

COMMITTEE REPORT

Planning Committee on
Item No
Case Number

10 July, 2024
06
24/0773

SITE INFORMATION

RECEIVED	22 March, 2024
WARD	Tokyngton
PLANNING AREA	Brent Connects Wembley
LOCATION	72 Vivian Avenue, Wembley, HA9 6RU
PROPOSAL	Proposed change of use from house in multiple occupation (HMO) to supported housing for 5 residents (amended description)
PLAN NO'S	Refer to condition 2.
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	<p><u>When viewing this on an Electronic Device</u></p> <p>Please click on the link below to view ALL document associated to case https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=DCAPR_168274</p> <p><u>When viewing this as a Hard Copy</u></p> <p>Please use the following steps</p> <ol style="list-style-type: none">1. Please go to pa.brent.gov.uk2. Select Planning and conduct a search tying "24/0773" (i.e. Case Reference) into the search Box3. Click on "View Documents" tab

RECOMMENDATIONS

That the Committee resolve to GRANT planning permission.

That the Head of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

Conditions

1. Three year consent
2. Approved Drawings
3. Use of the existing outbuilding

Informative

Engagement with Brent Council's Adult Social Care Team, in relation in nominations for Brent residents

That the Head of Planning is delegated authority to make changes to the wording of the committee's decision (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision) prior to the decision being actioned, provided that the Head of Planning is satisfied that any such changes could not reasonably be regarded as deviating from the overall principle of the decision reached by the committee nor that such change(s) could reasonably have led to a different decision having been reached by the committee.

SITE MAP

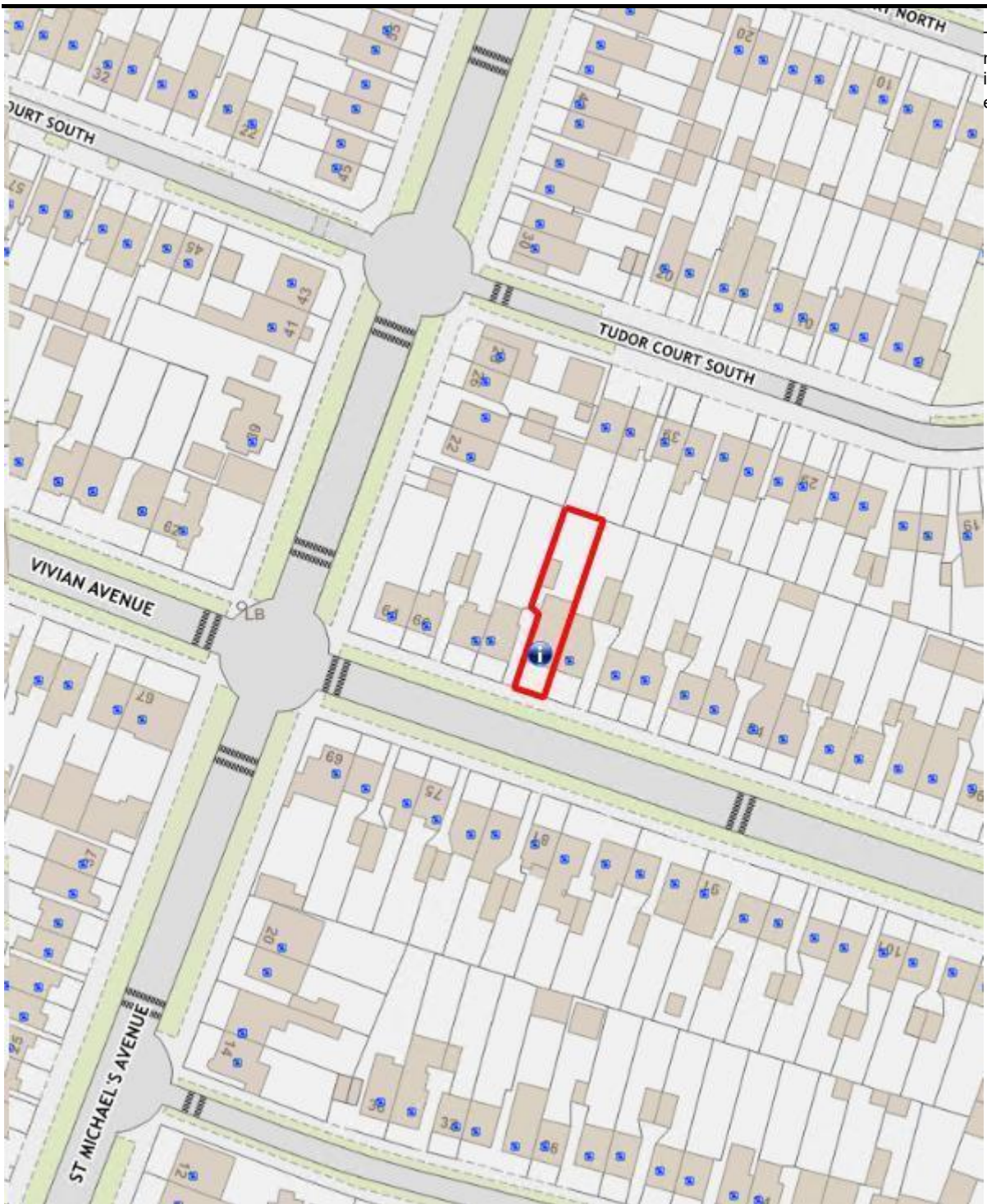


Brent

Planning Committee Map

Site address: 72 Vivian Avenue, Wembley, HA9 6RU

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This map is indicative only.

PROPOSAL IN DETAIL

The application seeks a change of use of the existing property which has recently been in use as a House in Multiple Occupation (HMO) (without the benefit of planning permission) to a C3(b) use for supported housing for up to five residents. No external alterations are proposed.

EXISTING

The application site contains a two-storey semi-detached residential property, situated on the northern side of Vivian Avenue, Wembley. The property is not situated within a conservation area, nor is it a listed building. The rectangular plot is in a residential area and benefits from several extensions and alterations.

SUMMARY OF KEY ISSUES

The key planning issues for Members to consider are set out below. Members will need to balance all of the planning issues and the objectives of relevant planning policies when making a decision on the application.

Representations received: Nine nearby properties along Tudor Court South, St Michaels Ave and Vivian Ave were notified by letter of this proposal on 28th March 2024. Four objections were received, including a petition with 73 signatures. The contents of these representations are summarised in detail below in the 'CONSULTATION' section below.

Principle of the development: The main considerations of relevance in regard to this application is the principle of the change of use. It is proposed to change the use of the building back to its lawful use, as a Dwellinghouse within Use Class C3. The submission specifies that it is intended to be used specifically for purposes within a sub-class of C3 which relates to up to six people living together as a single household and receiving care (C3(b)). However, it should be noted that changing the use of a property between the sub-classes within a Use Class is not development, and any of the Use Class C3 dwellinghouses in the surrounding area could be used for purposes within Use Class C3(a), (b) or (c) without the need to apply for planning permission. No external alterations are proposed as part of this application.

RELEVANT SITE HISTORY

Relevant Planning History

App Type	Full Planning	Ref	23/3863
Decision	Refused	Date	01/03/2024
Description	Proposed change of use from HMO (Use Class C4) to Secure Residential Institutional Care Home (Use Class C2a)		
Reasons	<ol style="list-style-type: none">1. The proposed development would result in the loss of a larger family-sized residential unit, for which there is an identified need in the borough, in an area with poor public transport accessibility, resulting in higher levels of car dependency, contrary to policies DMP1, BH10 and BT1 of the Brent Local Plan (2019-2041).2. The proposal by reason of insufficient evidence fails to demonstrate that it is an identified need in Brent. The development is therefore compromises the ability to meet housing need within the borough and is inconsistent with Policies DMP1 and BH7 of the Brent Local Plan (2019-2041).3. By reason of the lack of a comprehensive management plan, it has not been demonstrated that there will be suitable management arrangements for the proposed use, contrary to BH7 of Brent's Local Plan (2019-2041).		

4. In the absence of submissions addressing fire safety, the proposed development would not demonstrably address the need for fire risk mitigation. The proposal is therefore unacceptable and contrary to the requirements of policy D12 of the London Plan (2021).

App Type	Householder	Ref	22/3443
Decision	Granted	Date	30/11/2022
Description	Retention of single-storey rear extension		

App Type	Enforcement Case	Ref	E/21/0712
Decision	Case Closed – No Action Taken	Date	-
Description	The alleged material change of use to a House in Multiple Occupation AND The alleged erection of a rear extension		

App Type	Certificate of Lawful Development	Ref	22/1356
Decision	Unlawful	Date	23/08/22
Description	Certificate of lawfulness for existing use as 5 room HMO and single-storey rear extension		

App Type	Certificate of Lawful Development	Ref	19/0393
Decision	Lawful	Date	27/03/19
Description	Certificate of lawfulness for proposed hip to gable loft conversion with rear dormer, 3 front rooflights and one side window to dwellinghouse		

App Type	Prior Approval – Larger Homes Extension	Ref	19/0399
Decision	Prior Approval Required + Approved	Date	18/03/19
Description	Prior approval for a single storey rear extension to dwellinghouse, in metres: Extending beyond the rear wall of the original house - 6m, Maximum height - 3.15m, Eaves height - 3m		

CONSULTATIONS

Nine nearby properties along Tudor Court South, St Michaels Ave and Vivian Ave were notified by letter of this proposal on 28th March 2024. Four objections were received, including a petition with 73 signatures. The reasons for objection have been included in the table below.

Reasons For Objection	Officers Comments
The intended use of the property	This has been discussed in the 'Principle of Development' section of this report.
Security risk/safety concerns (anti-social behaviour)	The reasonable use of the property for purposes within Use Class C3 is not considered likely to result in an increase in crime.
Existing availability of nearby supporting housing	While any of the Use Class C3 properties in the area could be used for purposes within Use Class C3(a), (b) or (c) without planning permission, there is not a known overconcentration of supported housing in the locality.
Retention of the garage	This application does not relate to the existing garage in the rear garden. A condition is recommended for the garage to be used only for incidental purposes relating to the use of the C3 dwellinghouse.
Loss of the light	This application relates to the proposed change of use of the property. No physical works are proposed.

Inappropriate location for C2 use	It is proposed to change the use of the property to Use Class C3 rather than C2. This has been discussed in the 'Principle of Development' section of this report.
Impact on parking/traffic	See discussion below. The proposal is not considered to result in an increase in parking/traffic.
Access to the shared driveway	The proposal only involves the change of use of the property and does not affect access by any party. Any private rights of way would be a private legal matter which cannot be considered within this planning application.
Increase in noise	There is no reason to believe that the reasonable use of this property for purposes within Use Class C3(b) would result in significant levels of noise and disturbance.
Lack of detail relating to the proposed use	This has been discussed in the 'Principle of Development' section of this report.
Inaccuracies in the application form	This has been noted. The description of development has been updated to more accurately reflect the proposal.
The proposal would set a precedent	All planning applications are assessed on their own merits.
Loss of a family-sized unit	This has been discussed in the 'Principle of Development' section of this report.
Errors raised from the previous application	This has been noted.
Extended consultation	The consultation was carried out in line with statutory legislation and Brent's Statement of Community Involvement

POLICY CONSIDERATIONS

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of this application should be in accordance with the development plan unless material considerations indicate otherwise.

The development plan is comprised of the London Plan (2021) and Brent Local Plan (2019-2041).

Key policies include:

London Plan (2021)

D12a: Fire Safety

Brent Local Plan (2019-2041)

DMP1 - Development Management General Policy

BH7 - Accommodation with Shared Facilities or Additional Support

Other material considerations

The following are also relevant material considerations:

- National Planning Policy Framework
- National Planning Practice Guidance

DETAILED CONSIDERATIONS

Proposal in Detail

1. The application seeks a change of use of the existing property, which has recently been in use as an HMO (without the benefit of planning permission) to a C3(b) use for supported housing for up to five residents. No external alterations are proposed.

Preamble

2. While the property was in use previously as a single-family dwellinghouse (Class C3) a Prior Approval application was made for a single-storey rear extension. Prior approval was required and subsequently approved. However, the works were not carried out in accordance with the plans. Subsequently the use of the property was changed to become a Use Class C4 small HMO .
3. The applicant advised that the property was changed from a C3 dwellinghouse to a C4 HMO prior to the introduction of the Article 4 direction (which removed the permitted development right for this change) and therefore they believed at the time that the conversion didn't require planning permission. However, the single-storey rear extension had not been completed in accordance with the plans approved under application reference 19/0399 and because of this, the property had lost its permitted development rights under Section 3(5) of the General Permitted Development Order 2015 which states:

(5) The permission granted by Schedule 2 does not apply if –

(a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;

(b) in the case of permission granted in connection with an existing use, that use is unlawful.

4. A planning enforcement case was opened in relation to the breaches in planning control, and the extension was subsequently granted planning permission under application reference 22/3443. However, the C4 use remained unlawful.
5. As a matter of law, as an Enforcement notice was not issued requiring a change back to Use Class C3, a change of use from the previous unlawful HMO (Class C4) use to the previous lawful use as a dwellinghouse (Class C3) use requires planning permission. If the Use Class C4 HMO use had been lawful then the change back to C3 would not require planning permission.
6. The application under consideration here is a result of this requirement.

Principle of Development

7. The last lawful use of the property was as a C3 dwellinghouse. Indeed, the application form

submitted with this application states that the property is currently in use as a C3 dwelling under Class C3(a). However, at the time of visiting the property it was found to be unoccupied, though was generally fitted out and made ready for the proposed C3(b) use.

8. The proposal under consideration here is for the change of use of the premises to supported housing (Use Class C3(b)). Use Class C3(b) allows for up to six people living together as a single household and receiving care (e.g. supported housing schemes such as those for people with learning disabilities or mental health problems).
9. The proposed supported housing would be operated by Reliant Care Ltd. Details of the proposed supported housing have been included in a 'Housing Management Plan' which states that the property would be for vulnerable women from 18 years and above who require support for their mental health and other complex needs. The property would be staffed 24 hours a day by two support staff during daytime hours, and one waking staff member overnight. There would also be on-call management available, if required.

Change of Use

10. It should be noted that a change from Class C3(a) to C3(b) or C3(c) does not in itself require planning permission. As all sub-classes (a, b and c) sit within the same Use Class as a C3 dwellinghouse, changes between the uses are not "development". Indeed, most of the homes in the area are likely to be within Use Class C3 and therefore could be used for purposes within Use Class C3(a), (b) or (c) without the need for planning permission and a change from a lawful Use Class C4 HMO to any use within C3 would not normally require permission. However, as discussed above, the last use of the premises appeared to be an unlawful C4 use. As such, a change of use is considered here.
11. While Policy BH7 (Accommodation with Shared Facilities or Support) of the Brent Local Plan would normally require proposals for non-self-contained residential accommodation with shared facilities or on-site support/care to meet a number of criteria, in this instance the proposed use would fall under the wider C3 use class as a dwellinghouse.
12. There is a significant shortfall of specialist supported residential accommodation for women with mental health issues in the Borough, and the proposed use would otherwise broadly comply with BH7. The proposed use would deliver accommodation of an acceptable quality, complete with a Management Plan, that meets a specific need and would not result in an over concentration of such a use in the area. While the PTAL rating of the area is low (between 1b and 2), there is a parade of shops within approximately 300m of the property, and Sherrans Farm Open Space is located approximately 350m away. The applicants supporting statement expresses a connection between their accommodation provision and a specific need being addressed (for example, first preference would be given to Brent Council for vacancies), which would reasonably reduce reliance on car use.
13. However, in this instance, as the previous lawful use of the premises was a C3 dwelling this is a material planning consideration, and reverting the use of the premises to a C3 use is acceptable, as it is for the original purpose that the property was built.

Design, Character and Impact on the Streetscene

14. Policy DMP1 requires the scale, type and design of development to complement the locality. The proposal does not seek any material changes to the external appearance of the existing property. As such, the proposal would not be considered to have harm on the character or appearance of the application site or wider streetscene.

Impact on Residential Amenity

15. It is always necessary for developments to take into account the residential amenity of neighbours and impact on the environment. Local Plan Policy DMP1 seeks to ensure new development does not unacceptably increase neighbours' exposure to noise, light and general disturbance. As stated above, the proposal would have limited direct impact on the living conditions of the neighbouring occupiers, as no material changes are sought to the external of the existing property. In terms of impact on neighbours, compared to an extended family that could be accommodated within the existing dwelling, movements are likely to be similar due to the small-scale nature of the proposal.

Fire Safety Considerations

16. Policy D12A of the London Plan now requires all development proposals to achieve the highest standard of fire safety and requires submissions to demonstrate that they:
- 1) identify suitably positioned unobstructed outside space:
 - a) for fire appliances to be positioned on
 - b) appropriate for use as an evacuation assembly point
 - 2) are designed to incorporate appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures
 - 3) are constructed in an appropriate way to minimise the risk of fire spread
 - 4) provide suitable and convenient means of escape, and associated evacuation strategy for all building users
 - 5) develop a robust strategy for evacuation which can be periodically updated and published, and which all building users can have confidence in
 - 6) provide suitable access and equipment for fire-fighting which is appropriate for the size and use of the development.
17. This submission has been supported by a Fire Extinguisher Certificate, Fire Risk Assessment and Portable Appliance Test Certificate. Although the application has not been accompanied with specific the fire safety information set out within D12 of London Plan (2021), formal approval under the Building Regulations will be required, if the scheme goes ahead and therefore given the scale and location of the development, the absence of the fire statement does not render the scheme unacceptable.

Equalities

18. In line with the Public Sector Equality Duty, the Council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

Conclusion

19. As discussed above, as the previous lawful use of the premises was a C3 dwellinghouse, this is a material planning consideration, and reverting the use of the premises to a C3 use is acceptable, as it is for the original purpose that the property was built.
20. Planning permission is therefore recommended to be granted, subject to conditions.

DRAFT DECISION NOTICE



Brent

DRAFT NOTICE

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

DECISION NOTICE – APPROVAL

Application No: 24/0773

To: Buckmaster Batcup Architects Ltd
70 Walter Road
Swansea
SA1 4QA

I refer to your application dated **22/03/2024** proposing the following:

Proposed change of use from house in multiple occupation (HMO) to supported housing for 5 residents (amended description)

and accompanied by plans or documents listed here:
Refer to condition 2.

at **72 Vivian Avenue, Wembley, HA9 6RU**

The Council of the London Borough of Brent, the Local Planning Authority, hereby **GRANT** permission for the reasons and subject to the conditions set out on the attached Schedule B.

Date: 02/07/2024

Signature:

David Glover
Head of Planning and Development Services

Notes

1. Your attention is drawn to Schedule A of this notice which sets out the rights of applicants who are aggrieved by the decisions of the Local Planning Authority.
2. This decision does not purport to convey any approval or consent which may be required under the Building Regulations or under any enactment other than the Town and Country Planning Act 1990.

DnStdG

SUMMARY OF REASONS FOR APPROVAL

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

National Planning Policy Framework (2023)
The London Plan (2021)
Brent Local Plan (2019-2041)

- 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 drawings and documents:

945.P.01 - Site Location Plan
945.P.02 - Existing Plans
945.P.03 - Existing Elevations
945.P.04 - Proposed Plans
945.P.05 - Proposed Elevations
945.P.06 – Proposed Fire Strategy

Supporting Documents

Housing Management Plan

Supporting Statement [BBA.945], prepared by Buckmaster Batcup Architects, dated 21st March 2024.

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

- 3 The existing outbuilding, labelled on the plans as 'store room', shall be used for purposes incidental to the use of the existing dwelling, as a C3(b) use and shall not be used for commercial storage relating to other premises nor for self-contained residential accommodation. It shall not contain a kitchen, toilet or shower room.

Reason: In the interests of the amenities of neighbouring occupiers.

INFORMATIVES

- 1 The applicant is encouraged to continue engagement with Brent Council's Adult Social Care Team, to agree a cascade mechanism that prioritises Brent Council referrals, in the first instance, before going wider to meet wider London needs.

Any person wishing to inspect the above papers should contact Jasmin Tailor, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5341