



# **LONDON BOROUGH OF BRENT**

## **MINUTES OF THE PLANNING COMMITTEE**

**Tuesday, 25 October 2011 at 7.00 pm**

PRESENT: Councillors Sheth (Chair), Baker, Cummins, Hashmi, Kabir, McLennan, Mitchell Murray, CJ Patel and RS Patel

ALSO PRESENT: Councillor Jim Moher and Councillor Harshadbhai Patel

Apologies for absence were received from Councillor Daly.

### **1. Declarations of personal and prejudicial interests**

None declared.

### **2. Minutes of the previous meeting held on 28 September 2011**

RESOLVED:-

that the minutes of the previous meeting held on 28 September 2011 be approved as an accurate record of the meeting.

### **3. 66 Springfield Mount, London, NW9 0SB (ref. 11/2182)**

PROPOSAL:

Variation of condition 4 (personal consent for use of garage as living accommodation exclusively by Mr Teden or Mrs Teden) of full planning permission 99/1724, dated 24/04/2000, for conversion of a garage into living accommodation, in order to remove the restriction on this use by specific named individuals, to enable the garage to form living accommodation in conjunction with the main dwellinghouse.

RECOMMENDATION: Refuse planning permission.

With reference to the tabled supplementary report, Steve Weeks, Head of Area Planning informed the Committee about a letter of support from a neighbouring occupier. He continued that most of the issues raised in that letter had been addressed in the main report except for the claim that if the building was converted back into a garage it could be used a workshop by a car mechanic. In response, the Head of Area Planning stated that the change of use of the garage to a car repair workshop would require a planning permission.

**In accordance with the Planning Code of Practice, Councillor J Moher** referred to the officer's assessment of the application and stated that the claim that the additional living accommodation may be occupied by a number of unnamed people, resulting in a significant intensification of use could be addressed by conditions. Additionally, conditions could be imposed to address any likelihood of change of use to Use Class C4 (Houses in Multiple Occupation) and maintain residential amenities. Councillor J Moher expressed a view that it would be unrealistic to have facilities (kitchen and bathroom) removed or to prevent the return of the property to family housing as he did not foresee any harm resulting from the application for variation of planning consent.

Mr Robert McAteer, the applicant in addressing the Committee stated that the extension was in keeping with the environment and streetscene. He felt that the officer's assessment of the application was rather misleading and considered as unreasonable, the list of conditions suggested by officers for the grant of planning permission. In support Mr McAteer stated that the building was currently described as a granny annexe, independently rated for council tax purposes and shown as a bungalow on the Council's website. He added that his 86 year old father in law was currently living in the bungalow which he hoped to move into in future.

During members' discussion, Councillors Cummins and Hashmi noted that the building had been used as a habitable/residential unit for over 10 years and indicated that they would be minded to grant planning permission contrary to the officer's recommendation. Councillor RS Patel enquired as to whether the grant of planning permission could set a precedent for the area. In response, the Head of Area Planning stated that each application was decided on its merits but he did not think that the particular circumstances of this application would commonly apply.

Members were minded to approve the application for variation of condition contrary to officers' recommendation. In accordance with the Planning Code of Practice voting on the officer's recommendation for refusal was recorded as follows:

FOR: Councillors McLennan, Mitchell-Murray and Sheth (3)

AGAINST: Councillors Cummins, Hashmi, Kabir, CJ Patel  
and RS Patel (5)

ABSTENTION: Councillor Baker (1)

DECISION: Minded to grant planning permission contrary to officers' recommendation and to be reported to the next meeting for further consideration.

The Chair asked Members to clarify the reasons for over-turning the recommendation and the proposed statement was agreed as being that the use had existed for over ten years, the general need for such accommodation and that it would allow the family to continue to live at the property.

**4. 14 Creighton Road, London, NW6 6ED (ref. 11/1835)**

**PROPOSAL:**

Creation of basement beneath existing dwellinghouse with associated light well to front and rear of the property.

**RECOMMENDATION:** Grant planning permission subject to conditions and informatives.

Steve weeks, Head of Area Planning, drew members' attention to an amendment to condition 5 as set out in the tabled supplementary report. He continued that in addition to a further letter from the applicant explaining that the basement was essential for his family needs, a letter of support had been received from the adjoining neighbour whose property had been granted planning permission for a basement.

Ms Jane Carran objecting on behalf of Queens Park Area Residents' Association (QPARA) stated that the creation of a basement would have a significant impact in terms of differential subsidence on the foundations of the houses in the area which were known to be shallow. He alleged that the creation of the basement would result in loss of mature trees in Creighton Road. Ms Carran added that there was a need for impact assessment for this other applications for basement in the Borough.

Mr Matt Cantor objecting on behalf of the next door neighbours stated that the creation of a basement would result in a significant damage to their property. He added that the creation of a basement in the property adjoining the application site address had resulted in dust and damage to doors within their property. Mr Cantor continued that the application would breach the Party Wall agreement. In response to a member's question, Mr Cantor stated that the residents on whose behalf he was addressing the Committee had had a surveyor's report confirming the impact on their property.

During members' debate, Councillor Kabir enquired as to whether there was any guidance on preventing potential damage to neighbouring properties. Councillor McLennan also asked about the Council's policy on monitoring the impact. The Chair also asked for a further clarification on the potential impact on the Conservation Area.

In responding to the above, the Head of Area Planning stated that the requirement to ensure safe building in accordance with Building Regulations and the need to comply with the Party Wall Act were some of the measures in place to prevent potential damage to neighbouring properties. He added that there was no policy for retrospectively checking any resulting damage and that the onus was on the property owner under the Party Wall Act. He advised that Brent had allowed small lightwells to the front of a property and generally sought to limit exactions to the rear to that to serve a basement under an approved extension. He acknowledged that there could be disturbance for neighbours but it would not be such as to warrant a refusal.

DECISION: Planning permission granted subject to conditions and informatives as amended in condition 5.

**5. 1-4 inc, Holmfield, Crawford Avenue, Wembley, HA0 2HT (ref. 11/2083)**

PROPOSAL:

Extension to roof to create 1 x 2-bedroom self-contained flat (revised scheme)

RECOMMENDATION: Grant planning permission subject to conditions.

DECISION: Grant planning permission subject to conditions, the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning, or other duly authorised person, to agree the exact terms thereof on advice from the Director of Legal and Procurement.

**6. Land next to 14 Juniper Close, Juniper Close, Wembley (ref. 11/2048)**

PROPOSAL:

Erection of 4 three bedroom family dwellings with associated landscaping and car parking

RECOMMENDATION: Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning, or other duly authorised person, to agree the exact terms thereof on advice from the Director of Legal and Procurement.

Neil McClellan Area Planning Manager informed members that the trees which would be removed as a result of the proposal had been assessed as being of low quality and value or in a poor condition. As part of the development and in continuation of the landscape strategy approved for the earlier phase of 14 houses approved earlier this year, a number of new native and specimen trees, alongside hornbeam hedging, shrub planting and climbing plants were proposed and considered satisfactory. He drew members' attention to the tabled supplementary report about a correction in the main report.

DECISION: Planning permission granted subject to conditions, informatives, the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning, or other duly authorised person, to agree the exact terms thereof on advice from the Director of Legal and Procurement.

**7. Service Yard, Haynes Road, Wembley, HA0 4BW (ref. 11/1340)**

**PROPOSAL:**

Demolition of existing outbuilding and erection of a proposed replacement storage and refrigeration building at the rear of 111-113 Ealing Road (adjoining 23-25 Westbury Avenue) as revised with associated landscaping and acoustic fence.

**RECOMMENDATION:** Grant planning permission subject to conditions.

Steve Weeks, Head of Area Planning, clarified that a Section 106 legal agreement was not applicable to this application. He suggested an amendment to condition 4 to ensure that refuse storage was kept in a defined area and an additional condition on the use of the store up to 21:00 hours Monday to Sunday.

**DECISION:** Planning permission granted as recommended and as amended in condition 4 and an additional conditions on the use of the store up to 21:00 hours Monday to Sunday.

**8. Northwick Park Hospital, Watford Road, Harrow, HA1 3UJ (ref. 11/2127)**

**PROPOSAL:**

3-storey extension and alterations to Block J to provide new operating theatres and associated plant room. Work includes building an undercroft over existing parking area.

**RECOMMENDATION:**

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning, or other duly authorised person, to agree the exact terms thereof on advice from the Director of Legal and Procurement and;

If by 11 November 2011 the applicant fails to demonstrate the ability to provide for the s106 terms and meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission.

With reference to the tabled supplementary report Neil McClellan, Area Planning Manager, drew members' attention to an additional condition. He added that as the sustainability score was below the minimum, further measures would be through the Section 106 legal agreement and applicant's Energy Statement to ensure that the minimum target was achieved.

**DECISION:**

Planning permission granted subject to conditions, an additional condition on details of air conditioning, ventilation or extractor system, the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning, or other duly authorised person, to agree the exact terms thereof on advice from the Director of Legal and Procurement and;

If by 11 November 2011 the applicant fails to demonstrate the ability to provide for the s106 terms and meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission.

**9. 218 Preston Road, Wembley, HA9 8PB (ref. 11/2118)**

**PROPOSAL:**

Proposed change of use from Use Class A1 (retail) to Use Class A5 (hot food take-away), installation of new shop front, erection of 2-storey rear extension with external staircase, installation of extract duct to rear elevation and x2 floor mounted air compressors units at the rear.

**RECOMMENDATION:** Grant planning permission subject to conditions and informatives.

With reference to the tabled supplementary report, Neil McClellan, Area Team Manager informed members that local business people had expressed their concerns about the opening of another takeaway in the Preston Road area where there already existed, sufficient food outlets. He added that although the threshold limits under that Policy SH7 of the UDP for the number of non-retail uses in any of the Borough's defined primary frontages of 35% (or 50% where there is a high vacancy rate) had been exceeded, an inspector had already approved a non-retail use for this particular unit in a decision earlier this year allowing a restaurant use.

Mr Robert Mehmet the occupier of the flat above the application site premises objected to the proposed change of use on the following grounds:

- (i) Unacceptable level of noise would result from the use of motor bikes in connection with the takeaway service.
- (ii) The ducting flue which had been poorly designed straddled the fascia of his window obscured his vision and adversely affected his residential amenities.

Mr Mehmet requested the re-routing of the ducting flue.

Mr Monu Mohararuban, objected to the proposed change of use on the grounds that there already existed several A5 uses (restaurants) in the Preston Road area and therefore there was no need for another one in the area. He continued that an additional takeaway would create parking problems in the area.

In accordance with the Planning Code of Practice, Councillor HB Patel, ward member stated that he had been approached by an objector to the application. Councillor HB Patel stated that the Inspector's decision which granted planning permission for A5 use in an area that had exceeded its limit was erroneous in law. In his view the grant of planning permission for this application would further contravene the Council's relevant UDP policy. He continued that the resulting noise nuisance, loss of residential amenities could damage the viability and vitality of the area, setting an undesirable precedent for future applications for A5 uses

Mr Mike O'Brien, the applicant's agent stated that the opening of the takeaway would not result in over-saturation of A5 uses and that any likely impact would be broadly neutral. He continued that the Council's Environmental Health Office was satisfied that any likely impact from the proposal could be addressed by the imposition of conditions. Mr O'Brien added that the applicant had made adequate arrangements for a satisfactory for rear servicing to be accommodated. He sought to assure members that any noise from the use of mopeds would be negligible and would not have adverse impact on the amenities of neighbouring residents. He added that the proposal which would create about twenty local jobs would incorporate a shop that satisfied the Council's relevant Supplementary Planning Guidance.

In response to members' questions, Mr O'Brien stated that the duct flue would be visible from the objector's kitchen rather than from a habitable room.

In the discussion that followed, Councillors Mitchell-Murray and McLennan expressed concerns the impact of the proposal on the occupier of the flat above the premises. Councillors Kabir and Sheth enquired as to whether the conditions were adequately robust to address any likely impact. Councillor RS Patel asked for a confirmation of the claim that only 13 properties were consulted on the application. Councillor Baker however suggested a deferral for a site visit to enable members to fully assess the impact of the proposal.

Neil McClellan advised members that no significant impact would result from the proposal in terms of outlook and the use of the mopeds for delivery from the premises. He considered the rear servicing for transit van, refuse storage and mopeds to be satisfactory. He added that the consultation undertaken followed adopted guidance under the Council's Supplementary Planning Guidance 2 (SPG2) for this type of development. The Head of Area Planning added that Environmental Health officers did not consider noise to be an issue to warrant justifying refusal of the application. He added that whilst mindful of the potential impact of the flue, officers' were constrained by the Inspector's decision, however, he suggested an amendment to condition 8 that submission of further details should include the potential for an alternative route for the flue and a further condition on parking of mopeds.

The amendment by Councillor Baker for a site visit was put to the vote and declared lost. Members then voted on the substantive recommendation as amended which was declared carried.

DECISION: Planning permission granted subject to conditions as amended in condition 8, a further condition on parking of mopeds and informatives.

**10. Appeals 1 - 30 September 2011**

RESOLVED:-

that the appeals for the period 1 to 30 September 2011 be noted.

**11. Any Other Urgent Business**

The Chair wished everyone a Happy Diwali.

The meeting closed at 8:50pm.

NB: At 8:30pm the meeting was adjourned for five minutes.

K SHETH  
Chair