

**Committee Report
Planning Committee on 12 May, 2011**

Item No. 5
Case No. 11/0425

RECEIVED: 17 February, 2011

WARD: Dudden Hill

PLANNING AREA: Willesden Consultative Forum

LOCATION: First Floor Function Room, Finbars - The Zone, 332-336 Neasden Lane, London, NW10 0AD

PROPOSAL: Conversion of first floor function room into two no. 1-bedroom flats and one studio flat with external alterations including new windows on rear and flank elevations and external lighting to building and refuse facilities and cycle parking in the rear service yard (as per revised plans on 4th April 2011).

APPLICANT: McGowan Group

CONTACT: DLA Town Planning Ltd

PLAN NO'S:
Refer to Condition 2

RECOMMENDATION

To:

- (a) Resolve to Grant Planning Permission, subject to an appropriate form of Agreement in order to secure the measures set out in the Section 106 Details section of this report, or
- (b) If within a reasonable period the applicant fails to enter into an appropriate agreement in order to meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission

SECTION 106 DETAILS

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

- (a) Payment of the Councils legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance
- (b) A contribution of £9,000 (£3,000 per additional bedroom), due on material start and index-linked from the date of committee for Education, Sustainable Transportation and Open Space & Sports in the local area.

All contributions due on Material Start and index-linked from the date of decision.

And, to authorise the Head of Area Planning, 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 application site comprises a mid terraced three storey building with accommodation in the roof space on Neasden Lane. It comprises a public house/nightclub on the ground floor.

The site is located within the Primary Shopping Frontage of Neasden Town Centre. It is not located within a conservation area nor is it a listed building.

PROPOSAL

Conversion of first floor function room into two no. 1-bedroom flats and one studio flat with external alterations including new windows on rear and flank elevations and external lighting to building and refuse facilities and cycle parking in the rear service yard (as per revised plans on 4th April 2011).

HISTORY

10/2691: Full Planning Permission sought for conversion of first floor function room into 5 studio flats and 1 x one bedroom flat with alterations to the rear access stairs and external alterations including new windows on rear and flank elevations and external lighting to building and refuse facilities in rear service yard.
- Refused, 08/12/2010.

10/1375: Full Planning Permission sought for conversion of first-floor function room into 4 studio flats, 1 one-bedroom flat and 1 two-bedroom flat (Use Class C3) with associated works, including insertion of additional windows and doors - Refused, 26/07/2010.

09/1438: Full Planning Permission sought for demolition and rebuilding of rear extension to accommodate stairway to cellar of premises, including retention of 5 no. condenser units, and associated works to rear external stairway- Granted, 27/08/2009.

07/3090: Full Planning Permission sought for single-storey extension and works to form beer garden to the rear of pubic house.- Dismissed on Appeal, 14/10/2008.

05/1804: Full Planning Permission sought for 3 storey extension to rear of existing ground floor public house building to accommodate 2 first floor studio flats, 1 second floor two bedroom flat and 1 third floor two bedroom flat, 1 dormer window at front, 2 dormer windows at sides and 3 dormer windows at rear of proposed building - Dismissed on Appeal, 28/03/2006.

02/2621: Full Planning Permission sought for change of use from hostel to 4 self-contained maisonettes- Granted, 17/01/2003.

01/1166: Full Planning Permission sought for erection of a second floor extension to provide a 2-bed flat ancillary to the public house- Refused, 02/07/2001

95/1132: Full Planning Permission sought for erection of steel stairway at rear with new walkway and landing - Granted, 05/09/1995.

94/1566: Full Planning Permission sought for retention of three dormer windows on the third floor to rear elevation of maisonettes and alterations to front elevation at first and second-floor levels - Granted 15/02/1995.

94/0203: Full Planning Permission sought for installation of new shop front and internal alterations to public house - Granted, 29/03/1994.

93/1203: Full Planning Permission sought for erection of first floor rear extension to provide function room and third floor to provide three self contained maisonettes - Granted, 02/02/1994.

90/0041: Full Planning Permission sought for change of use from building society to A3 and installation of new shop front - Granted, 20/06/1990.

84/1762: Full Planning Permission sought for change of use from retail to public house and erection of additional storeys to provide three self contained maisonettes- Granted, 19/12/1984.

POLICY CONSIDERATIONS

Brent's Core Strategy 2010

The Council's Core Strategy was adopted by the Council on 12th July 2010. As such the policies within the Core Strategy hold considerable weight.

CP21: A balanced Housing Stock

Brent's UDP 2004

In addition to the Core Strategy, there are a number of policies which have been saved within the Unitary Development Plan (UDP), which was formally adopted on 15 January 2004. The saved policies will continue to be relevant until new policy in the Local Development Framework is adopted and, therefore, supersedes it. The relevant policies for this application include:

BE9: Architectural Quality

EP2: Noise & Vibration

H12: Residential Quality - Layout Considerations

H18: The Quality of Flat Conversions

H19: Flat Conversions - Access & Parking

H20: Flats over and adjoining buildings in shopping centres

TRN3: Environmental Impact on Traffic

TRN11: The London Cycle Network

TRN22: Parking Standards - Non Residential Developments

TRN23: Parking Standards - Residential Developments

Supplementary Planning Guidance

Supplementary Planning Guidance 17 – “Design guide for new development”

Supplementary Planning Document: "S106: Planning Obligations"

CONSULTATION

Consultation Period: 01/03/2011 - 22/03/2011

Public Consultation

30 neighbours consulted - four letters of objection received raising the following points:

- Properties to the rear already experiencing lack of light from the existing extensions to the premises.
- Loss of privacy to gardens of the properties at the rear.
- Already problems with noise and beer bottles thrown into gardens of properties to the rear. This application will worsen the situation.
- Light from the development will cause light pollution to the properties at the rear.
- Pub has a beer garden at the back of the premises resulting in disturbance to nearby residential properties.
- Parking on service road restrict this access for larger vehicles such as emergency vehicles and refuse lorries, and for for vehicles servicing the rear of the premises on Neasden Lane and the garages for the properties on Chartley Avenue. Larger vehicles driving down the access road

- have damaged rear boundary fences of the properties on Chartley Avenue.
- No parking spaces available for the new flats.
- Pay and display bays in Neasden Town Centre has resulted in visitors parking on nearby residential road, thus leaving limited parking for the residents.
- High population has an effect on the character of the area, resulting in crime.
- Existing drainage insufficient and cannot cope with increased population.
- Increase refuse will add to problem of rats in the area.

Internal Consultation

Transportation - Proposal can be supported on transportation ground subject to bicycle parking being provided in a store to prevent theft and protect them from the weather.

Environmental Health - No objections in principle as the pub use has ceased. Recommended that the development is designed and constructed in accordance with Approved Document E - Resistance to the Passage of Sound, 1st July 2003.

REMARKS

Background

There is an extensive planning history for the site as detailed above. The site originally contained a single storey retail unit but has since been extended and converted to a public house with a function room on the first floor, and residential units on the second and third floors (within the roof space). Details of which are set out in the planning history.

It was observed during the officer site visit as part of this application that the ground floor was no longer in use as a public house. It contains a retail unit and ancillary storage for the retail unit. There is no planning record for this change of use, however, planning permission is not required to change the use of a building from use class A4 (public house) to use class A1 (retail unit).

The first floor which is the subject of this application is no longer in use as a function room. It has been laid out as 5 residential units which do not have the benefit of planning permission. This application seeks to regularise the residential use and reduce the number of units to three flats (two no. 1-bedroom flats and one studio flat). The matter has also been passed onto the enforcement team for further investigation.

The second and third floor (within the roof space) has planning permission for 4 no. 2 bedroom maisonettes. It was observed during the site visit that these floors contain 6 no. one-bedroom self contained flats. It is unclear when these works were undertaken, and the matter is being investigated by the enforcement team.

Relevant Planning History

There have been two recent applications to convert the first floor function room into 5 self contained flats. The most recent application (LPA Ref: 10/2691) was refused for the following reasons:

1. The proposed flats do not provide an acceptable quality of residential accommodation, by reason of the poor level of outlook provided for units 3 to 6, windows to habitable rooms positioned on the side boundary, the failure to demonstrate that there will be no detrimental impact in terms of noise and disturbance from the ground floor nightclub/public house and associated building equipment, and the lack of external amenity space. The proposal is therefore contrary to policies BE5, BE9, EP2 and H12 of Brent's Unitary Development Plan 2004 and the guidance as outlined in Supplementary Planning Guidance 17 "Design Guide for New Development".

2. *The proposed development, by reason of the access decks and staircases located next to habitable room of both existing and proposed units, would have a detrimental impact upon the amenities of existing and proposed residents as a result of loss of privacy, noise and disturbance. This would be contrary to policy BE9 of Brent's Unitary Development Plan 2004.*

3. *The proposed development will result in an increased demand for residential parking which can not be accommodated on site. As such, it is likely to result in additional demand for on-street parking around the site in a heavily parked area which cannot be readily and safely accommodated to the detriment of the free and safe flow of traffic. This would be contrary to policies TRN3, TRN22, TRN23, TRN24, PS7, PS9, PS14 and PS15 of Brent's adopted Unitary Development Plan 2004.*

4. *The proposed development will intensify the use of the existing rear service yard which is already limited in size by reason of the requirement to provide six cycle spaces in a secure cycle store and increased refuse storage requirements as a result of the new units. The applicant has failed to demonstrate that the additional requirements can be accommodated within the existing service yard without compromising existing servicing arrangements and leading to unsafe and inconvenient access for the residential units. This would be contrary to policies BE5, BE9, EP2 and H12 of Brent's Unitary Development Plan 2004 and the guidance as outlined in Supplementary Planning Guidance 17 "Design Guide for New Development".*

5. *In the absence of a legal agreement to control the matter, the development would result in additional pressure on transport infrastructure and education, without any contribution towards sustainable transport improvements or school and nursery places, and increased pressure for the use of existing open space, without contributions to enhance open space or making other contributions to improve the environment. As a result, the proposal is contrary to policies TRN3, TRN4, TRN10, TRN11, CF6, H1, and BE7 of Brent's adopted Unitary Development Plan 2004.*

This application seeks to address the previous reasons for refusal.

Proposal

This application seeks planning permission to convert the first floor function room into two no. 1-bedroom flats and one studio flat with external alterations including new windows on rear and flank elevations. The application also involves external lighting to building and refuse facilities and cycle parking in the rear service yard. The merits of the scheme are discussed below:

Quality of accommodation

Internal Floor Space

Two no. one-bedroom flats and a studio flat are proposed within the first floor of the application premises, which formally contained the function room of the public house. The internal floor area of each unit significantly exceeds the Council's guidance as set out in SPG17. The internal floor area for each unit is listed below:

Unit 1 (Studio Flat) - 61.5sqm
Unit 2 (one bedroom) - 80sqm
Unit 3 (one bedroom) - 70sqm

Levels of outlook

The level of outlook for units 2 and 3 is considered acceptable. The main habitable space for unit 1 is restricted in a northerly direction. The size of the windows on the northern elevation provides limited outlook and limited light to this habitable space. As these windows can not be enlarged due to the proximity to the rear gardens of the properties on Chartley Avenue, roof lights are proposed

within the flat roof to provide additional light for unit 1. To prevent overlooking from the residential units on the second and third floors, it is recommended that these roof lights are obscured glazed to ensure an adequate level of privacy to unit 1.

External amenity space

No external amenity space is proposed for the units. SPG17 requires 20sqm per unit. Given that the proposal is to convert part of an existing building, it is unlikely that the scheme can provide any usable external amenity space. However, the internal floor space of the units exceed the minimum standards and assist in offsetting the lack of external amenity space.

Noise and Disturbance to the new units

The previous application raised concerns with noise and disturbance for the proposed occupiers as a result of the public house use on the ground floor, and access decks and stairs next to the windows of one of the units. Reference was also made to AC units directly below habitable room windows.

As the public house use has now ceased and replaced with a retail unit, the level of noise and disturbance will be significantly reduced. Officers in Environmental Health have advised that previous concerns were mainly related to noise nuisance from the public house on the ground floor, and that as the ground floor is now in retail use, a more acceptable quality of residential accommodation can be achieved. They advise that the details of the sound insulation between the ground and first floors submitted with the application are acceptable. As sound insulation is controlled through building regulations, it is recommended that an informative is attached to any forthcoming planning consent requiring the flats to be designed and constructed in accordance with Approved Document E - Resistance to the Passage of Sound, 1st July 2003.

It was noted on site that there are a number of AC units and two fans on the roof of the former function room. Whilst these will be located outside the common hallway and hallway for unit 3, the windows that serve the living/dining area for unit 3 are in close proximity. It is therefore recommended that a condition is secured for the total sound level of air conditioning units and the fan lights when in full operation to assess the impact upon residential amenity, and if such levels are found to be unacceptable, mitigation measures or the removal/repositioning of the equipment should be carried out.

Impact upon adjoining occupiers

Access to the flats is served via the existing residential access at the rear of the premises off the service yard. The access will not pass by habitable room windows, and thus is not considered to have an adverse impact upon the amenities of the proposed flats or the existing residential units on the upper floors.

Flat No. 330A Neasden Lane

To restrict overlooking and disturbance to the occupiers of Flat 330a Neasden Lane, the Juliet Balcony for Unit 3 has been replaced with a fixed obscured glazed panel. This will allow additional light to this space without compromising the amenities of No. 330a Neasden Lane.

Properties to the rear on Chartley Avenue

To the rear of the application site are residential properties located on Chartley Avenue. There are existing windows at first floor level where unit 1 is proposed. It is considered that the sense of overlooking will be no worse than the current situation, and on balance the relationship from these windows to Chartley Avenue is not considered sufficiently harmful to warrant a reason for refusal.

Residents in Chartley Avenue have raised concerns with a loss of light to their properties and rear gardens from the existing development. This application does not propose any additional extensions, any loss of light that these properties experience will be no worse than existing.

It is considered that the level of noise and disturbance that the residents of Chartley Avenue will experience is less than the former situation with the premises in use as a public house and function room.

This application proposes a number of exterior security lights with a dusk to dawn setting. To minimise the impact of the security lights upon the amenities of surrounding residential properties, it is recommended that further details of the security lighting is secured, including their design and light spillage.

Transportation considerations

Parking Provision - Residential

The site is located within a good area of public transport accessibility (PTAL 4). Parking standards are set out in PS14 of Brents UDP 2004. As the site is located within a town centre and within an area of good public transport accessibility, reduced parking standards are applicable. The assessment has been based on the worst case scenario including the six flats on the third floor and roof space and three flats which are the subject of this application. As referred to earlier on in this report, the six flats do not have the benefit of planning permission and this matter is being investigated by officers in the enforcement team to establish they are immune from enforcement action.

Overall, including the existing flats (which allow for a maximum of 4.2 car parking spaces based on 6 units), the maximum allowance for the residential units on site is 6.3 spaces. Policy H20 of Brent's UDP 2004 applies a flexible approach to conversion of accommodation above shops, as long as the proposal does not involve excessive extensions or result in unsatisfactory standards of accommodation. In accordance with PPG3, a more flexible approach is adopted "with regard to densities, car parking, amenity space and overlooking" (para 41). In this case, given that the units within the former function room significantly exceed minimum internal floor space standards and no extensions to the building are required to meet the Council's space standards, Policy H20 is applicable. The site is in an area where there is good public transport accessibility and the proposed residential use is likely to have less impact on the on-street parking in the surrounding area than the use as a function room, which could attract large numbers of people. As such, whilst some on-site parking would be desirable, it is not considered that the impact of the development on the on-street parking in the surrounding area would be so significant to warrant refusal.

Parking Provision and Servicing for the retail unit

No off street parking was available for patrons of the public house. The retail unit does not attract a higher parking allowance than the public house, and thus the impact on demand for parking is considered to be no worse than the former situation. Furthermore, on street parking is available on Neasden Lane in the form of bay and display bays. As detailed above, the change of use to retail does not require planning permission and as such, any improvement to the servicing is welcomed.

The service yard will be cleared to provide a dedicated servicing bay for a transit sized vehicle, meeting the servicing requirements for the retail unit.

Cycle Parking and Refuse Storage

A bicycle store is proposed to accommodate six cycle parking spaces. This exceeds the cycle parking standards for the new units, which require three spaces. The bikes are stored in a semi

vertical manner with a roof and side cover. Whilst additional cycle parking spaces are welcomed, in this case given the limited size of the rear service yard and the need for it to also accommodate refuse storage facilities, it is recommended that the number of cycle parking spaces are reduced to 3 spaces within a smaller cycle shelter.

With regards to waste and recycling storage requirements, the proposal will result in 7 residential units (4 existing 2-bedroom maisonettes and 3 proposed units). Brent's guidance on "Waste and Recycling Storage and Collection Guidance for Residential Properties" requires 120l per household for residual waste, 60l per bedroom for dry recycling waste and 23l per household for organic waste. For the scheme as proposed, this will require two 1100l bins (one for residual waste and one for dry recyclable waste) and one 240l bin for organic waste, which is ample waste storage capacity. The layout of the rear service yard as shown on the plans does not provide sufficient amount of waste and recycling storage capacity. However, there is sufficient room within the rear service yard, and it is therefore recommended that further details are secured by condition.

Response to objections raised

Objections have been received during the consultation period, raising a number of concerns. The following objections have not been addressed within the Remarks section of the committee report and are discussed below:

- *Already problems with noise and beer bottles thrown into gardens of properties to the rear. This application will worsen the situation.*

The premises is no longer in use as a public house. The problems associated with the public house, i.e. noise and beer bottles being thrown into neighbouring gardens, should no longer exist. The retail and residential uses should improve the living environments for surrounding occupants.

- *Parking on service road restrict this access for larger vehicles such as emergency vehicles and refuse lorries, and for vehicles servicing the rear of the premises on Neasden Lane and the garages for the properties on Chartley Avenue. Larger vehicles driving down the access road have damaged rear boundary fences of the properties on Chartley Avenue.*

Parking is restricted on the service road with the presence of a yellow line. This application proposes a service bay within the rear service yard to accommodate a transit sized vehicle, so that it does not block the service road. The application is not for the use of the ground floor as a retail unit however the application will include a designated service bay which will improve the existing situation.

- *Pay and display bays in Neasden Town Centre has resulted in visitors parking on nearby residential road, thus leaving limited parking for the residents.*

The parking demand for the retail unit is no greater than the former public house and function room. Furthermore, it is likely that parking demand as the retail unit is likely to attract shoppers already using the centre or living locally whereby they would walk to the town centre rather than travel by car.

- *High population has an effect on the character of the area, resulting in crime.*

The proposal is not considered to have an adverse impact upon the character of the area in terms of the amenities of surrounding occupants, parking demands or waste demands. There is no justification that crime levels will rise as a result of the proposal.

- Existing drainage insufficient and cannot cope with increased population.

Drainage is a matter dealt with by building regulations rather than a planning consideration. As such this matter cannot be considered as part of this application.

Conclusions

The change of use of the former function room to residential is considered acceptable by improving the living environment for surrounding occupants as a result of less noise and disturbance. The scheme meets the current relevant standards and policies in terms of parking provision, residential amenity and the protection of adjoining residents. The proposed scheme is in accordance with Unitary Development Plan policies and central government guidance, and therefore is recommended for approval, subject to a Section 106 Agreement.

RECOMMENDATION: Grant Consent subject to Legal agreement

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

Brent's Core Strategy 2010
Brent's UDP 2004
Supplementary Planning Guidance 17 – "Design guide for new development"
Supplementary Planning Document: "S106: Planning Obligations"

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 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):

11/206 101
11/206 102 Rev A

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

(3) The rooflights in the flat roof of the former function room for unit 1 shall be glazed with obscure glass and shall be so maintained unless the prior written consent of the Local Planning Authority is obtained.

Reason: To provide a satisfactory level of amenity for future occupants.

(4) The panel to the living/dining room for unit 3 located on the flank wall facing No. 330A Neasden Lane shall be glazed with obscure glass and on-opening and shall be so

maintained unless the prior written consent of the Local Planning Authority is obtained.

Reason: To minimise interference with the privacy of the adjoining occupiers and in the interests of good neighbourliness.

- (5) There shall be no subdivision of the residential units hereby approved without the prior written approval of the Local Planning Authority.

Reason: To enable the Local Planning Authority to consider the merits of intensification of residential use within the site in the interests of the amenities of existing and future occupants.

- (6) Refuse and cycle

- (7) Prior to occupation of the residential units hereby approved, further details of the total sound level of the air conditioning units and fans located on the roof of the former function room when in full operation shall be submitted to and approved in writing by the Local Planning Authority. If such levels are found to be unacceptable, mitigation measures and/or the removal/repositioning of the air conditioning units and fans shall be carried out in accordance with details agreed by the Local Planning Authority and thereafter maintained unless the prior written consent of the Local Planning Authority is obtained. No further equipment shall be installed on the roof at first floor level without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of residential occupants.

- (8) Prior to the occupation of the residential units hereby approved, further details of the external security lighting, including light spillage plans and lux levels shall be submitted to and approved in writing by the Local Planning Authority, and therefore maintained in accordance with the approved details, unless the prior written approval of the Local Planning Authority is obtained.

Reason: In the interests of the amenities of surrounding residential properties.

- (9) A revised service yard layout shall be submitted and approved in writing by the Local Planning Authority within three months of the date of this permission. Such details shall include:

- (a) bicycle parking for three bicycles in a secure and weather proof cycle storage facility
- (b) two 1100l bins (one for residual waste and one for dry recyclable waste)
- (c) one 240l bins for organic waste
- (d) commercial waste bins and wire cage for cardboard
- (e) transit sized service bay

The service yard layout as approved shall be constructed and permanently marked out prior to first occupation of any of the units approved, and thereafter maintained in accordance with the approved details unless the prior written approval of the Local Planning Authority is obtained.

Reason: In the interests of the amenities of the locality.

INFORMATIVES:

- (1) The applicant is advised that the proposed flats and rooms for residential purposes shall be designed and constructed in accordance with Approved Document E - Resistance to the Passage of Sound, 1st July 2003.
- (2) The applicant is advised that this application does not relate to the flats on the second and third floors or any alterations to the shop front on the ground floor or advertisements.

REFERENCE DOCUMENTS:

Four letters of objection

Brent's Core Strategy 2010

Brent's UDP 2004

Supplementary Planning Guidance 17 – "Design guide for new development"

Supplementary Planning Document: "S106: Planning Obligations"

Waste and Recycling Storage and Collection Guidance for Residential Properties

Any person wishing to inspect the above papers should contact Victoria McDonagh, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5337



Planning Committee Map

Site address: First Floor Function Room, Finbars - The Zone, 332-336 Neasden Lane, London, NW10 0AD

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