

**RECEIVED:** 6 July, 2010

**WARD:** Dollis Hill

**PLANNING AREA:** Willesden Consultative Forum

**LOCATION:** 137A Tanfield Avenue, London, NW2 7SR

**PROPOSAL:** Retrospective application for an air conditioner unit and proposed repositioning to the side elevation of first floor flat

**APPLICANT:** Mr Ivan Tachev

**CONTACT:**

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

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## **RECOMMENDATION**

Approval

## **EXISTING**

The application relates to a first floor flat on Tanfield Avenue. The surrounding area is predominantly residential. The site does not contain a listed building and is not located within a Conservation Area.

## **PROPOSAL**

Retrospective application for an air conditioning unit and proposed repositioning to the side elevation of first floor flat.

## **HISTORY**

**09/3328:** Full planning permission sought for retention of an air conditioning unit to the side elevation of the first floor flat - refused 30/12/2009

Reason for refusal:

*The retention of the existing air-conditioning unit by reason of the visual obtrusiveness and noise has a detrimental impact on the amenity of the neighbouring residents at 137 and 139 Tanfield Avenue contrary to planning policy BE9 and EP2 of Brent's UDP 2004.*

Enforcement file: **E/09/0693:** Without planning permission, the erection of an air conditioning unit to the rear of the premises - An Enforcement Notice was served on 11th March 2010 requiring the removal of the air conditioning unit within 3 months of 20th April 2010.

**05/0624:** Full planning permission sought erection of rear conservatory extension to roof terrace of the first floor flat - granted 27/05/2005

## **POLICY CONSIDERATIONS**

**Adopted Brent Unitary Development Plan 2004**

**BE9: Architectural Quality:** Of relevance to this application, proposals should respect the amenities of users, providing a satisfactory level of sunlight, daylighting, privacy and outlook for residents. Proposals should also be of a scale, massing and height that is appropriate to their setting.

**BE17: Building Services Equipment:** All air-cooling, heating, ventilation, extraction and conditional systems, as well as any ancillary plant, ducting and equipment likely to be visually intrusive, should in the first instance, be accommodated within the internal envelope of proposed buildings.

Where this is not practicable they should be located in visually inconspicuous positions, with a minimal effect on the use, character & appearance of proposed and nearby buildings, and local amenity.

Where building services equipment cannot be satisfactorily relocated or 'designed-out' through the use of passive systems, then it should be considered as part of an overall integrated architectural design.

**EP2: Noise & Vibration:**

I) Noise &/or vibration generating development will be permitted unless it would create, or worsen, noise levels above acceptable levels. In particular they will not be permitted where they would harm existing or proposed noise sensitive development (e.g. housing, hospitals, schools) in the area, and if this cannot be acceptably attenuated.

II) Noise sensitive development will be permitted unless its users would suffer noise levels above acceptable levels, and if this cannot be acceptably attenuated.

Necessary noise insulation will be secured by condition.

**CONSULTATION**

A public consultation was undertaken between 26/07/2010 and 16/08/2010. 6 neighbouring properties were consulted. 2 letters of objection were received from neighbouring properties outlining the following concerns:

1. The proposed new position of the air conditioning unit would project about 40cm over the neighbouring garden and will block more natural light than current position;
2. Noise disturbance from air conditioning unit would be experienced in the study to the rear of the neighbouring property;
3. Unsightly appearance of the air conditioning unit;
4. The front driveway and land to the rear of the applicants garage is under shared ownership;
5. The air conditioning unit is in the same position as the first application.

*Officer Comment*

Points 1 to 3 shall be discussed within the *Remarks* section of this report.

With regard to point 4, land ownership is generally not a planning matter. Notwithstanding this, in this instance, the proposal does not affect any of the land outlined as being under shared ownership within the letter of objection.

In terms of the proposed position of the air conditioning unit, this is different to the position that was considered in the previous application. Further details on this shall be provided within the *Remarks* section.

## Consultees

Environmental Health: No objections.

## **REMARKS**

### Context

A retrospective planning application was submitted for retention of the air conditioning unit under planning reference 09/3328. The planning application was refused on the basis of the visual obtrusiveness of the air conditioning unit and noise generated by its use having a detrimental impact on the amenity of the neighbouring residents at 137 & 139 Tanfield Avenue (see the planning history section).

Following the determination of this planning application, an Enforcement Notice was served which required the removal of the air conditioning unit by 20th July 2010. In an attempt to resolve this matter, this application has been submitted to relocate the air conditioning unit.

### Proposal

The previous application proposed to retain the air conditioning unit in its current location on the side elevation of the flat, located approximately 0.7m directly above the a habitable room window serving the ground floor flat. This application proposes to relocate the air conditioning unit to the side wall of the first floor conservatory of the application property.

In terms of noise and vibration generated by the air conditioning unit, whilst the unit is proposed to be located on the same elevation as the previous proposal, it is considered that the revised location further removed from the habitable room window of the ground floor flat will ensure that there will be no significant impact on the amenity of occupiers. The air conditioning unit would no longer be sited directly above habitable room window of the ground floor flat but relocated over 2.4m from this window at its closest point. The Council's Environmental Health Department were consulted on the planning application and did not consider that there will be an unduly detrimental impact on neighbouring residents as a result of operation of the unit.

With regard to the appearance, the air conditioning unit measures 0.84m(w) x 0.54(h) and 0.32m(d) and is currently attached to the wall with two brackets. Overall the unit projects approximately 0.5m from the side wall of the flat which in part is due to the size of the mounting brackets. Whilst some separation from the wall is required, it is considered that the prominence would be reduced if the air conditioning unit is located nearer to the wall, reducing the overall projection. The Council's Environmental Health Department were consulted on this issue and advised that the air conditioning unit could be located approximately 5-10cm from the wall without creating unacceptable levels of noise or vibration. It is recommended that a condition be attached to require an alternative method of attaching the unit to the wall to reduce its overall projection. It is considered that whilst the unit will be visible, due to the revised location and reduced projection it will not appear unduly prominent or obtrusive. Given the scale of the proposal, it is not considered that it would block access to natural light received in the rear garden of the ground floor flat.

### Conclusion

It is considered that the proposed air conditioning unit and its relocation overcomes the previous reasons for refusal relating to noise and visual appearance. The proposal can be recommended for approval accordingly.

**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

Environmental Protection: in terms of protecting specific features of the environment and protecting the public

## **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(s) and/or document(s):

Location Plan

Plan showing side elevation as existing - dated 3/11/2009

Plan showing the side elevation as proposed- dated 5/4/2010

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

- (3) The noise emitted by the air conditioning unit shall not at any time exceed a value of 10 dB below the minimum external background noise at of point 1 metre outside any window of any residential property.

Reason: To safeguard the amenities of the adjoining occupiers.

- (4) Notwithstanding the plans otherwise hereby approved, further details of the means of attachment of the air conditioning unit to the property shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of all works on site. The development shall be implemented in accordance with the approved details.

Reason: To safeguard the amenities of the adjoining occupiers.

## **INFORMATIVES:**

- (1) The applicant is advised that this grant of permission does not override the requirements of Enforcement Notice E/09/0693. If the development is not carried in accordance with the plans and conditions hereby approved, the requirements of the Enforcement Notice must be complied with.

## **REFERENCE DOCUMENTS:**

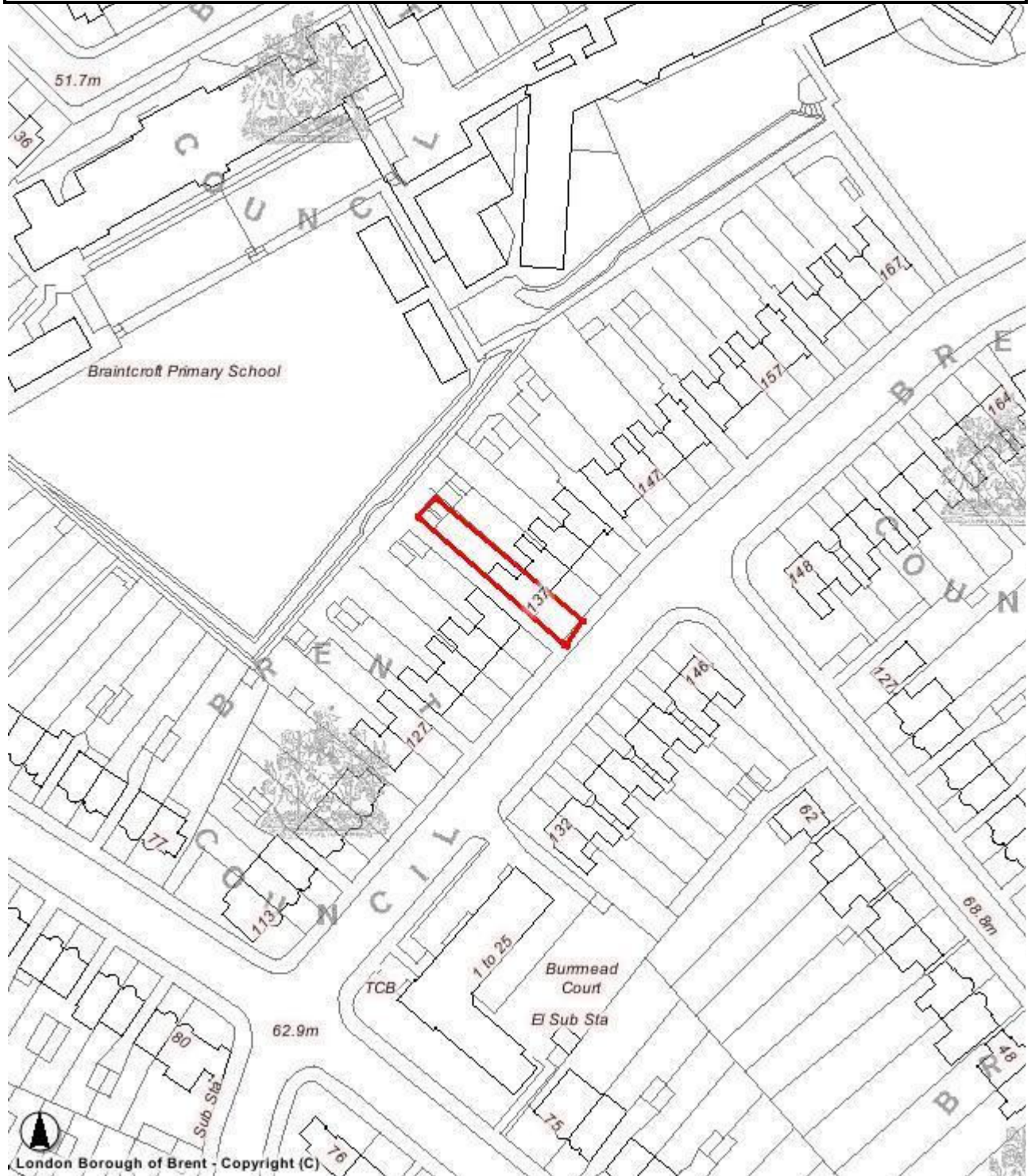
Any person wishing to inspect the above papers should contact Roland Sheldon, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5232



## Planning Committee Map

Site address: 137A Tanfield Avenue, London, NW2 7SR

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This map is indicative only.