended agreed heads of terms therefore these conditions have been removed from the original permission those relating to the adoption of the rear service road, the submission of travel plans and the submission of a parking management plan.

Substantial physical changes to the area since 12 May 2005

There have been two significant approvals of planning permission at Oriental City and Capitol Way in the Burnt Oak and Colindale areas of Brent since the original approval while at the neighbouring Theoco site construction of a planning permission granted in 2003 is nearing completion. The Theoco site development was approved in 2003 and therefore was a material consideration at the time of the original application. The other sites at which developments have been approved are over 300m from the site and included assessments considering the cumulative impact of existing

permissions. Decisions on these applications were made with consideration given to the cumulative impact of the proposed and existing permissions and it was found that the impact would be acceptable. Furthermore there is a change in the level of contribution to be sought that will increase it as a result of the consideration of the changes to the SPD: Planning Obligations and the impact the proposed development is likely to have on local infrastructure.

Objections

1 objection has been received from a local resident on the grounds that the proposed development will overload the existing infrastructure as a result of approvals at Oriental City and the Wickes Capitol Way scheme on Edgware Road.

This point has been addressed in the previous section.

Conclusion

The Government, when introducing this legislation, expected LPAs to assist the wider economy and the delivery of sustainable development by keeping alive those planning applications which would otherwise lapse during the UK recession. Some policy changes were anticipated in the legislation and although the guidance made it clear that applications to extend planning permissions should not be considered a rubber stamp exercise, it also made clear that LPAs should be positive and constructive in their approach to determining them.

Your officers are of the opinion that there are no planning policy changes which mean permission should not be given to extend the planning permission. In reaching this decision, your officers have attached substantial weight to the Government's guidance on how to approach these applications.

RECOMMENDATION: Grant Consent subject to Legal agreement

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

Brent's Unitary Development Plan 2004
PPG3 Housing and PPG4 Industrial and Commercial Development Central
Government Guidance
Council's Supplementary Planning Guidance SPG17
BPG1 and BPG3 Mayor's Best Practice Guide

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

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

CONDITIONS/REASONS:

- (1) Notwithstanding any details of landscape works referred to in the submitted application, a scheme for the landscape works and treatment of the surroundings of the proposed development (including species, plant sizes and planting densities) shall be submitted to and approved by the Local Planning Authority prior to the commencement of any demolition/construction works on the site. Any approved planting, turfing or seeding included in such details shall be completed in strict accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed, in writing, with the Local Planning Authority. Such a scheme shall include:-
- (a) the identification and protection of existing trees and shrubs not directly affected by the building works and which are to be retained
 - (b) full landscaping details of the stip along the bodies frontage.
 - (c) full details of the green roofs and communal areas of open space
 - (d) details of the proposed arrangements for the maintenance of the landscape works.

Any planting which is part of the approved scheme that in the period of five years after completion is removed, dies or become seriously damaged or diseased, should be replaced in the next planting season with planting of a similar size and species, unless the local planning authority first gives written consent to any variation.

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

- (2) Details of a scheme showing those areas to be treated by means of hard landscape works shall be submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of development. Such details shall include detailed drawing(s) of those areas to be so treated, a schedule of exact materials and samples if appropriate. The approved scheme shall be fully implemented.

Reason: To ensure a satisfactory standard of development in the interests of local visual amenity.

- (3) 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.

- (4) The development hereby permitted shall be carried out in accordance with the following approved drawings:

2263/P/012 RevA
2263/P/013 RevA
2263/P/014 Rev A
2263/P/015 RevA
2263/P/016 RevA
2263/P/017 RevA
2263/P/018 RevA
2263/P/019 RevA
2263/P/020
2263/P/021 RevA
2263/P/022 RevA
2263/P/023 RevA
2263/P/024

2263/P/025

2263/P/026

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

- (5) The 8 spaces indicated for disabled car parking shall have a minimum width of 3.6m. These shall be provided prior to the occupation of the premises, for the exclusive use of disabled people. The spaces shall be clearly marked and shall be maintained to the satisfaction of the Local Planning Authority.

Reason: To ensure satisfactory facilities for disabled people.

- (6) During demolition and/or construction works on site:-
- (a) the operation of site equipment generating noise and other nuisance causing activities, audible at the site boundaries or in nearby residential properties, shall only be carried out between the hours of 0800 - 1700 Monday - Friday, 0800 - 1300 Saturday and at no time on Sunday or Bank Holidays;
 - (b) vehicular access to the adjoining and opposite premises shall not be impeded
 - (c) all plant and machinery associated with such works shall at all times be situated and operated within the curtilage of the site;
 - (c) no waste or other material shall be burnt on the application site;
 - (d) all excavated topsoil shall be stored on the site for reuse in connection with the landscape works scheme.
 - (e) a barrier shall be constructed around the site, to be erected prior to demolition
 - (f) a suitable and sufficient means of suppressing dust must be provided and maintained
 - (g) the best practical means available in accordance with BS5228: 1984 shall be employed at all times to minimise the emission of noise from the site
 - (h) all construction vehicles used during construction must meet European Emission Standards of Euro 3 during any works on site.
 - (i) all non-road mobile vehicle with compression ignition engines used on the site shall comply with the emission standard contained in EC Directive 97/68/EC.
 - (j).any diesel powered machines used on or otherwise serving the site shall be operated on ultra-low sulphur diesel meeting the specification BSEN950

Reason: To limit the detrimental effects of noise and disturbance from construction works on adjoining residential occupiers.

- (7) The car parking spaces shown on the approved plans shall be retained at all times. The eight disabled car parking spaces shall be marked as being available for use by disabled drivers only. A detailed car parking scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on site. This shall show the separation of the affordable and private housing spaces in compliance with the Council's parking standards.

Reason: To safeguard the amenities of the future occupiers of the development.

- (8) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Deep piling, foundations or basements could penetrate the London Clay, which protects the Chalk principal aquifer. Therefore details on maximum depth and the techniques used to assess the risk to groundwater in the deep aquifer are

required to ensure the proposal complies with PPS 23.

- (9) Notwithstanding the details of materials indicated in revised plan no.2263/P/o21A prior to the commencement of development full details of materials for all external work, i.e. bricks, fenestration and roofing materials, including samples, shall be submitted to and approved by the Local Planning Authority with the works carried out in accordance with the approved details

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

- (10) Before building works commence on the site a scheme be submitted to and approved by the Local Planning Authority providing for the insulation of the proposed dwelling unit(s) so that externally generated road traffic noise levels do not cause internal noise levels to exceed:

-In living rooms an average hourly noise level between 0700 and 1900 hours of 50 dB(A) for more than 10% of the time.

-In bedrooms an average hourly noise level between 2200 and 2400 hours of 35 dB(A) for more than 10% of the time.

Such works shall be completed to the satisfaction of the Local Planning Authority prior to occupation.

Reason: To safeguard the amenities of the occupiers.

- (11) Details of the provision of a minimum of 73 secure cycle parking spaces for prospective residents and eight publicly accessible spaces along the site frontage for the commercial unit, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on site. Thereafter the development shall not be occupied until the cycle parking spaces have been laid out in accordance with the details as approved and these facilities shall be retained.

Reason: To ensure satisfactory facilities for cyclists.

- (12) Full details shall be submitted to and agreed in writing by the Planning Authority for all details of noise insulation between residential units and the retail units within the approved plans. Adequate noise insulation shall be provided to walls and/or floors between units in separate occupation in accordance with the Local Planning Authority's preferred design standards, or to such other alternative specifications as may be submitted to and approved by the Local Planning Authority, and the insulation shall be installed prior to occupation of the units hereby approved.

Reason: In the interests of neighbouring occupiers.

- (13) Prior to the commencement of development on site hereby permitted:

(a) a site investigation shall be carried out by an appropriate person (approved in writing by the Local Planning Authority) to determine the nature and extent of any contamination present. The investigation shall be carried out in accordance with a scheme, which shall be submitted to and approved by the Local Planning Authority, that includes the results of any research and analysis undertaken as well as details of remediation measures required to contain, treat or remove any contamination found and

(b) a completed report and certification of completion shall be provided to the Local Planning Authority by an appropriate person (approved in writing by the (Local Planning Authority) stating that remediation has been carried out in accordance with the approved remediation scheme and the site is permitted for end use

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

- (14) The demolition/ building works hereby approved shall not commence until vehicle wheel washing facilities have been provided on site, in accordance with details of such facilities to be submitted to and approved in writing by the Local Planning Authority. Such facilities shall be used by all vehicles leaving the site and no work shall take place at any time the said facilities are not present or are otherwise incapable of use.

Reason: To ensure that the construction of the proposed development does not prejudice the conditions of safety and cleanliness along the neighbouring highway.

- (15) No development shall commence on site until the a programme of archaeological work has been secured in accordance with a written scheme of investigation approved by the Planning Authority. The archaeological works shall be carried out by a suitably qualified investigating body acceptable to the Planning Authority.

Reason: To ensure the redevelopment of the site does not prejudice archaeological remains

- (16) No works which result in the discharge of foul or surface water from the site shall be commenced until sufficient capacity is available within the local system. The approved details shall be fully implemented.

Reason; To ensure that the foul and surface water discharge from the site shall not be prejudicial to the existing sewerage system.

- (17) Further details shall be submitted to the Planning Authority for approval prior to the commencement of development which shall consist of:

- (i) The gradient and access arrangements of the basement ramp.
- (ii) Security measures for the underground car parking area.
- (iii) CCTV measures overlooking the rear service road to provide safety and security.
- (iv) the location of the 8 cycle spaces required to service the retail component of the development to the front of the site for the

The details as approved in writing by the Local Planning Authority shall be fully implemented.

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

- (18) Prior to the commencement of development on site the applicant shall undertake at his own expense an impact study to the satisfaction of Thames Water on the existing sewage infrastructure.

Reason: To determine the magnitude of any new or additional capacity required to satisfactorily service the approved scheme

INFORMATIVES:

- (1) The applicant's attention is drawn to the need to comply with (among other regulations) the requirements of the following legislation:
 - (i) Control of Pollution Act 1974
 - (ii) Environmental Protection Act 1990
 - (iii) London Local Authorities Act 1990

- (2) Detailed design of the building should take appropriate account of the British Standard Code of Practice on Access for the Disabled to Buildings (B.S.5810:1979) and Part M of the Building Regulations 2004. Consideration should also be given to the needs of ambulant people having other disabilities and to those with sight or hearing problems, as well as those of wheelchair users.

- (3) Arrangements should be made to ensure that no surface water from the proposed development will drain onto the public highway.

- (4) In order to ensure adequate fireproofing of the building, the applicant is advised to contact the Fire Prevention Officer of the London Fire Brigade, Fire Prevention Branch, Fire Station, 500 Pinner Road, Pinner, Middlesex, HA5 5EW.

- (5) The applicant's attention is drawn to the requirements of the Control of Pollution Act 1974, Section 13, and is advised that adequate storage facilities for refuse must be provided.

REFERENCE DOCUMENTS:

UDP 2004
Emerging Core Strategy 2010
London Plan 2004 (with consolidated amendments)
Draft London Plan 2009
SPG 17

Any person wishing to inspect the above papers should contact Robin Sedgwick, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5229



Planning Committee Map

Site address: 3 Burnt Oak Broadway, Edgware, HA8 5LD

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