

# COMMITTEE REPORT

Planning Committee on

18 February, 2020

Item No

08

Case Number

19/3409

## SITE INFORMATION

RECEIVED	23 September, 2019
WARD	Harlesden
PLANNING AREA	Harlesden Neighbourhood Forum
LOCATION	1-12E INC and 14A-18B INC The Elms, Nicoll Road, London, NW10 9AA
PROPOSAL	Creation of 3 self-contained units involving the construction of a 4th floor level with terraces and balustrades above the residential block of flats known as Nos. 1-18B The Elms, Nicoll Road.
PLAN NO'S	See Approved Plans condition
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	<p><b><u>When viewing this on an Electronic Device</u></b></p> <p>Please click on the link below to view <b>ALL</b> document associated to case <a href="https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=DCAPR_147130">https://pa.brent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=DCAPR_147130</a></p> <p><b><u>When viewing this as an Hard Copy .</u></b></p> <p><b>Please use the following steps</b></p> <ol style="list-style-type: none"><li>1. Please go to <a href="https://pa.brent.gov.uk">pa.brent.gov.uk</a></li><li>2. Select Planning and conduct a search tying "19/3409" (i.e. Case Reference) into the search Box</li><li>3. Click on "View Documents" tab</li></ol>

## RECOMMENDATIONS

Resolve to **grant** planning permission subject to conditions.

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. 3 Years to commence development
2. Development to be built in accordance with approved plans
3. Submit details of materials
4. Restriction on housing to be within C3 use (no C4 use)
5. Details of water consumption
6. Details of External lighting
7. Details of Satellite/Communication equipment
8. Details of sound insulation
9. Considerate Constructor scheme membership
10. Permit free restriction for car parking
11. Non-road mobile machinery to be limited in terms of power output
12. Submission of construction management plan
13. Details of cycle storage
14. Plant noise
15. Construction noise and dust
16. Obscure Glazing

### *Informatives*

CIL liable approval  
Building near boundary  
London living Wage  
Fire safety  
Thames Water – minimum water pressure  
Contact Highways  
Contact Thames Water (use of mains water for non-domestic purposes)  
Party Wall  
Out of hours working

*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.*

*That the Committee confirms that adequate provision has been made, by the imposition of conditions, for the preservation or planting of trees as required by Section 197 of the Town and Country Planning Act 1990.*

## SITE MAP



### Planning Committee Map

Site address: 1-12E INC and 14A-18B INC The Elms, Nicoll Road, London, NW10 9AA

© Crown copyright and database rights 2011 Ordnance Survey 100025260



This map is indicative only.

## PROPOSAL IN DETAIL

The proposal is for the creation of recessed fourth storey providing 3 studio flats on top of the existing 3 storey building. The third storey of this development has recently been added under planning ref: 17/4382 creating 9 additional flats.

The proposals would be accessed utilising existing ground floor entrance and stairwells of the existing building.

Each flat would have access to a balcony area. Flats 2 and 3 would be accessed by an open air corridor to the rear. This amendment was encouraged to improve the relationship with neighbouring premises.

## EXISTING

The site is situated on a large corner site which fronts Acton Lane to the south and Nicoll Road to the east. The area is predominantly residential in character of 2/3 storey in height. A large Grade II listed church is sited to the east on the opposite side of Nicoll Road and Willesden County Court to the South East.

The site is currently occupied by 1930s, 3 storey block of flats. With amenity and parking areas to the rear of the site.

The site has a Public Transport Accessibility Level of 5 (PTAL 5).

The site is within Air Quality Management Area.

## SUMMARY OF KEY ISSUES

The key planning issues for Members to consider are set out below. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. 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** – 17 comments were received objecting to the scheme and a petition objection from 25 of the addresses within of the block of flats The Elms. The principle objection relates the construction nuisance arising from the previous development creating an entire additional floor to the building, there is a concern this level of nuisance will be repeated by the addition of the 3 flats.
- **Design/Heritage impacts** – The overall design approach is considered appropriate to the locality and not harmful to the adjacent heritage assets of Our Lady of Willesden Roman Catholic Church (Grade II listed building) and the Harlesden Conservation Area.
- **Quality of accommodation** – The proposed accommodation would be of good quality size and layout, consistent with London Plan and Brent Local Plan standards, with good access to light, outlook and amenity space overall. Levels of external amenity space meet Mayoral standards but fall below Brent standards as set out within Policy DMP19. However, given the proximity to town centre and efficient layout of internal space, a good standard of accommodation is considered to be provided.
- **Neighbour amenity** – Minor encroachment occurs upon the 45 degree principle at 2m height on boundary of the amenity land to the west, This is an area of land which legally been separated and fenced off so as no longer forms part of the adjacent dwellings at 20 Acton Lane) on balance the overall living conditions of these properties would not be significantly harmed and the impacts are

considered acceptable.

- **Highways** – No significant harm is considered to the highway network. The proposal is to be subject to a parking permit restriction secured by condition.

## RELEVANT SITE HISTORY

The following is a summary of relevant planning history:

**18/1428** - Variation of condition 2 (development built in accordance with approved plans: layout to flat 24A to include a study and changes to the external to include 3 smoke actuated units and 1 access hatch onto the roof) and removal of conditions 3 and 4 of Full Planning Permission reference 17/4832 dated 1 February, 2018, for Construction of an additional floor to existing block of flats to provide 9 additional self-contained flats (6 x 1 bed and 3 x 2 bed) with associated car and cycle parking spaces, bin stores, landscaping and associated works. **Granted**

**17/4382** - Construction of an additional floor to existing block of flats to provide 9 additional self-contained flats (6 x 1 bed and 3 x 2 bed) with associated car and cycle parking spaces, bin stores, landscaping and associated works. **Granted**

**16/3428** - Construction of an additional floor to existing block of flats to provide 8 additional self-contained flats (5 x 1bed and 3 x 2bed) with associated car and cycle parking spaces, bin stores, landscaping and associated works. **Granted**

**15/4371** - Erection of additional floor extension to create 9 self-contained flats. **Refused**

## CONSULTATIONS

The following consultation was undertaken for a period exceeding the minimum statutory requirement of 21 days:

Neighbour notification letters were sent to 143 nearby addresses.

Site notice was placed adjacent the site in excess of 21 days before recommendation.

17 letters of objection have been received from individuals.

A petition was received from residents the Elms block of flats, 25 of the dwellings objected to the proposal.

### Summary of comments

Comment	Officers Response
Increased demand of parking, congestion and pollution	See highways section.
Loss of daylight/sunlight	See neighbour amenity section.
Limited local infrastructure	No specific shortage of infrastructure identified by comment. Addition of 3 studio flats is not considered to cause excessive pressure on local infrastructure. Development will contribute to Community Infrastructure Levy which will assist in provision of local infrastructure. It is for

	relevant infrastructure providers such as health services to meet needs of the local community.
Previous permissions caused excessive disruption and nuisance to residents from poor building practices of the developer.	An element of disturbance must be expected with nearly all development projects. Excessive disturbance is controlled by Environmental Health Legislation. Due to the location of the proposal and a conditions is recommended to ensure the developer is a member of the considerate constructor scheme conditions.
Older building put under strain by new development	Appropriate Building Regulations would have to be complied during the course of any new development. This is the primary legislation for the structural assessment of a development.
Problems with utilities capacity	Is a matter for building regulations
No lift in building, poor accessibility	As the scheme is for only 3 studio flats, policies requiring 10% of homes suitable for those with disabilities are not fully engaged, the development will be required to comply with building regulations with regards to accessibility.
Excessive bulk and poor design	See character and appearance section.
Overlooking of neighbouring properties	See neighbour amenity section.
Problems with excess rubbish	Sufficient storage is proposed.
Building over capacity, health and safety risk	Development would need to accord with building regulations. Health and Safety Executive responsible for enforcing safe working practices.

### Consultees:

Harlesden Neighbourhood Forum – no comment received

Highway Authority – no objection, subject to conditions

Conservation officer – no objection

Environmental Health – no objection, subject to conditions

## POLICY CONSIDERATIONS

The following planning policy documents and guidance are considered to be of relevance to the determination of the current application with some of the key policies referenced below relevant document, although the whole document is considered:

### National Planning Policy Framework

#### The London Plan consolidated with alterations since 2011 (March 2016)

#### 2.18 Green infrastructure

- 3.1 Life Chances for All
- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Communities
- 5.2 Minimising Climate Change
- 5.3 Sustainable Design and Construction
- 5.6 Decentralised Energy in Development Proposals
- 5.7 Renewable Energy
- 5.10 Urban Greening
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 5.15 Water Use and Supplies
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.9 Cycling
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.7 Location and Design of Tall and Large Buildings
- 7.8 Heritage Assets and Archaeology
- 7.14 Improving Air
- 7.15 Reducing and Managing Noise
- 7.19 Biodiversity and Access to Nature
- 7.21 Trees and Woodlands

## **Draft London Plan**

- GG1 Building Strong and inclusive communities
- GG2 Making the best use of land
- GG3 Creating a healthy city
- GG4 Delivering New Homes Londoners need
- GG5 Growing a Good Economy
- GG6 Increasing Efficiency and Resilience

D1 London's Form and Characteristics  
D2 Delivering Good Design  
D3 Inclusive Design  
D4 Housing Quality and Standards  
D5 Accessible Housing  
D6 Optimising Housing Density  
D7 Public Realm  
D10 Safety, Security and Resilience to Emergency  
D11 Fire Safety  
D13 Noise  
G1 Green Infrastructure  
G5 Urban Greening  
G6 Biodiversity and Access to Nature  
G7 Trees and Woodlands  
H1 Increasing Housing Supply  
H5 Delivering Affordable housing  
H6 Threshold approach to applications  
H7 Affordable housing tenure  
H12 Housing size mix  
S4 Play and Informal Recreation  
HC1 Heritage and Culture  
HC5 Supporting London's Culture and Creative Industries  
SI1 Improving Air Quality  
SI2 Minimising Green house Emissions  
SI3 Energy infrastructure  
SI4 Managing Heat Risk  
SI5 Water Infrastructure  
SI7 Reducing Waste and Supporting the Circular Economy  
SI12 Flood Risk Management  
SI13 Sustainable Drainage  
T4 Assessing and Mitigating Transport Impacts  
T5 Cycling  
T6 Car Parking  
T7 Deliveries, servicing and construction  
DF1 Delivery of the Plan and Planning Obligations



## **Brent Core Strategy (2010)**

CP1: Spatial Development Strategy

CP2: Population and Housing Growth

CP5: Placemaking

CP6: Design & Density in Place Shaping

CP17: Protecting and enhancing the suburban character of Brent

CP18: Protection and Enhancement of Open Space, Sports and Biodiversity

CP19: Brent Strategic Climate Change Mitigation and Adaptation Measures

CP21: A Balanced Housing Stock

CP23: Protection of existing and provision of new Community and Cultural facilities

## **Brent Development Management Policies (2016)**

DMP 1: Development Management General Policy

DMP 7: Heritage Assets

DMP 9A: Managing Flood Risk

DMP 9B: On Site Water Management and Surface Water Attenuation

DMP 11: Forming an Access on to a Road

DMP 12: Parking

DMP 13: Movement of Goods and Materials

DMP 15: Affordable Housing

DMP 18: Dwelling Size and Residential Outbuildings

DMP 19: Residential Amenity Space

## **Brent Draft Local Plan**

BD1: Leading the Way in Good Urban Design

BSI1: Social Infrastructure and Community Facilities

BE1: Economic Growth and Opportunities For All

BGI1: Green and Blue Infrastructure in Brent

BH1: Increasing Housing Supply in Brent

BHC1: Brent Heritage Assets

BH5: Affordable Housing

BH6: Housing Size Mix

BG12: Trees and Woodlands

BSUI2: Air Quality

BSUI4: On Site Water Management and Surface Water Attenuation

BT1: Sustainable Travel Choice

BT2: Parking and Car Free Development

BT3: Freight and Servicing

### Site Specific Allocations (2011)

### West London Waste Plan (2015)

### Harlesden Neighbourhood Plan

### Supplementary Planning Documents/Guidance (SPD/SPG)

Brent SPD1: Design Guide for New Development (2018)

Brent s106 Planning Obligations SPD (2013)

Mayor's Housing SPG

Mayor's Sustainable Design and Construction SPG

National Planning Policy Guidance

National Design Guide

Harlesden Conservation Area Appraisal

Brent Waste Planning Guide

## DETAILED CONSIDERATIONS

### Principle

1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise'.
2. Core Strategy Policy CP17 states that the distinctive suburban character of Brent will be protected from inappropriate development. Local Plan Policy DMP1 states that development will be acceptable provided it is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design and complements the local area. This is supported by the design guidelines set out in SPD1 & SPD2.
3. Core Strategy Policy CP2 supports the provision of additional residential units within residential areas in the borough.
4. DMP1 states "*subject to other policies within the development plan, development will be acceptable provided it is:*

*of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides high levels of internal and external amenity and complements the locality; ...*

*g. not unacceptably increasing exposure to flood risk, noise, dust, contamination, smells, waste, light, other forms of pollution and general disturbance or detrimentally impacting on air or water quality."*

### Character and Appearance

5. London Plan policy 7.1 ("Lifetime Neighbourhoods") advises that the design of new buildings and the

spaces created by them should “*help to reinforce or enhance the character, permeability, and accessibility of the neighbourhood*” while policies 7.4, 7.5 and 7.6 confirm the requirement for achieving the highest architectural quality, taking into consideration the local context and its contribution to that context. Design should respond to contributing towards “a positive relationship between urban structure and natural landscape features...” Additional design guidance can be found in DMP1 (“Development Management General Policy”) and within the Councils SPD1 (“Design Guide for New Development”).

6. Core Strategy Policy CP17 states that the distinctive suburban character of Brent will be protected from inappropriate development. Local Plan Policy DMP1 states that development will be acceptable provided it is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design and complements the local area.
7. Overall the proposals are considered to represent sympathetic and modest architecture which would integrate the existing building well. The well recessed from help reduce any perceived additional mass or height to an acceptable scale consistent with the objectives of the development plan and design guidance. External materials including hand rail will be required to submitted by condition for approval.

## Heritage

### *Heritage Considerations*

8. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“Listed Buildings Act”) confirm that special attention shall be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (s.66) and preserving or enhancing the character or appearance of that area (s.72). As confirmed by the Court of Appeal (Civil Division), the decision in *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* [2014] EWCA Civ 137 confirmed that where an authority finds that a development proposal would harm the setting of a listed building or the character and appearance of a conservation area, it must give that harm “*considerable importance and weight*”. Further case law has reconfirmed the Barnwell decision and the considerations to be undertaken by a planning authority: *The Forge Field Society & Ors. R v Sevenoaks District Council* [2014] EWHC 1895 (Admin), *Pugh v Secretary of State for Communities and Local Government* [2015] EWHC 3 (Admin).
9. Section 16 of the NPPF (“Conserving and enhancing the historic environment”) (paras.184 to 202) advises Local Planning Authorities to recognise heritage assets as an “irreplaceable resource” and to “conserve them in a manner appropriate to their significance” (para.184).
10. When considering the impact of a proposed development on the significance of a designated heritage asset, it is advised at para.193 that “*great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*”. Consent should be refused where there is substantial harm or total loss of significance, unless there are substantial public benefits that outweigh that harm or loss (NPPF, para.195). Where there is less than substantial harm, the harm is to be weighed against the public benefits of the proposal (NPPF, para.196) and with regard to non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset (NPPF, para.197).
11. It is also important for Members to note that with regard to the legislation, the term “setting” only refers to listed buildings, which is defined in the NPPF as:
12. *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*

### *The Local Plan*

13. Policy 7.8 of the London Plan (“Heritage Assets and Archaeology”) advises what boroughs should do at a strategic level to identify, preserve, and enhance London’s heritage assets. The supporting text to Policy CP17 (“Protecting and Enhancing the Suburban Character of Brent”) of the Core Strategy confirms that the Borough’s historical assets need to be protected and conserved. Policies DMP1 (“Development Management General Policy”) and DMP7 (“Brent’s Heritage Assets”) confirms the statutory duty of the

Council and provides some guidance on how to present and assess applications affecting heritage assets.

14. To the east of the Site lies Our Lady of Willesden Roman Catholic Church, a grade II listed building and Harlesden Conservation Area.
15. What must be determined is whether the proposed development will harm the significance of the aforementioned designated and non-designated heritage assets, having regard to the statutory requirement to give special attention to the desirability of preserving a listed building or its setting (s.66) and preserving or enhancing the character or appearance of a conservation area (s.72).

#### *Assessment Against Significance of Heritage Assets*

##### *Our Lady of Willesden Roman Catholic Church (grade II listed)*

16. The development is well recessed from the roofline, only notionally perceptible at pedestrian level, the proposals are not considered to harm the setting or compete for prominence with the Church which is significantly separated from the site with Nicoll Road an intervening feature. In its Historic England Listing it is described as:
  17. *1930. Roman Catholic Church by Wilfred C Mangan of Preston. Severe and dignified large brick church. Modern Romanesque with apsidal chancel and small campanile. Long narrow windows. Interior: sand faced cement with deep concrete ribs to nave roof and apse giving a wide span.*
- 18.
19. It is considered that the identified heritage asset will not be harmed from the proposed development and that its significance, character and setting will continue to be preserved.

##### *Harlesden Conservation Area*

20. Although the site is outside the conservation area it lies adjacent the Harlesden Conservation Area which is characterised by dense Victorian development. The character appraisal suggests:
  21. *"There is no visual connection to the wider London context from the Conservation area. Building heights and local topography mean that there are no significant views to either man made or natural landmarks."*
22. The modest addition to the existing roof scape is well recessed and would not harmfully impact upon the character or setting of the Harlesden Conservation Area.
23. On balance, the proposals overall are considered to preserve the setting and character of the adjacent heritage assets.

#### **Affordable Housing/Unit Mix/Family sized dwellings**

24. As a minor scheme under 10 units, affordable housing and requirements for family sized units do not apply.

#### **Density**

25. CS Policy CP6 supports high densities in areas of good public transport accessibility, subject to the quality of the design, location of the site and the need to provide family housing. Given the site is predominantly within residential uses and very good PTAL rating the amount of housing is considered proportionate to the wider context of the site.

#### **Quality of Residential Accommodation**

26. Local Plan Policy DMP1 and DMP18 state that it is important that development provide high levels of internal amenity and create a high quality environment, and should be consistent with London Plan Policy 3.5, Table 3.3 'Minimum Space Standards for New Dwellings'.
27. The size of the units and amenity areas are set out in the tables below:

Flat number	Gross Internal Area (sq.m)	External Amenity (sq.m)
1	39	7

2	38	5
3	37	5

28. All of the residential units would meet the minimum floorspace standards as required by DMP policy DMP18 and London Plan policy 3.5 with efficient layout and generally good aspect, outlook and light.
29. DMP policy DMP19 provides guidance for outdoor residential amenity space of 20sqm per flat and 50sqm per family unit the expected amount. Of a unit mix of proposed the development would generate a requirement of 60 sq.m.
30. Each residential unit has access to private amenity space ranging from 5 sq.m to 7 sq.m, which is London Plan compliant but falls short of Brent requirements of DMP19.
31. Consideration has been given to site constraints and the size of the proposed flats (all one-person units), the benefit of providing additional homes is considered to outweigh the impacts on the quality of accommodation associated with the shortfall in external amenity space.
32. The proposed levels of external amenity space fall below those specified within policy DMP 19, however, on balance the proposal is considered to deliver high quality of accommodation with adequate living conditions for future residents. Overall the flats would have good access to outlook, light and general living conditions would be acceptable.

### **Neighbouring Amenity**

33. Local Plan Policy DMP1 seeks to ensure new development, amongst other things, provides high levels of internal and external amenity and does not unacceptably increase exposure to noise, light and general disturbance. This is supported by SPD1.

#### *Privacy*

34. The design guide for new developments SPD1 outlines the minimum distance between habitable facing windows is 18m and distance from windows to private amenity space should be 9m.
35. The proposed rear open air corridor to the rear of flat 2 and 3 would be in excess of 9m to the neighbouring boundary and therefore not create any unduly harmful overlooking scenarios not already expected in the existing inner suburban context.
36. In Flat 1 a secondary side facing window is proposed facing east towards 20 Acton Lane and overlooking the amenity land sited between 20 Acton Lane and the site. This window can be conditioned to be obscure glazed to safeguard the amenity of this land and any future development potential of this land.
37. On balance the development would retain adequate privacy for future occupiers and neighbouring uses.

#### *Daylight/Sunlight*

38. The applicant has submitted a daylight sunlight analysis based the Building Research Establishment (BRE) guidance *Site layout planning for daylight and sunlight: a guide to good practice*, which advises on planning developments for good access to daylight and sunlight, and is widely used by local authorities during planning permission to help determine the impacts of new developments.
39. The design guide for new developments SPD1 outlines the 30 and 45 degree principles on pg.27. Where there are failures of these principles the impact on outlook and the sense of enclosure to neighbouring properties and garden space can increase. When considered with a daylight/sunlight study it can be established if any significant harm would arise to residential amenity.
40. The London Plan SPG – Housing gives guidance stating at paragraphs 1.3.45 and 1.3.46:

*1.3.45 .... An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development,*

*especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.*

*1.3.46 The degree of harm on adjacent properties and the daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced, but which still achieve satisfactory levels of residential amenity and avoid unacceptable harm.*

41. A detailed assessment has been submitted for daylight, sunlight and overshadowing which demonstrates future residents and users of the amenity space areas would have reasonably good access to light, with no significant failures of BRE guidance on the daylight/sunlight impact.

#### **Outlook**

42. The siting and layout of the proposals is such that outlook is not considered to be significantly harmed to neighbouring or future occupiers. The additional building is well recessed from the building edge and modest in scale and does not appear to be overbearing.

#### **Noise**

43. Local Plan Policy DMP1 states that new development will be acceptable providing it does not unacceptably increase exposure to noise and general disturbances.

44. Conditions have been proposed to ensure the adequate sound insulation is put in between existing and proposed dwellings.

45. Whilst some disturbance is inevitable during the construction process anywhere in a built up location, appropriate conditions have been proposed to mitigate potential impacts during the construction phase of the development.

#### **Lighting**

46. There could be issues with additional lighting impacting on residential uses at lower levels. To ensure there are not any excessive impacts, details of any external lighting are recommended to be agreed through condition.

#### **Highways**

47. Policy 6.3 of the London Plan confirms that the impact of development proposals on transport capacity and the transport network should be fully assessed. The proposal should comply with policies relating to better streets (Policy 6.7), cycling (Policy 6.9), walking (Policy 6.10), tackling congestion (Policy 6.11), road network capacity (Policy 6.12) and parking (Policy 6.13). Policies DMP11 and 12 provide the criteria upon which developments will be assessed with regard to layout and access / servicing / parking standards.

48. The NPPF para.109 states, "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

49. The site is located within PTAL 5 where generally car free development can be considered acceptable consistent with policy DMP12.

50. Policy DMP12 requires that where additional on-street parking might be generated, this needs to be safely accommodated. The location of the site within a CPZ means that overspill parking is very unlikely,

51. As the site has very good access to public transport services, the lower residential car parking allowances set out in Table 6 at Appendix 1 of the adopted DMP 2016 apply.

52. The sizes of the original 24 existing flats are not known, but they average about 60m<sup>2</sup> each and generally have four external windows. On this basis, they are assumed to each contain no more than two bedrooms, whilst the additional nine flats recently constructed at 3<sup>rd</sup> floor level are also all 1-1/2-bed units.

This gives a total existing car parking allowance of 24.75 parking spaces. The nine parking spaces at the rear of the site, including one disabled space, is therefore within the maximum allowance.

53. This proposal for three further 1-bed flats at 4<sup>th</sup> floor level would increase the car parking allowance by 2.25 spaces to 27 spaces. With no further off-street parking proposed for these flats, maximum standards would continue to be complied with.
54. Policy DMP12 also requires that any additional on-street parking that is generated can be safely accommodated though. The recent application for nine new flats at 3<sup>rd</sup> floor level addressed any concerns on this matter through a 'car-free' agreement to withdraw the right of future residents to on-street parking permits. To ensure a consistent approach that mitigates potential parking impact, the same condition should be applied to these three further flats.
55. The London Plan requires the provision of a secure bicycle parking space for each 1-bed flat and two spaces for each 2-bed flat. A total of 17 bicycle stands (34 spaces) were previously approved to the rear of the building, but an alternative layout showing 19 stands (38 spaces) has now been submitted. Given this conflicting information, further details of covered bicycle parking for a minimum of 39 bicycles are therefore sought as a condition of any approval.
56. As with the earlier proposals, bin storage for eight Eurobins is proposed to the front of the site, providing adequate storage capacity for the existing and proposed flats and allowing continued easy access for collection from Nicoll Road.
57. Pedestrian access to the new flats will be shared with access for the existing flats from the Nicoll Road frontage, which is fine.
58. Subject to conditions: (i) designating the three proposed new flats as 'car-free' to remove the right of future occupants to on-street parking permits; and (ii) requiring the submission and approval of further details of the proposed covered bicycle storage, there would be no objections on transportation grounds to this proposal.
59. Overall the development would be safe with suitable access and the impacts on the highway would be limited.

#### **Wheelchair accessibility**

60. London Plan Policy 3.8 requires 90% of new housing to meet Building Regulation requirement M4 (2) "accessible and adaptable dwellings". It also requires 10% of new housing to meet the Building Regulation requirement M4(3) "wheelchair user dwellings"
61. As minor scale development it is not possible to require any additional units be wheel chair accessible, any accessibility will have to comply with current building control legislation

#### **Air quality**

62. Demolition and construction has the potential to contribute to background air pollution levels and cause nuisance to neighbours, as do fossil fuel boilers.
63. Prior to the commencement of the development a Construction Management Plan shall be submitted to and agreed by the Local Planning Authority outlining measures that would be taken to control dust, noise and other environmental impacts of the development.
64. Brent is currently part of the 'London low emission construction partnership'. Therefore the use of Non Road Mobile Machinery of net power between 37kW and 560kW is required to meet at least Stage IIIA of the EU Directive 97/68/EC and its amendments. This would apply to both variable and constant speed engines for both NO<sub>x</sub> and PM. This can be secured by condition.

#### **Land Contamination**

65. Land contamination is not likely to be an issue and the ground is not to be disturbed by the development.

#### **Trees / Landscaping**

66. There is limited scope for additional planting on site.

### Flood Risk

67. London Plan policies 5.12 and 5.13 require the consideration of the effects of development on flood risk and sustainable drainage respectively. Policy DMP9A ('Managing Flood Risk') confirms that new development must avoid and reduce the risk of flooding, and not increase the risks elsewhere and that planning permission would only be granted for proposals which have addressed all sources of flood risk and would not be subject to, or result in unacceptable levels of flood risk on site or increase the level of flood risk to third parties. DMP9B ('On Site Water Management and Surface Water Attenuation') requires minor schemes to make provision of an appropriate SuDS scheme where feasible.

68. There are residential complaints of sewer getting blocked and over capacity, buildign regulations are the appropriate mechanism to ensure successful connection to the sewerage network.

### Equality

69. 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

70. On balance, the proposals are considered to accord with the development plan, the well recessed and modest addition to the existing roof would be marginally noticeable in longer held views of the site and is considered to of be sympathetic scale and character. No significant harm has been identified to neighbouring amenity and no harm is considered to arise to nearby heritage assets. Conditions have sought to mitigate inappropriate construction practices including a condition requiring membership of the considerate constructor scheme. The proposals would contribute to the housing needs of the borough and increase the mix of housing on offer.

## CIL DETAILS

This application is liable to pay **£40,709.11** \* under the Community Infrastructure Levy (CIL).

We calculated this figure from the following information:

Total amount of eligible\* floorspace which on completion is to be demolished (E): 0 sq. m.

Total amount of floorspace on completion (G): 113 sq. m.

Use	Floorspace on completion (Gr)	Eligible* retained floorspace (Kr)	Net area chargeable at rate R (A)	Rate R: Brent multiplier used	Rate R: Mayoral multiplier used	Brent sub-total	Mayoral sub-total
(Brent) Dwelling houses	113	0	113	£200.00	£0.00	£33,698.21	£0.00
(Mayoral) Dwelling houses	113	0	113	£0.00	£60.00	£0.00	£7,010.90

BCIS figure for year in which the charging schedule took effect (Ic)	224	323
BCIS figure for year in which the planning permission was granted (Ip)	334	
<b>TOTAL CHARGEABLE AMOUNT</b>	£33,698.21	£7,010.90

\*All figures are calculated using the formula under Regulation 40(6) and all figures are subject to index linking as per Regulation 40(5). The index linking will be reviewed when a Demand Notice is issued.



**\*\*Eligible means the building contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.**

Please Note : CIL liability is calculated at the time at which planning permission first permits development. As such, the CIL liability specified within this report is based on current levels of indexation and is provided for indicative purposes only. It also does not take account of development that may benefit from relief, such as Affordable Housing.

## DRAFT DECISION NOTICE



# Brent

## DRAFT NOTICE

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

## DECISION NOTICE – APPROVAL

Application No: 19/3409

To: Vera Road Limited

1/7 Sta

I refer to your application dated **23/09/2019** proposing the following:

Creation of 3 self-contained units involving the construction of a 4th floor level with terraces and balustrades above the residential block of flats known as Nos. 1-18B The Elms, Nicoll Road.

and accompanied by plans or documents listed here:  
See Approved Plans condition

at **1-12E INC and 14A-18B INC The Elms, Nicoll Road, London, NW10 9AA**

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: 10/02/2020

Signature:

**Gerry Ansell**  
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 On balance the development is considered to accord with the objectives of the development plan, taking into consideration all comments and material considerations.

- 1 Prior to the commencement of the development, the approved development shall be registered with the Considerate Constructors Scheme (CCS) and aim to achieve best practice standards on the direct and indirect impacts of the construction work of this development and thereafter construct the development in accordance with best practice principles of CCS.

Reason: In the interests of sustainable development and neighbouring amenity.

- 2 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.

- 3 The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

TE\_PL\_100 rev E  
TE\_PL\_101 rev E

TE\_PL\_104 rev E  
TE\_PL\_120 rev E  
TE\_PL\_130 rev E  
TE\_PL\_200 rev E  
TE\_PL\_201 rev E  
TE\_PL\_202 rev E  
TE\_PL\_203 rev E  
TE\_PL\_220 rev E  
TE\_PL\_230 rev E  
Daylight/Sulight Assessment

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

- 4 Prior to commencement of works above ground level, details of materials for all external work, including samples which shall be made available for viewing on site, shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

- 5 The residential units hereby approved shall at no time be converted from C3 residential to a C4 small HMO, notwithstanding the provisions of Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) without express planning permission having first been granted by the Local Planning Authority.

Reason: To ensure that an adequate standard of accommodation is maintained in all of the residential units and in view of the restricted space within the site to accommodate additional bin or cycle storage.

- 6 Prior to first occupation of the Residential Development ('the Development') confirmation from the Building Control body to demonstrate that the relevant building has been designed so that mains water consumption does not exceed a target of 105 litres or less per person per day, using a fittings-based approach to determine the water consumption of the development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect and conserve water supplies and resources in order to secure London's needs in a sustainable manner.

- 7 Within six months of commencement of the development, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the lighting fixtures, luminance levels within and adjoining the site. The lighting shall not be installed other than in accordance with the approved details.

Reason: In the interests of safety and the amenities of the area.

- 8 All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>

Reason: To protect local amenity and air quality in accordance with Brent Policy DMP1 and London Plan policies 5.3 and 7.14.

- 9 Prior to the commencement of the development a Construction Method Plan (CMP) shall be submitted to and agreed by the Local Planning Authority outlining measures that will be taken to control dust, noise and other environmental impacts of the development. The CMP shall include details of a dust monitoring plan, to be implemented during construction and demolition works. All agreed actions shall be carried out in full.

The statement shall also include:

- (i) The phases of the Proposed Development including the forecasted start and completion date(s)
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to commence development until such consent has been obtained
- (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any Considerate Constructor or similar scheme)
- (iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic and deliveries to and from the site
- (v) Details of hours of construction including all associated vehicular movements
- (vi) Details of the construction compound

Reason: To ensure the protection of living conditions, highway safety and managing waste throughout development works due to the risk of harm arising from these works in respect of air quality and highway safety.

- 10 Details of the provision of secure cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved. 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: In the interest of promoting sustainable transport options and to ensure satisfactory facilities for cyclists and to ensure appropriate provision of bin storage in the interest of visual

and residential amenity.

- 11 Any plant shall be installed, together with any associated ancillary equipment, so as to prevent the transmission of noise and vibration into neighbouring premises. The rated noise level from all plant and ancillary equipment shall be 10dB(A) below the measured background noise level when measured at the nearest noise sensitive premises. An assessment of the expected noise levels shall be carried out in accordance with BS4142:2014 'Methods for rating and assessing industrial and commercial sound.' and any mitigation measures necessary to achieve the above required noise levels shall be submitted to the Local Planning Authority in writing for approval. The plant shall thereafter be installed and maintained in accordance with the approved details.

**Reason:** To protect acceptable local noise levels and residential amenity.

- 12 During demolition and construction on site:

- The best practical means available in accordance with British Standard Code of Practice BS5228-1:2009 shall be employed at all times to minimise the emission of noise from the site;
- The operation of the 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 08:00 – 18:00 Mondays-Fridays, 08:00 -13:00 Saturdays and at no time on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority;
- Vehicular access to adjoining and opposite premises shall not be impeded;
- All vehicles, plant and machinery associated with such works shall be stood and operated within the curtilage of the site only;
- A suitable and sufficient means of suppressing dust must be provided and maintained.
- A wheel washing facility shall be installed and operated to ensure that dust/debris is not carried onto the road by vehicles exiting the site.

**Reason:** To ensure that and occupiers of neighbouring premises do not suffer a loss of amenity by reason of nuisance and pollution

- 13 The windows in serving Flat1 facing north and east shall be permanently fitted with obscure glazing and fixed shut below a height of 1.7m.

**Reason:** To protect residential amenity

- 14 Prior to first occupation of the development hereby approved details of a communal television aerial and satellite dish system for each of the three buildings linking to all residential units within the development, shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented in accordance with the approved details. No further television aerial or satellite dishes shall be erected on the premises.

**Reason:** In the interests of the visual appearance of the development in particular and the locality in general.

- 15 All residential premises shall be designed in accordance with BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' to attain the following internal noise levels:

Daytime noise Living rooms/bedrooms 35 dB LAeq (16 hr) (07:00-23:00)

Night time noise Bedrooms 30 dB LAeq (8hr) (23:00-07:00)

Prior to the commencement of works, details shall be submitted to and approved in writing demonstrating how these noise levels will be achieved and all approved noise mitigation measures shall be implemented in full prior to first occupation of the residential units hereby approved.

**Reason:** To obtain required sound insulation and prevent noise nuisance.

- 16 Occupiers of the residential development, hereby approved, shall not be entitled to a Residents Parking Permit or Visitors Parking Permit to allow the parking of a motor car within the Controlled Parking Zone (CPZ) operating in the locality within which the development is situated unless the occupier is entitled; to be a holder of a Disabled Persons Badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970. For the lifetime of the development written notification of this restriction shall be included in any licence transfer lease or tenancy agreement in respect of the residential development. For the lifetime of the development a notice, no smaller than 30cm in height and 21cm in width, clearly informing occupants of this restriction shall be displayed within the ground floor communal entrance lobby of each building, in a location and at a height clearly visible to all occupants. On, or after, practical completion but prior to any occupation of the residential development, hereby approved, written notification shall be submitted to the Local Highways Authority confirming the completion of the development and that the above restriction will be imposed on all future occupiers of the residential development.

Reason: In order to ensure that the development does not result in an increased demand for parking that cannot be safely met within the locality of the site.

#### INFORMATIVES

- 1 The applicant is advised that this development is liable to pay the Community Infrastructure Levy; a Liability Notice will be sent to all known contacts including the applicant and the agent. Before you commence any works please read the Liability Notice and comply with its contents as otherwise you may be subjected to penalty charges. Further information including eligibility for relief and links to the relevant forms and to the Government's CIL guidance, can be found on the Brent website at [www.brent.gov.uk/CIL](http://www.brent.gov.uk/CIL).
- 2 The applicant must ensure, before work commences, that the treatment/finishing of flank walls can be implemented as this may involve the use of adjoining land and should also ensure that all development, including foundations and roof/guttering treatment is carried out entirely within the application property.
- 3 Brent Council supports the payment of the London Living Wage to all employees within the Borough. The developer, constructor and end occupiers of the building are strongly encouraged to pay the London Living Wage to all employees associated with the construction and end use of development.
- 4 The Council recommends that the maximum standards for fire safety are achieved within the development.
- 5 Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 6 The applicant should contact the Head of Highways & Infrastructure to secure a licence to oversail the footway of Carlton Vale with balconies under S177 of the Highways Act 1980.
- 7 Thames Water advise the applicant that if they are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](http://thameswater.co.uk/buildingwater).
- 8 The provisions of The Party Wall etc. Act 1996 may be applicable and relates to work on an existing wall shared with another property; building on the boundary with a neighbouring

property; or excavating near a neighbouring building. An explanatory booklet setting out your obligations can be obtained from the Communities and Local Government website [www.communities.gov.uk](http://www.communities.gov.uk)

- 9 For out of hours work Section 61 application, the Control of Pollution Act 1974 allows the council to set times during which works can be carried out and the methods of work to be used. Contractors may apply for prior approval for works undertaken outside of normal working hours. They should email the noise team at [ens.noiseteam@brent.gov.uk](mailto:ens.noiseteam@brent.gov.uk) to obtain a section 61 application form. Please note that the council has 28 days to process such applications.

Any person wishing to inspect the above papers should contact Patrick Doyle, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5169