



Planning Committee

Wednesday 13 November 2013 at 7.00 pm

Conference Hall - Brent Civic Centre, Engineers Way,
Wembley, HA9 0FJ

Membership:

Members

Councillors:

Ketan Sheth (Chair)
John (Vice-Chair)
Aden
Baker
Cummins
Hashmi
Kabir
Kataria
CJ Patel
Powney
Singh

first alternates

Councillors:

R Moher
Van Kalwala
J Moher
Kansagra
Sneddon
Cheese
Oladapo
Long
Brown
Gladbaum
Hossain

second alternates

Councillors:

Adeyeye
Ogunro
Moloney
HB Patel
Hopkins
Beck
Al-Ebadi
Naheerathan
Lorber
Harrison
Mashari

For further information contact: Joe Kwateng, Democratic Services Officer
020 8937 1354, joe.kwateng@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

democracy.brent.gov.uk

The press and public are welcome to attend this meeting

Members' briefing will take place at 5.30pm in Boardrooms 7 and 8

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

ITEM	WARD	PAGE
1. Declarations of personal and prejudicial interests Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.		
2. Minutes of the previous meeting		1 - 10
Extract of Planning Code of Practice		
APPLICATIONS DEFERRED FROM THE PREVIOUS MEETING		
3. Sea Cadet Corps Building Welsh Harp & Sea Rangers Caprice Welsh Harp, Birchen Grove, London, NW9 8SA (Ref. 13/1219)	Welsh Harp	15 - 22
NORTHERN AREA		
4. Garages R/O 129-145, 145A & Land R/O 151-157 (Chanin Mews), Melrose Avenue, London, NW2 4LY (Ref. 13/1474)	Dudden Hill	23 - 34
SOUTHERN AREA		
5. THAMES WATER DEPOT AND TRAINING SH, 225 Harlesden Road, London, NW10 3SD (Ref. 13/2537)	Willesden Green	35 - 46
6. 1064-1068 Harrow Road, London, NW10 5NL (Ref. 13/1709)	Kensal Green	47 - 54
WESTERN AREA		
7. First and Second Floor, 967 Harrow Road, Wembley, HA0 2SF (Ref. 12/2492)	Sudbury	55 - 62
8. BARHAM PARK BRANCH LIBRARY and PARKS OFFICE, Harrow Road, Wembley, HA0 2HB (Ref. 13/2179)	Sudbury	63 - 76
9. Preston Manor High School, Carlton Avenue East, Wembley HA9 8NA (Ref. 13/1957)	Preston	77 - 94
SPECIAL ITEM		
10. 70A Dartmouth Road, London NW2 4HA	Mapesbury	95 - 114
PLANNING APPEALS		
11. Appeals 1 - 31 October 2013	All Wards	115 – 170

12. Any Other Urgent Business

Notice of items to be raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.

Site Visit - 9 November 2013

SITE VISITS – SATURDAY 9 NOVEMBER 2013

Members are reminded that the coach leaves the Civic Centre at 9.30am

REF.	ADDRESS	ITEM	WARD	TIME	PAGE
13/2179	Barham Park Branch Library and Parks Office, Harrow Road HA0 2HB	8	Sudbury	9:40am	63 - 76
13/1709	1064-1068 Harrow Road NW10 5NL	6	Kensal Green	10.20am	47 - 54
13/2537	Thames Water Depot and Training SH, 225 Harlesden Road NW10 3SD	5	Willesden Green	10:50am	35 - 46
13/2075	70A Dartmouth Road, London NW2 4HA	10	Mapesbury	11:20	77 - 94

Date of the next meeting: Wednesday 11 December 2013

The site visits for that meeting will take place the preceding Saturday **7 December 2013** at 9.30am when the coach leaves the Civic Centre.



Please remember to **SWITCH OFF** your mobile phone during the meeting.

- The Conference Hall is accessible by lift and seats will be provided for members of the public on a first come first served principle.

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LONDON BOROUGH OF BRENT

MINUTES OF THE PLANNING COMMITTEE Wednesday 16 October 2013 at 7.00 pm

PRESENT: Councillor Ketan Sheth (Chair), Councillor John (Vice-Chair), and Councillors Aden, Brown, Cummins, Hashmi, Kabir, Kataria, Powney and Singh

ALSO PRESENT: Councillor Barry Cheese

Apologies for absence were received from Councillors Baker and CJ Patel.

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

Land next to Harrod Court, Stag Lane, London NW9

Councillor John declared that one of the applicants was her general practitioner (GP) who had contacted her by email.

Councillor Kabir declared that she was a ward member for Queensbury and a governor of Village School.

152 Olive Road, Cricklewood NW2

Councillor Hashmi declared that he has been an active member of Friends of Cricklewood Library for a considerable number of years.

2. **Minutes of the previous meetings**

RESOLVED:-

that the minutes of the previous meetings held on 4 September 2013 and 18 September 2013 be approved as accurate record of the meetings.

3. **Sea Cadet Corps Building Welsh Harp & Sea Rangers Caprice Welsh Harp, Birchen Grove, London, NW9 8SA (Ref. 13/1219)**

PROPOSAL:

Refurbishment of existing boat station to include new gravelled work area at the rear and installation of new spiral staircase to the front, removal of 3 portacabins and erection of a 2 storey extension with a monopitch roof

RECOMMENDATION: Refuse planning permission.

With reference to the tabled supplementary report, Rachel McConnell, Area Planning Manager clarified the relationship of the proposal to the neighbouring buildings to the north and the height of the proposal compared to BTYC building to the south. Members heard that the depth of the neighbouring building was similar

to the existing Sea Cadets Corp building and that the bulk of the BTYC building, being predominantly single storey, was significantly less. Rachel McConnell then referred to additional letters of support and the applicant's submission of "Visual Assessment" which sought to challenge officers' view about the harm to the openness of the Metropolitan Open Land (MOL) and added that the submission did not change the recommendation for refusal

Giles Rowing, a Sea Cadet speaking in support of the proposed development stated that the Welsh Harp had the only sailing base in the area however, the current facilities required modernisation before the present portakabins became unusable. He continued that the extra classrooms spaces that would be provided would be most helpful for training and that the proposal would fit in well with the current surrounding area without causing harm to the environment.

In accordance with the provisions of the Planning Code of Practice, Councillor Cheese who also called in the application to Committee stated that he had been approached by Councillor Hopkins about the application. Councillor Cheese informed members that the Sea Cadet buildings which had been in existence since 1959 did not offer modern facilities for the cadets. He added that the provision of extra classroom spaces would address current problems associated with the old buildings without leading to intensification. Councillor Cheese continued that in his view the proposal would not be out of keeping with the surrounding buildings and urged members to be minded to grant planning permission.

Mr Martin Cole, the applicant submitted that the application would replace outdated buildings, provide accommodation and much needed training to the cadets within the current footprint. He referred to the visual assessment statement which he added showed comprehensively that the proposal could be considered acceptable on the basis that the extension would not be harmful to the openness of the Metropolitan Open Land (MOL). Martin Cole continued that the proposal which would be in keeping with surrounding buildings would enable boating training sessions to be offered to local schools.

In response to members' enquiries, Martin Cole stated that if members were minded to grant planning permission he would agree to additional conditions requiring boating training sessions to local schools and he would ensure that the grounds to the rear of the building were cleared. He continued that the height of the proposed building which would be significantly lower than the University of London buildings would enable the Sea Cadet Corp to replace current old buildings with a modern equivalent which was vital to boating training in good structured facilities. Members heard from Martin Cole that if the building was not replaced it was likely that the facility would be closed down this winter

Rachel McConnell in response to a Member's request to clarify matters relating to the building line stated that the applicant's further submission was received too late to allow officers adequate time for its assessment against measurements taken from the submitted plans and OS plans. She advised that the measurements were different to those set out in the supplementary report however given that Members had viewed the site they had a clear understanding of the relationship

with the neighbouring buildings. Stephen Weeks, Head of Area Planning, added that it was scope for the applicant to reduce the rear 2-storey part of the proposal as it was considered that this element raised most concern in of the MOL.

In the discussion that followed, Members confirmed they were minded to grant planning permission contrary to officers' recommendation for refusal and deferred the application to the next meeting as they considered that the level of harm as a result of the extension would not be so significant as to unacceptably effect the openness of the MOL and that any impact would be outweighed by the benefits of the scheme. Members advised that any approval should be subject to the applicant providing boat training to local schools and clearance of rubbish from the area of land to the side and rear of the existing building.

DECISION: Deferred to next meeting as minded to grant planning permission. Agreed statement on impact on MOL and noted suggested conditions relating to clearing up of the grounds and offering boat training for local schools..

Voting on the substantive recommendation for refusal which was declared lost was recorded as follows:

FOR: None. (0)

AGAINST: Councillors John, Aden, Brown, Cummins, Hashmi, Kabir, Kataria, Powney and Singh (9)

ABSTENTION: Councillor Sheth (1)

4. Front Car Park, McNicholas House, Kingsbury Road, London, NW9 8XE (Ref.13/2055)

PROPOSAL:

Temporary change of use of ground floor office (Use Class B1) of approved temple and mixed use building (LPA Ref: 10/2390 for a new build temple / multi-function hall / refurbished office space) to a place of worship (Use Class D1) for up to 400 visitors for a period of 6 months. Hours of use are proposed between 1700 - 2030hrs on Saturdays and 1600 - 2030hrs on Sundays with use of 76 car parking spaces and 6 disabled parking spaces.

RECOMMENDATION: Grant a 6-month temporary planning permission subject to conditions.

In response to a member's enquiry, Rachel McConnell, Area Planning Manager clarified that the permission would be temporary for 6 months only and unless a further application was submitted, the use would be discontinued.

DECISION: Temporary planning permission for 6 months granted as recommended.

5. 179 Anson Road, London, NW2 4AS (Ref. 13/2269)

PROPOSAL:

Erection of a detached ground and subterranean storey single bedroom dwelling house with fully accessible accommodation and associated hard and soft landscaping

RECOMMENDATION: Refuse planning permission.

Rachel McConnell, Area Planning Manager, with reference to the tabled supplementary clarified the amendments made by the applicant since the previously refused scheme including to the siting, design and further details of wheelchair turning space. She continued that the proposed basement would be served by a lightwell to the front of the property providing approximately 4 sqm of usable patio space. In terms of outlook, the lightwell would be 2m deep when viewed from the physio room and 3m deep from bedroom (not taking into account of steps). She advised that, as set out in the Committee Report, the proposal is not considered to provide a good quality of accommodation. Members heard that the proposed house would be 1.9m higher than the proposed front boundary treatment and thus the proposal would be readily visible from the street scene. Rachel McConnell then referred to the examples at 54 Wrotesley Road/Furness Road NW10 and 40-42 Okehampton Road/Dundonald Road NW10 submitted by the applicant to demonstrate that precedents existed. In response, the Area Planning Manager, outlined the response as set out in the Supplementary Report, concluding that the examples provided did not alter the recommendation for refusal.

Mr Chris Lipka, objected to the application stated for the following reasons;

- The subterranean part of the proposal would be too close to the building line and would cause subsidence which would give rise to repairs to damaged buildings.
- The proposal was considered to offer a cramped form of development with inappropriate design.
- The proposal would set an precedent for other undesirable developments in the area in future.
- Barratt Homes were offering wheelchair accessible flats for sale which could satisfy the needs and preferences of the applicant.

In response to a Member's questions, Mr Lipka reiterated his concerns on subsidence which he added could over time cause a material change to the character of the area. He reconfirmed that his concerns also related to the design of the proposal which he considered to be out of character.

Ms Lara Masters, the applicant, stated that due to her medical condition which may result in paralysis, she required an accessible property to meet her needs. She advised that the supply of such accommodation was inadequate. She referred to the conversion of a property on the opposite side of Anson Road which had taken approximately six years to be appropriately converted for a wheelchair. She added that her proposal would be an appropriate development, offering quality accommodation for her needs with ample lighting and acceptable outlook without adverse impact on neighbouring properties. Ms Masters added that under the

Equality Act 2010, Brent Council was required to take reasonable steps to avoid any disadvantage to her through severe lack of inclusive housing in the borough. She said that granting consent for the proposed dwelling would facilitate the needs of current and future disabled residents as well as helping to meet the targets of accessible, sustainable, affordable and varied housing. In urging members for approval, Ms Masters added that if Members endorsed the recommendation for refusal, she would be forced to live in inappropriate accommodation or be ostracised from the area.

In response to Members' questions, Ms Masters stated that the Council was obliged under the Equality Act 2010 to show greater flexibility and allow her to carry out the development which would satisfy her needs. She confirmed that she had had the use of wheelchair accessible lift for several years in her home but this is no longer operational. Ms Masters continued that the proposed development would not constitute a cramped form of accommodation, was fully compliant with policy and its outlook would be similar to the example she provided in Okehampton Road. In her view officers had mis-calculated the amenity space of her proposal.

In response to Members' questions, officers clarified that a personal permission would generally only be considered in cases where it related to a use rather than physical works given the difficulties in requiring a development to be reverted back to its original state when it was no longer required. The Area Planning Manager continued that whilst the personal needs of the disabled applicant were understood, they were not considered to outweigh the harm which would be caused to the character of the area through the development of this back garden for a new dwelling that would fail to comply with planning policy.

In response to Ms Masters comments that the Council had failed to consider the Equality Act 2010, the legal representative advised that the application should be considered against the provisions of the statutory development plan, associated guidance and other material considerations. He advised that whilst consideration must be given to the personal needs of the applicant, the Equality Act 2010 did not state that these personal need would override all other considerations.

DECISION: Refused planning permission as recommended.

6. Land next to Harrod Court, Stag Lane, London, NW9 (Ref.13/2103)

PROPOSAL:

A hybrid planning application for full planning permission for the erection of a three storey building with a pitched roof to accommodate 11 affordable residential units for shared ownership (5 x 1-bed, 5 x 2-bed and 1 x 3-bed) with associated car parking, cycle storage, landscaping and amenity space; and outline planning permission for the erection of a medical centre of approximately 1,256sqm, including a pharmacy of approximately 90sqm, together with associated car parking.

RECOMMENDATION:

- (a) Grant planning permission with amended condition as set out in the supplementary report, subject to an appropriate form of Agreement in order to secure the measures set out in the Section 106 Details section of this report and referral to the Mayor, or
- (b) If within a reasonable period the applicant fails to enter into an appropriate agreement in order to meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document, to delegate authority to the Head of Area Planning

Rachel McConnell, Area Planning Manager informed Members that the proposed development would provide good standard of accommodation and would have an acceptable relationship with adjoining buildings and the adjacent school. She advised that the application was not required to be referred to the Mayor as stated in the main report. In relation to the Mayor's Community Infrastructure Levy (CIL), she clarified that the applicant can apply for affordable housing relief subject to meeting the eligibility requirements. The Area Planning Manager continued that the Council's Tree Officer had reviewed the revised tree report and had confirmed that both the Arboricultural Impact Assessment and Tree Protection Plan were suitable and as such the information on tree protection plan was no longer required to be re-submitted as part of condition 25. She therefore drew members' attention to an amended condition 25 as set out in the tabled supplementary report.

Mr Seb Malde Chair Grove Park Residents' Association and the local Patients' Participation Group speaking in support of the application stated that due to an increase in population as a result of several major developments in the area, there was a need for planning permission to be granted for the hybrid application which would provide a medical centre and affordable housing.

Mark Connell, the applicant's agent, stated that funding had been secured from the Greater London Authority (GLA) for the proposal which would deliver a much needed affordable housing and a medical centre. He added that the proposal, which had the support of the local residents, would incorporate a high quality design which would blend in with the local environment. He continued that in terms of density, quality of materials and lifetime homes, the proposal would exceed planning requirements. In clarifying the significance of the hybrid application, Mark Connell stated that Network Housing had submitted full details of their scheme for affordable housing given the tight timeframe as a result of funding. He advised that although full details of the GP surgery were yet to be submitted, the outline consent has been agreed with the practice and the full details under consideration

DECISION:

- (b) Resolved to grant planning permission with amended condition as set out in the supplementary report, subject to an appropriate form of Agreement in order to secure the measures set out in the Section 106 Details section of this report and referral to the Mayor, or
- (c) If within a reasonable period the applicant fails to enter into an appropriate agreement in order to meet the policies of the Unitary Development Plan,

Core Strategy and Section 106 Planning Obligations Supplementary Planning Document, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission.

7. 152 Olive Road, London, NW2 6UY (Ref.13/2196)

PROPOSAL

Demolition of former Cricklewood Library building and erection of a five storey building including basement comprising 10 No. residential units (2 x1-bed, 6 x 2-bed, 2 x 3-bed) and 157m² of D1 (multi-functional community) floorspace.

RECOMMENDATION: Refuse planning permission.

Stephen Weeks, Head of Area Planning updated members that since the publication of the report, the applicant had withdrawn the application. He however sought Members' endorsement in principle of the recommendation for refusal of the application had it not been withdrawn.

Members voted by a majority to endorse the recommendation for refusal of the application on the information available, had it not been withdrawn by the applicant.

DECISION

Application would have been refused had it not been withdrawn by the applicant.

8. 3 Burnt Oak Broadway, Edgware, HA8 5LD (Ref.13/2062)

PROPOSAL:

(a) Variation of Condition 2 (development in accordance with plans) to allow a minor material amendment to planning permission 11/0403 dated 32 June 2011 for Demolition of existing building and erection of a seven-storey mixed use building comprising 76 flats (23 x 1-bed, 38 x 2-bed, 11 x 3-bed and 4 x 4-bed units), 925m² of commercial floorspace (Use Class A1 and A2), with 75 parking spaces, first floor rear communal roof terrace and associated landscaping (as amended by plans received on 19 April 2011), subject to a Deed of Agreement dated 03/06/2011 under Section 106 of the Town and Country Planning Act 1990, as amended. The amendments include:

- Revision to internal layouts of flats;
- Revisions to ground floor/mezzanine level car parking layout including
- to separate retail loading bays from residential car parking;
- Increase height of building by 0.8 metres;
- Changes to residential entrances and stair cores;
- Residential refuse stores re-located to Burnt Oak Broadway frontage;
- Alterations to layout and locations of communal gardens

(b) Variation of Condition 19 (landscaping) to change submission date to within 6 months of construction to planning permission 11/0403 dated 32 June 2011.

RECOMMENDATION:

Grant planning permission subject to conditions and informatives.

Councillor Kabir hoped that by granting planning permission, the increased activity would help ensure that the service road was improved so as to reduce and prevent the incidence of fly tipping in the area.

DECISION

Granted planning permission as recommended.

9. Joy House, 69-85 Rucklidge Avenue, London, NW10 4QA (Ref.13/1888)

PROPOSAL:

Renewal of planning permission reference 08/0593, dated 27/05/2008, for change of use from offices (Use Class B1) to 49-bedroom (116-bed) hostel for the homeless, including the erection of an entrance canopy, installation of front boundary railings, access door for disabled and construction of a bicycle store and subject to a Deed of Agreement dated 27th May 2008 under Section 106 of the Town and Country Planning Act 1990, as amended.

RECOMMENDATION:

Grant planning permission subject to conditions and informatives as set out in the supplementary report.

Andy Bates, Area Planning Manager with reference to the tabled supplementary report informed members that The Rucklidge Avenue Residents' Association (RARA) had submitted that they did not object to the two year extension of the use and would also welcome the inclusion of condition 2, requiring signage to be erected at the pedestrian access gate informing people that the main entrance is off the High Street. In response to a query raised by RARA on Section 106 contributions Andy Bates clarified that since the adoption of Brent Community Infrastructure Levy (CIL) it was not possible for the Council to seek financial contributions to public realm improvements through s106. He added that temporary permissions were exempt from CIL. Members heard that Section 106 contributions had already been secured under previous applications for a temporary use in the building and that the contributions had been earmarked for additional tree planting within the locality of the site.

Mr Ian Britton, Chair of RARA speaking to the application requested the following:

- i) An additional condition be attached to the planning consent requiring signage to be erected at the pedestrian access gate informing people that the main entrance is off the High Street.
- ii) Enquired as to the reasons why the Section 106 funding could not be spent in Rucklidge Avenue.
- iii) That the consent granted should be for a temporary period of up to 5 years.

He continued that whilst the availability of Section 106 funding was welcome, there was no space in Rucklidge Avenue for tree planting. Mr Britton therefore suggested that the funds be utilised to improve parking arrangements at the Park Parade end and the local Cricket Park.

In response to a Member's question about the condition on the signage, Stephen Weeks, Head of Area Planning advised that it should be pursued with the applicants as an outstanding matter as soon as possible rather than adding a further time period for compliance.

DECISION

Granted planning permission as recommended.

10. BRITISH LEGION HALL, 1 Albert Road & 5 Albert Road, London, NW6 5DT (Ref.13/1978)

PROPOSAL:

Approval of reserved matters relating to access, appearance, landscaping, layout and scale of outline planning permission reference 12/1516. Application 12/1516, dated 30/08/2012 for demolition of existing structures on site and erection of new mixed use development comprising of 144 residential units and 480m² of commercial floorspace (Use Class A1/A3/A4) and subject to a Deed of Agreement under Section 106 of the Town and Country Planning Act 1990, as amended or equivalent

RECOMMENDATION

Grant planning permission subject to additional conditions as set out in the supplementary report.

Andy Bates, Area Planning Manager updated members that a formal response received from High Speed 2 (HS2) confirmed that although they had no objections to the proposed development, they requested that certain conditions be attached to the decision to ensure that there was no impact on the safeguarded route of HS2 which would be in a bored tunnel at this location. He then drew members' attention to the additional conditions as set out in the tabled supplementary report which sought to address the issues they raised.

DECISION

Granted planning permission as recommended.

11. Planning Appeals - September 2013

RESOLVED:

that the appeals for September 2013 be noted.

12. Date of next meeting

It was noted that the next meeting would take place on Wednesday 13 November 2013

13. Any Other Urgent Business

None.

The meeting closed at 8.45 pm

K SHETH
Chair

EXTRACT OF THE PLANNING CODE OF PRACTICE

Purpose of this Code

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is in addition to the Brent Members Code of Conduct adopted by the Council under the provisions of the Local Government Act 2000. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members making such decisions are, and are perceived as being, accountable for those decisions. Extracts from the Code and the Standing Orders are reproduced below as a reminder of their content.

Accountability and Interests

4. If an approach is made to a Member of the Planning Committee from an applicant or agent or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the Member shall:
 - a) inform the person making such an approach that such matters should be addressed to officers or to Members who are not Members of the Planning Committee;
 - b) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered.
7. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a Member shall disclose the fact he/she has been in contact with the applicant, agent or interested party if this be the case.
8. When the circumstances of any elected Member are such that they have
 - (i) a personal interest in any planning application or other matter, then the Member, if present, shall declare a personal interest at any meeting where the particular application or other matter is considered, and if the interest is also a prejudicial interest shall withdraw from the room where the meeting is being held and not take part in the discussion or vote on the application or other matter.
11. If any Member of the Council requests a Site Visit, prior to the debate at Planning Committee, their name shall be recorded. They shall provide and a

record kept of, their reason for the request and whether or not they have been approached concerning the application or other matter and if so, by whom.

Meetings of the Planning Committee

24. If the Planning Committee wishes to grant planning permission contrary to officers' recommendation the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.

25. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the Minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the Minutes of the Meeting.

29. The Minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:
 - (i) on any resolution of "Minded to Grant or minded to refuse contrary to Officers Recommendation";
 - (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.

STANDING ORDER 62 SPEAKING RIGHTS OF THE PLANNING COMMITTEE

- (a) At meetings of the Planning Committee when reports are being considered on applications for planning permission any member of the public other than the applicant or his agent or representative who wishes to object to or support the grant of permission or support or oppose the imposition of conditions may do

so for a maximum of 2 minutes. Where more than one person wishes to speak on the same application the Chair shall have the discretion to limit the number of speakers to no more than 2 people and in so doing will seek to give priority to occupiers nearest to the application site or representing a group of people or to one objector and one supporter if there are both. In addition (and after hearing any members of the public who wish to speak) the applicant (or one person on the applicant's behalf) may speak to the Committee for a maximum of 3 minutes. In respect of both members of the public and applicants the Chair and members of the sub-committee may ask them questions after they have spoken.

- (b) Persons wishing to speak to the Committee shall give notice to the Democratic Services Manager or his representatives prior to the commencement of the meeting. Normally such notice shall be given 24 hours before the commencement of the meeting. At the meeting the Chair shall call out the address of the application when it is reached and only if the applicant (or representative) and/or members of the public are present and then signify a desire to speak shall such persons be called to speak.
- (c) In the event that all persons present at the meeting who have indicated that they wish to speak on any matter under consideration indicate that they agree with the officers recommendations and if the members then indicate that they are minded to agree the officers recommendation in full without further debate the Chair may dispense with the calling member of the public to speak on that matter.

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Planning Committee Map

Site address: Sea Cadet Corps Building Welsh Harp & Sea Rangers Caprice Welsh Harp, Birchen Grove, London, NW9 8SA

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This map is indicative only.

RECEIVED: 9 May, 2013

WARD: Welsh Harp

PLANNING AREA: Willesden Consultative Forum

LOCATION: Sea Cadet Corps Building Welsh Harp & Sea Rangers Caprice Welsh Harp, Birchen Grove, London, NW9 8SA

PROPOSAL: Refurbishment of existing boat station to include new gravelled work area at the rear and installation of new spiral staircase to the front, removal of 3 portacabins and erection of a 2 storey extension with a monopitch roof

APPLICANT: The Marine Society and Sea Cadets

CONTACT: The Relph Ross Partnership

PLAN NO'S:

Welsh Harp Boat Station Extended Phase 1 Habitat Survey;
Design & Access Statement;
12/1784/100;
12/1784/101;
12/1784/102;
12/1784/103;
12/1784/104;
12/1784/105;
12/1784/106;
12/1784/107;
12/1784/Su01;
12/1784/Su02;
12/1784/Su03;
12/1784/Su04;
12/1784/Su05; and
12/1784/Su06.

Introduction:

This application is reported under the provisions of Clause 28 of the Planning Code of Practice following the resolution at the previous meeting of the Planning Committee on 16 October 2013 of 'minded to grant' permission for "refurbishment of existing boat station to include new gravelled work area at the rear and installation of new spiral staircase to the front, removal of 3 portacabins and erection of a 2 storey extension with a monopitch roof", contrary to the officer recommendation to refuse permission.

This report discusses the implications of the Committee's resolution, maintains the original recommendation to refuse permission but includes suggested planning conditions should the Planning Committee decide to grant permission.

Discussion:

As discussed at the previous meeting, officers recommended refusal of permission for the extension to the existing boat station building as it was considered that, on balance, the extension would have a harmful impact on the openness of the Metropolitan Open Land (MOL). Officers did not consider that 'very special circumstances' existed which would outweigh the harm to the openness of the MOL by reason of its inappropriateness. This is discussed in the *Remarks* section of the Committee Report.

Should Members reconfirm that they take different a view that the level of harm as a result of the extension is not so significant as to unacceptably effect the openness of the MOL and that any impact is outweighed by the benefits of the scheme, the conditions below are recommended to be attached to the garnet of planning permission.

Members discussed at the Planning Committee the need for a community access plan. The applicant's agent confirmed that the facility is available for use by schools and as this is a specialist facility, it is not recommended that a condition is imposed.

Suggested conditions in the event that approval is granted:

If Members wish to grant consent your Officers would recommend that the following conditions be attached to this permission:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

Welsh Harp Boat Station Extended Phase 1 Habitat Survey;
Design & Access Statement;

12/1784/100; 12/1784/101; 12/1784/102; 12/1784/103; 12/1784/104; 12/1784/105; 12/1784/106; 12/1784/107; 12/1784/Su01; 12/1784/Su02; 12/1784/Su03; 12/1784/Su04; 12/1784/Su05; and 12/1784/Su06.

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

3. Prior to any works commencing on site, a full tree survey in accordance with BS5837:2012 'Trees in relation to design, demolition and construction' in respect of the existing trees to the rear of the site shall be submitted to and approved in writing by the local planning authority. The tree survey should be accompanied by an Arboricultural implications assessment and Tree Protection. Works shall be carried out in full accordance with the approved tree-protection plan and construction method statement.

Reasons: To ensure that existing trees are not damaged during the period of construction.

4. Details of materials for all external work shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. 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. Prior to occupation of the development hereby approved, the area of the site to the side and rear of the existing building shall be cleared of rubbish and maintained as such. This area shall not be used for external storage.

Reason: To improve the setting of the building and appearance of the area.

Recommendation : Remains refusal, for the reasons set out in the Committee Report and Supplementary Report. However if the Planning Committee resolves to grant planning permission, the conditions set out above are recommended.

RECOMMENDATION

Refuse Permission.

EXISTING

The application site comprises a two storey building with an annex in the form of three single storey temporary buildings adjacent (to the south) and is known as the Welsh Harp Boat Station. The facility is operated by the Marine Society and Sea Cadets (MSSC) and provides boat storage/maintenance, office, training and accommodation facilities to train Sea Cadets, the armed forces and fire and ambulance services

in the skills required to operate safely on water.

The site is approximately 0.33Ha and is accessed from Birchen Grove via a security controlled gate. The buildings are situated adjacent to the west shore of Brent Reservoir as part of a group of approximately 10 single and two storey buildings the uses of which are primarily associated with boating activities taking place on the adjacent water. It is noted that the positions and depth of these buildings are reasonably consistent. To the rear of the site are a number of mature trees which provide screening of the site from Birchen Grove and an area for the open storage of boats.

The site lies within the Welsh Harp Metropolitan Open Land (MOL) and adjacent to (but not within) a Grade 1 Site of Importance for Nature Conservation (SINC) and Site of Special Scientific Interest (SSSI).

PROPOSAL

The application seeks permission to extend the existing building by way of a two storey extension to the south in the location of the existing temporary buildings. The extension would provide additional floorspace and allow for the internal reconfiguration of the existing building to provide overnight accommodation for 18 no. cadets and 6 no. adults on ground and first floors, a boat storage and maintenance on the ground floor. Office, kitchen and dining, training and an activity room would be provided on the first floor. A lift and accessible bathroom on the ground floor would also be provided.

The proposed extension would occupy the same footprint as the existing temporary buildings but would be two storey as opposed to the existing single storey buildings. The extension would be clad in timber with the same treatment provided to the existing building. The extension been designed with a mono pitch roof, full height glazing between the ground and second floors to the front elevation with clerestory windows provided along the side elevation.

HISTORY

Planning permission was granted in 1959 for a club house' building and a further permission was granted the same year for a 'pavilion' building. No further permissions relate to the this site.

POLICY CONSIDERATIONS

The development plan for the purpose of S38 (6) The Planning & Compulsory Purchase Act 2004 is the Brent Unitary Development Plan 2004, Core Strategy 2010 and the London Plan 2011. Within those documents the following list of policies are considered to be the most pertinent to the application:

Brent UDP 2004

- BE2 Proposals should be designed with regard to local context, making a positive contribution to the character of the area, taking account of existing landforms and natural features. Proposals should improve the quality of the existing urban spaces, materials and townscape features that contribute favourably to the area's character and not cause harm to the character and/or appearance of an area or have an unacceptable visual impact on Conservation Areas.
- BE4 Access for disabled people
- BE7 A high quality of design and materials will be required for the street environment.
- BE9 Creative and high-quality design solutions specific to site's shape, size, location and development opportunities.
- OS1 Designation of MOL
- OS2 Acceptable uses on MOL
- OS3 Development on MOL
- TRN3 Where an application would cause or worsen an unacceptable environmental impact of traffic it will be refused.

Brent Core Strategy 2010

- CP 17 Protecting and enhancing the suburban character of Brent
Balances the regeneration and growth agenda promoted in the Core Strategy, to ensure existing assets (e.g. heritage buildings and conservation areas) are protected and enhanced. Protects the character of suburban housing and garden spaces from out-of-scale buildings.
- CP18 Protecting and Enhancing Open Space, Sports and Biodiversity
Open space should be protected from inappropriate development.

London Plan 2011

Policy 7.17 Metropolitan Open Land

National Planning Policy Framework (NPPF)

Chapter 9 Protecting Green Belt Land

CONSULTATION

Letters were sent to neighbouring properties and ward councillors on 23.05.13.

26 letters of support have been received on the following basis:

- Existing facilities out of date and no longer fit for purpose;
- Important facility for young people;
- The proposed development is contained within the existing footprint;
- Extra demand following success of London Olympics in 2012;
- Proposal sympathetic to area and modern design will boost morale of cadets;
- Would enhance facilities for disabled persons; and
- Proposal would enhance the use of the MOL.

Cllr Hopkins & Cllr Ashraf: Further to the 'call-in' request above, an additional letter of support for the proposal on the following basis:

- Existing temporary buildings are unsightly and proposal would enhance the metropolitan open land;
- Provides a facility to disadvantaged children;
- Existing building in need of modernisation (WC's and sleeping arrangements sub-standard); and
- Proposal could lead to greater community participation through schools and ward working fund.

Additional letters of support

Since the Committee Report was published an additional 16 representations have been submitted in support of these proposals on the same basis as outlined above. Members were advised of this in the Supplementary Report.

Transportation: No objection

Design: No objection

Landscape: Objection

REMARKS

1. Background

2. The applicant received pre-application planning advice in November 2012 which set out the key planning issues, including the relevant policy tests applicable to development on Metropolitan Open Land (MOL). At that time, the applicant was advised that proposed first floor extension was likely to be regarded as 'harmful' to the openness of the MOL. The application submission is the same as considered by officers at the pre-application stage. The applicants were offered the opportunity to amend the proposal in light of this concern, however, the application was subsequently 'called-in' for determination by the Planning Committee.

The Supplementary Report set out the details of a 'Visual Assessment' submitted by the applicant in support of their proposal. The assessment concludes that the proposal cannot be considered 'inappropriate development' on the basis that the extension would not be harmful to the openness of the Metropolitan Open Land (MOL). Additional information was also provided regarding the relationship with the surrounding development.

3. Key considerations

4. The key considerations of this proposal are as follows:

- Impact on Metropolitan Open Land and Design
- Impact on Biodiversity
- Landscaping and Trees

- Parking & access
- Community Infrastructure Levy

5. Impact on Metropolitan Open Land and Design

6. Policy 7.17 of the London Plan states that MOL will be regarded as having the same level of protection as Green Belt land. Policy OS3 of the Unitary Development Plan (UDP) states that development on MOL will only be permitted where it is small in scale and required to preserve or enhance activities associated with the particular open space. Para 89 of the National Planning Policy Framework (NPPF) states *inter alia* that the following types of development will not be regarded as 'inappropriate development' on Green Belt land:

- Provision of appropriate facilities for outdoor sport...as long as it preserves the openness of the Green Belt and does not conflict with the purposes of the land of including land within it;
- The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and
- Limited infilling or partial or complete redevelopment of previously developed sites...which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development

7. In the case of the application proposals, whilst the extension would occupy the same footprint as the existing temporary buildings, the extension would result in the development of an additional storey of accommodation where previously a only a single storey building existed. The extension would result in an additional 74 sqm of floor space, increasing the maximum height from 6.4m to 7.8m, an increase of 1.4m. The first floor extension would project beyond the existing rear elevation by 4.5m and would have a width of 6.5m.

8. The re-provision of the existing boat storage facility and the proposed maintenance area to the rear can be considered as appropriate facilities for outdoor sport as set out in Para 89 of the NPPF. The extension at ground floor and the part of the first floor extension which does not project beyond the existing rear elevation can be regarded as 'infilling' given its position between existing flank elevation the adjacent neighbouring building and are not considered to have an unacceptable impact on the openness of the MOL.

9. However, the proposed first floor extension which projects beyond the rear elevation (by 4.5m), given its rearward projection and excessive height (which is up to 1.4m taller than the existing building) and the design of the roof which adds further bulk to the building without providing additional floor space, is considered to be harmful to the openness of the MOL and is therefore regarded as 'inappropriate development'. This would be particularly noticeable when viewed from the rear of the site, where the group of buildings have reasonably consistent depths and as such exhibit a fairly consistent rear building line. The proposal would therefore project beyond this building line. This is shown on the proposed side elevation (Drawing No. 12/1784/105), where the scope of additional development can be appreciated.

10. In light of this part of the proposal being considered 'inappropriate development' it be should successfully demonstrated that 'very special circumstances' (VSC) exist where the harm to the MOL is by reason of its inappropriateness is clearly outweighed by other considerations. The applicant has subsequently put forward a 'very special circumstances' case in support of the need for the proposed development. In summary, the applicant asserts that the VSC amount to the following:

- The MSSC is the UK's oldest and largest youth maritime charity for 14,000 young people in the Sea Cadets. The Welsh Harp Boat Station provides essential training for MSSC's 1,500 Greater London cadets and other groups including the emergency services;
- Without modernisation in the manner proposed, including provision of a larger classroom area, improved changing rooms, access and facilities for disabled people and good overnight accommodation for 18 cadets and 6 adults, the MSSC would be unable to offer the courses it currently does;
- These new facilities, including the overnight accommodation, could not be located elsewhere outside MOL - there is no available site or premises in close proximity to Welsh Harp which would be affordable to MSSC without severely compromising the efficiency and cost effectiveness of the national training that MSSC aims to provide;
- Modernisation of the Boating Station in the manner proposed would enable MSSC to meet the demand for some 3,000 cadet days of activity per annum. This is currently severely fettered by the physical limitation of the facilities, including inadequate classroom space (essential for teaching and inclement weather), severely substandard changing rooms and unacceptable overnight accommodation; and
- The activities and facilities at Welsh Harp are manifestly of the type which Policies 7.27 and 7.30 of the London Plan recognise 'should be prioritised and ...supported' as an 'important objective' (para 7.83) and

a 'valuable education resource (para 7.101).

11. Para. 88 of the NPPF states "*Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.*"

12. A number of the proposed uses which the building extension would provide such as training, office and accommodation uses in policy terms are not directly related to the use of the Brent Reservoir for water based activities and therefore not supported by the NPPF or Policy OS3 of the UDP which requires proposals to be small in scale and required to preserve or enhance activities associated with the particular open space. It is recognised that some of these are existing uses and form part of the overall 'offer' of the club. However, whilst the need for the accommodation as set out above is not disputed, it is not considered that the above constitutes a VSC case that outweighs the harm caused to the openness of the MOL. Whilst the applicant claims that the proposed accommodation cannot be accommodated off-site, no evidence has been submitted in support of this claim. Furthermore, it is considered that a re-configuration of the internal layout of the building could accommodate the proposed number of bed spaces with a resultant reduction in the some of the ancillary facilities such as the office and dining/relaxation areas which are not directly linked to the use of the MOL.

13. In addition the design of the roof adds unnecessarily to the bulk of the building which in turn reduces the openness of the MOL and this element of the proposal could be easily re-designed to lessen its impact. In light of these considerations it has not been successfully demonstrated a VSC case exists that outweighs the harm caused to the openness of the MOL in accordance with national and local planning policy. It is considered that the scheme could be re-designed in a manner which preserves the openness of the MOL as well as fulfilling the needs of the MSSC.

4. Impact on Biodiversity

14. The application is accompanied by a Phase 1 Habitat Survey given the location of the site adjacent to a SINC and SSSI. The report concludes that given the limited scale and location of the proposal there is unlikely to be any impact on these biodiversity designations. As such it not considered that the proposal would have a significantly adverse impact on biodiversity in accordance with Policy CP18.

5. Landscaping and Trees

15. Given the extensive tree cover to the rear of the site and the proximity of the proposed extension to these trees, the Tree Protection Officer has requested a full tree survey in accordance with BS5837:2012 'Trees in relation to design, demolition and construction'. The tree survey should be accompanied by an Arboricultural Implications Assessment and Tree Protection Plan which should identify any pre-commencement canopy reductions required to enable the development to take place. This information could be secured by condition should the application be granted permission.

16. Parking & access

17. Policy PS10 is applicable to this site, whereby the maximum parking space is 1 space per 60 patrons. The sailing centre as a whole appears to have 24 overnight visitor spaces and 20+ off-street parking spaces. With ample parking available for the centre, any limited additional activity generated at this site will not significantly affect parking requirements, with Birchen Grove able to accommodate some over spill parking if necessary. The centre does not seem to have any provision of cycle parking, in line with policy PS16. Further details in this respect could be secured by planning condition if necessary. The proposal does not affect the access into the site which will also remain the same and therefore visibility splays are retained. It is noted that the eastern arm of Birchen Grove leading to the site entrance does have a height and width restrictions in place.

18. Community Infrastructure Levy

19. The proposal is considered to be a *sui generis* use and therefore not liable for CIL.

20. Conclusion

21. The proposed first floor extension would fail to preserve the openness of the MOL for which very special circumstances do not exist given the changes which could be made to the design of the proposal which would achieve the modernisation of the existing facilities and comply with the policy requirements to preserve

the openness of the MOL. As such, refusal of planning permission is recommended.

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) The proposed two storey extension by reason of its excessive bulk, height, rearward projection and inappropriate roof design is considered to be an inappropriate development which is harmful to the openness of the Welsh Harp Metropolitan Open Land which is not successfully outweighed by the very special circumstances case put forward. As such the proposal is contrary to Policy OS3 of the UDP, Policy 7.27 of the London Plan and contrary Para. 88 of the National Planning Policy Framework.
- (2) To assist applicants the Local Planning Authority has produced policies and written guidance, all of which is available on the Council's website and offers a pre planning application advice service. In this instance, amendments requested to the scheme during the course of the planning application were not made. The Council is ready to enter into discussions with the applicants to assist in the preparation of a new planning application.

INFORMATIVES:

None Specified

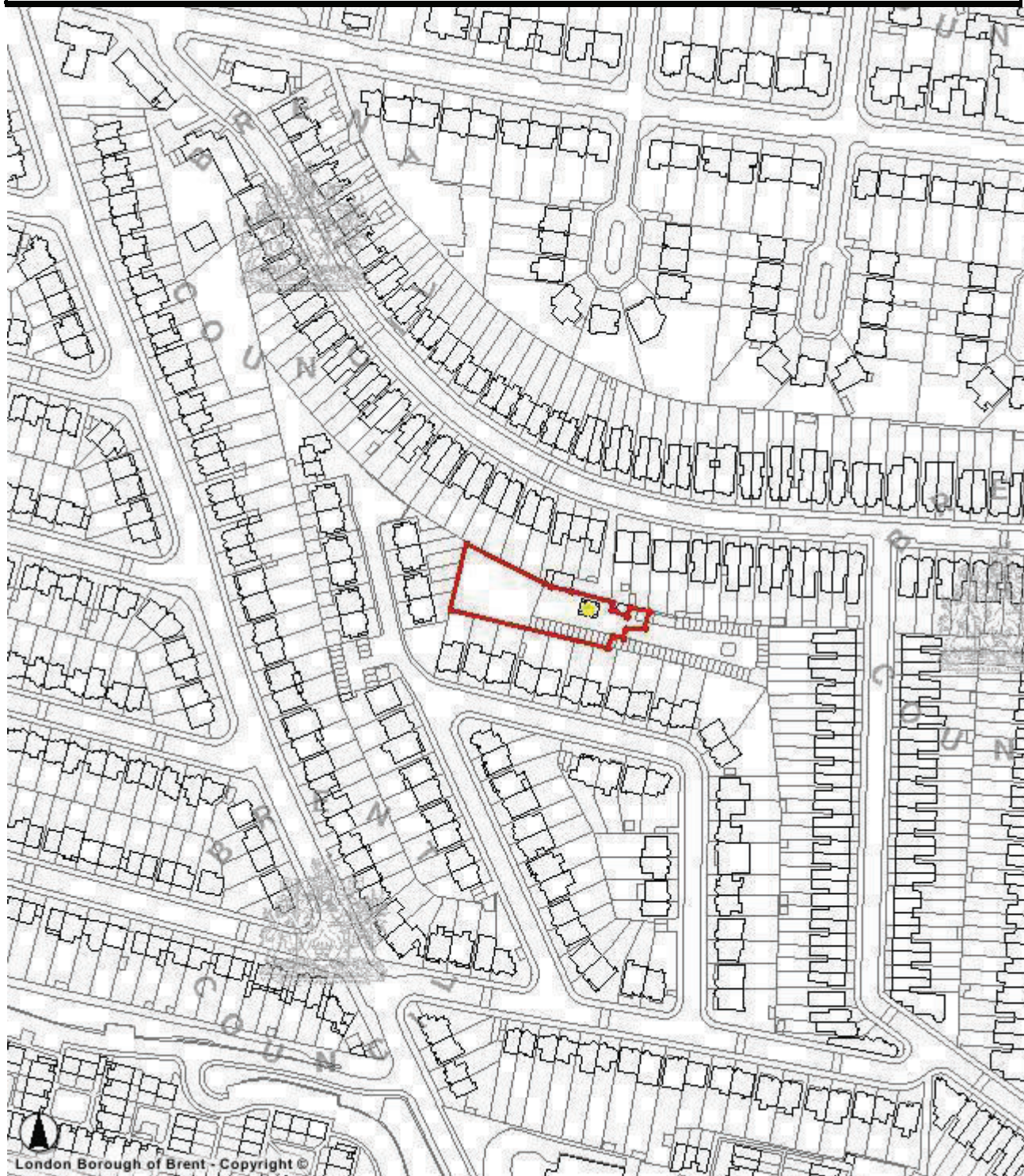
Any person wishing to inspect the above papers should contact Matthew Harvey, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 4657



Planning Committee Map

Site address: Garages R/O 129-145, 145A & Land R/O 151-157 (Chanin Mews),
Melrose Avenue, London, NW2 4LY

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This map is indicative only.

RECEIVED: 12 July, 2013

WARD: Dudden Hill

PLANNING AREA: Willesden Consultative Forum

LOCATION: Garages R/O 129-145, 145A & Land R/O 151-157 (Chanin Mews), Melrose Avenue, London, NW2 4LY

PROPOSAL: Variation of Condition 2 (development in accordance with plans) of application 11/2414 granted on 27 September 2012 for 'erection of five x two-storey dwellinghouses with basements comprising two x four-bed semi-detached houses and three x four-bed terraced houses, eight car-parking spaces, provision of bin store and bicycle stands, with associated hard and soft landscaping and means of enclosure (in place of one x three bed and two x four bed dwellinghouses and eight parking spaces which formed part of the previously approved scheme with LPA ref: 06/1117) and subject to a Deed of Agreement dated 21 September 2012 under Section 106 of the Town and Country Planning Act 1990, as amended' to allow the following minor material amendments:

- Revised car park layout to provide 10 car parking spaces (previously 8 car parking spaces);
- Details of ground levels to three x four-bed terraced houses and fencing to boundary with properties fronting Gay Close;
- Revised landscaping details.

APPLICANT: GKP Projects

CONTACT: Claridge Architects

PLAN NO'S:
See condition 1

RECOMMENDATION

Approval

EXISTING

The application site comprises the western part of a backland site surrounded on all sides by the rear gardens of adjoining residential properties on Melrose Avenue, Gay Close, Kenneth Crescent and Riffel Road; access into the site from Melrose Avenue lies between 145 and 147 Melrose Avenue. The development site comprises 5 houses and is now known as Chanin Mews.

Melrose Avenue is defined in the UDP as being heavily-parked, and lies within Controlled Parking Zone "MW", which operates 08.00–18.30 Monday to Saturday. Access via public transport is fairly low with a PTAL rating of level 2. Willesden Green Station (Jubilee tube) is within walking distance of the site, but only one bus route is locally available (i.e. within 640m).

PROPOSAL

Variation of Condition 2 (development in accordance with plans) of application 11/2414 granted on 27 September 2012 for 'erection of five x two-storey dwellinghouses with basements comprising two x four-bed semi-detached houses and three x four-bed terraced houses, eight car-parking spaces, provision of bin store and bicycle stands, with associated hard and soft landscaping and means of enclosure (in place of one x three bed and two x four bed dwellinghouses and eight parking spaces which formed part of the previously approved scheme with LPA ref: 06/1117) and subject to a Deed of Agreement dated 21 September 2012 under Section 106 of the Town and Country Planning Act 1990, as amended' to allow the following minor

material amendments:

- Revised car park layout to provide 10 car parking spaces (previously 8 car parking spaces);
- Details of ground levels to three x four-bed terraced houses and fencing to boundary with properties fronting Gay Close;
- Revised landscaping details.

HISTORY

The first application (LPA ref: 06/1117) proposed six dwellinghouses and was approved by Members of the Planning Committee on 21 December 2006:

*06/1117 Demolition of 60 garages and a 2 storey dwellinghouse and erection of 6 x 4 bed houses with 12 parking spaces and subject to a Deed of Agreement dated 7th December 2006 under Section 106 of the Town and Country Planning Act 1990, as amended **Granted** 28/12/2006*

A number of details pursuant applications were submitted to discharge the conditions of the 2006 approval:

- **07/1936** Details pursuant to condition no. 15 (boundary treatment) **Granted** 06/09/2007
- **07/2920** Details pursuant to condition 4(a) (external materials) **Granted** 09/11/2007
- **07/2642** Details pursuant to condition 4(f) (external lighting) **Withdrawn** 04/12/2007
- **07/2296** Details pursuant to condition 10 (Details of the surface and foul water drainage) **Withdrawn** 04/12/2007
- **08/0086** Details pursuant to condition 10 (Drainage details + gullies at the highway boundary with Melrose Avenue) **Granted** 07/03/2008
- **08/0088** Details pursuant to condition 4c (Boundary treatment), 4g (Arrangements for temporary storage of dustbins prior to collection), 5b (Proposed walls and fences indicating materials and heights) & 5c (Screen planting along the boundaries) **Withdrawn** 19/03/2008
- **08/0085** Details pursuant to condition 13a (Speed table at site entrance), 13b (Removal of parking bay opposite the site entrance) & 14 **Granted** 07/03/2008
- **08/0076** Details pursuant to condition 8a (Site investigation) **Granted** 07/03/2008
- **08/0074** Details pursuant to condition 4b (Areas of hard landscape works), 4h (Arrangements for the allocation of parking spaces), 5d (Adequate physical separation, such as protective walls and fencing between landscaped and paved areas), 5e (Areas of hard landscape and proposed material) & 9 (Details of access road) **Withdrawn** 19/03/2008
- **08/0072** Details pursuant to condition 6 (Protection of existing trees on site) & 16 (Protection of existing trees in adjoining gardens) **Withdrawn** 19/03/2008
- **08/0070** Details pursuant to condition 4d (Window Details) and 4e (roofing materials) **Granted** 07/03/2008
- **08/0068** Details pursuant to condition 5a (identification and protection of existing trees) **Withdrawn** 19/03/2008
- **08/0081** Details pursuant to condition 4f (All external lighting within the development) **Granted** 07/03/2008
- **08/0082** Details pursuant to condition 17 (details of storage of dustbins within the curtilage of each of the proposed houses) **Granted** 07/03/2008
- **08/0545** Details pursuant to condition 4(e) (roof sample) **Withdrawn** 02/04/2008
- **09/1909** Details pursuant to conditions 4(b) (hard landscape works), (c) (boundary treatment), (g) (temporary storage of dustbins) & (h) (allocation of parking spaces), 5 (landscaping), 6 (tree protection), 8(b) (site investigation), 9 (access road), 12 (residents' garages) and 16 (tree protection) **Withdrawn** 23/09/2009
- **09/2618** Details pursuant to condition 8(b) (site investigation) (as amended by agent's e-mail received 27/01/2010) 1117 **Granted** 27/01/2010
- **10/0425** Details pursuant to condition 4 (b,c,g,h) 5 Details of materials) 6 (landscaping) 9 (management Plan) 12 (Revised access road and parking layout) and 16 (Tree Root Protection) **Granted** 02/03/2010

Following commencement of the 2006 scheme, further applications were submitted to increase the number of units on the site by replacing three as-yet unconstructed houses with five houses. The first application, made in 2007, was refused under delegated powers on 21/09/2007:

*07/2277 Erection of 5 two-storey, four-bedroom dwellinghouses with basement level, 10 car-parking spaces, provision of bin store and bicycle stands, with associated landscaping **Refused** 21/09/2007*

The second application, made in 2008, was scheduled to be refused under powers delegated to the Director of Planning but it was called in by Councillors:

08/0683 *Erection of 5 two-storey, three-bedroom dwellinghouses with partial basement level (in place of the development previously approved under ref. 06/1117, for 6 four-bedroom dwellinghouses without basements), 10 car-parking spaces, provision of bin store and bicycle stands, with associated landscaping to site* **Appeal Allowed 14/05/2009**

It was initially presented to the Planning Committee with a recommendation for refusal on 29 April 2008. Members deferred the decision and advised that officers met with the applicants to discuss amendments to the scheme and to give Members an opportunity to make a site visit. Minor changes were made which allowed officers to support the proposal, and it was reported for the second time to the Planning Committee on 13 August 2008 with a recommendation that planning permission be granted subject to the completion of a satisfactory Section 106 legal agreement

.Members however voted to refuse the application on the following grounds:

1. *The increase of dwelling units from 3 to 5 within the same site area would give rise to an overdevelopment of this backland site which is exacerbated by the inherent constraints of the site which include its elongated form, a substandard access, proximity of existing housing and limited opportunities for landscaping and is thus contrary to policies BE2, BE7, BE9 & H12 of Brent's Unitary Development Plan 2004 and the Council's SPG17 'Design Guide for new development'.*
2. *The increase of dwelling units from 3 to 5 within the same footprint of this backland site necessitated the reduction in amenity spaces of the proposed dwellings and in the distances between proposed flank walls and rear garden boundaries of the dwellings surrounding the site which has resulted in cramped form of development and overbearing relationship with the neighbouring rear amenity spaces thus contrary to policies BE2, BE7, BE9, H12 & H15 of Brent's Unitary Development Plan 2004 and the Council's SPG17 'Design Guide for new development'.*

The applicant's appealed the decision to the Planning Inspectorate (PINS ref: APP/T5150/A/08/2091690) and submitted a Unilateral Undertaking to meet the planning obligations. The appeal was allowed on 14 May 2009. The Inspector summarised his decision as follows:

"I therefore conclude that the proposal would provide acceptable living conditions for its future occupiers and would not significantly harm the living conditions of occupants of neighbouring properties particularly in terms of visual impact. It would comply with policies BE2, BE7, BE9, H12 and H15 of the London Borough of Brent Unitary Development Plan 2004 (UDP) and the SPG. These policies seek to ensure that, amongst other matters, development is designed with regard to the local context; makes a positive contribution to the character of the area; is of a high quality of design and materials; and, for proposals involving backland sites, pays special attention to density, building height, privacy and outlook."
(Inspector's decision letter, APP/T5150/A/08/2091690, 14 May 2009)

A details pursuant application was submitted to discharge the conditions of the 2009 allowed appeal:**10/0424**
Details pursuant to condition 6 (materials) 7 (landscaping) 9 (boundary details) **Granted 02/03/2010**

Works commenced on the basements of the five new houses in 2011 and these works caused local residents to contact the Council's Planning Enforcement Team with concerns that the development was not being undertaken in accordance with the approved plans. Two enforcement cases have been opened:

E/11/0703 Breach of conditions (not in accordance with approved plan) of p.p. 08/0683 (temp.desc.) **EBOC 30/09/2011**

E/11/0560 Breach of conditions 5, 6 (landscaping) of p.p. 06/1117 (temp.desc.) **EBOC 03/08/2011**

11/2414 An application was submitted for the rection of five x two-storey dwellinghouses with basements comprising two x four-bed semi-detached houses and three x four-bed terraced houses, eight car-parking spaces, provision of bin store and bicycle stands, with associated hard and soft landscaping and means of enclosure (in place of one x three bed and two x four bed dwellinghouses and eight parking spaces which formed part of the previously approved scheme with LPA ref: 06/1117) and subject to a Deed of Agreement dated 21 September 2012 under Section 106 of the Town and Country Planning Act 1990, as amended **Granted 27/09/20**

E/12/0552 The breach of conditions 6 (landscaping) and 7 (boundary treatments) of planning permission ref.11/2414 - **Ongoing**

12/3164 Details pursuant to conditions 5 (all external materials) and 8 (secure cycle parking) of full planning permission reference 11/2414 dated 27-Sep-2012 for erection of five x two-storey dwellinghouses with basements comprising two x four-bed semi-detached houses and three x four-bed terraced houses, eight car-parking spaces, provision of bin store and bicycle stands, with associated hard and soft landscaping and means of enclosure (in place of one x three bed and two x four bed dwellinghouses and eight parking spaces which formed part of the previously approved scheme with LPA ref: 06/1117) and subject to a Deed of Agreement dated 21 September 2012 under Section 106 of the Town and Country Planning Act 1990, as amended **Granted** 22/01/13

POLICY CONSIDERATIONS

Local

For the purposes of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the statutory development plan for the area is the Unitary Development Plan (UDP), which was formally adopted in 2004, and the Core Strategy, adopted in 2010.

Brent UDP 2004

The following are the policies within the UDP relevant to this decision:

Strategic

STR3 In the interests of achieving sustainable development (including protecting greenfield sites), development of previously developed urban land will be maximised (including from conversions and changes of use).

Built Environment

- BE2 On townscape: local context & character states that proposals should be designed with regard to their local context, making a positive contribution to the character of the area.
- BE3 Relates to urban structure, space and movement and indicates that proposals should have regard for the existing urban grain, development patterns and density in the layout of development sites.
- BE4 States that developments shall include suitable access for people with disabilities.
- BE5 On urban clarity and safety stipulates that developments should be designed to be understandable to users, free from physical hazards and to reduce opportunities for crime.
- BE6 Discusses landscape design in the public realm and draws particular attention to the need to create designs which will reflect the way in which the area will actually be used and the character of the locality and surrounding buildings. Additionally, this policy highlights the importance of boundary treatments such as fencing and railings which complement the development and enhance the streetscene.
- BE7 Public Realm: Streetscene
- BE9 Seeks to ensure new buildings, alterations and extensions should embody a creative, high quality and appropriate design solution and should be designed to ensure that buildings are of a scale and design that respects the sunlighting, daylighting, privacy and outlook for existing and proposed residents.

Housing

- H12 States that the layout and urban design of residential development should reinforce or create an attractive and distinctive identity appropriate to the locality, with housing facing streets, and with access and internal layout where cars are subsidiary to cyclists and pedestrians. Dedicated on-street parking should be maximised as opposed to in-curtilage parking, and an amount and quality of open landscaped area is provided appropriate to the character of the area, local availability of open space and needs of prospective residents.
- H13 Notes that the appropriate density for housing development will be determined by achieving an appropriate urban design which makes efficient use of land, particularly on previously used sites. The density should have regard to the context and nature of the proposal, the constraints and opportunities of the site and type of housing proposed.
- H14 The appropriate land density should be achieved through high quality urban design, efficient use of land, meet housing amenity needs in relation to the constraints and opportunities of the site.
- H15 Backland development special regard will be paid to the density and height of the proposal which should be subsidiary to the frontage housing; the privacy and outlook from existing dwellings and in

- particular gardens
- H29 On accessible housing proposes that new and converted housing should be fully accessible for elderly and disabled residents.

Transport

- TRN23 On parking standards for residential developments requires that residential developments should provide no more parking than the levels listed in PS14 for that type of housing.
- TRN34 The provision of servicing facilities is required in all development covered by the plan's standards in Appendix TRN2.
- TRN35 On transport access for disabled people and people with mobility difficulties states that development should have sufficient access to parking areas and public transport for disabled people, and that designated parking spaces should be set aside for disabled people in compliance with levels listed in PS15.
- PS14 Residential car parking standards
- PS15 Parking standards for disabled people
- PS16 Cycle parking standards

Core Strategy 2010

CP17 Protecting and Enhancing the Suburban Character of Brent - the distinctive suburban character will be protected from inappropriate development and development of garden space and infilling of plots with out-of-scale buildings will not be acceptable.

Other Council Policies

The Council produces a series of Supplementary Planning Guidance Notes that give additional information on a variety of issues and which are intended to be read in conjunction with the adopted UDP. These SPG were subject to widespread public consultations as part of the UDP process before being adopted by the Council and given this widespread public consultation the Planning Authority would suggest that considerable weight be attached to them.

Supplementary Planning Guidance No. 17 - Design Guide for New Development

Adopted by the Council in October 2001, SPG17 aims to encourage high quality design in all new development; protect the character and amenities of existing areas that are worth preserving; create clear and useable guidance for all those involved in the planning and design process; and ensure the effective use of urban land and resources and support sustainable urban regeneration. It is intended to supplement the policies and guidance found in the borough's UDP.

Supplementary Planning Document S106 Obligations

Regional

London Plan 2011

National

NPPF

CONSULTATION

A total of 72 consultation letters were sent to neighbouring owner/occupiers and those properties now constructed in Chanin Mews. A total of 8 representations were received comprising 5 comments and 3 objections. The following comments and objections were made:

Comments/Objections	Officer Comment
Planting should help to break/buffer the overlooking feeling caused by the new development.	The planting was part of the original approval and considered important to protect privacy of the surrounding properties.
Request planting in indent at rear of 149 Melrose Avenue.	The general location of the planting was agreed as part of the previous planning approval. The plans now submitted propose to follow these

	indicative plans. The bike store is located at the end of this garden within the site.
Buildings seem taller than was planned - the upper windows are very visible	The application does not propose to make changes to the height of the approval buildings.
The proposed extra parking hinder access to the parking area and the two private garages.	This layout has since been revised to relocate the spaces so they do not hinder access. Transportation are satisfied with the revised arrangement.
The bike store could be alternatively located so that more boundary planting could be available.	The bike store is considered to be located in an appropriate place to allow access by all residents. This was previously approved by condition.
Concern regarding maturity of trees to be planted – want to ensure provide screening.	Revised details of the landscaping have been submitted to ensure the trees when planted offer screening.
Concerns regarding the nature and extent of planting proposed due to impact on Chanin Mews properties	Planning permission was granted with a condition requiring planting to protect the neighbouring amenity.
Concern about damage caused during construction	This is a civil matter to be resolved between the two parties.

Internal Consultees

Transportation: Parking arrangement considered acceptable. Concern about use of paint to mark spaces.

Landscaping/ Tree Officer: Required changes to the trees to be advanced nursery stock so that they will establish more quickly than the slightly larger semi-matures and with less difficulties maintenance-wise. The trees would reach their mature heights over a period of 20-25 years.

REMARKS

Background

This application is for minor material amendments to the previously approved scheme. Changes to Government policy has meant that since 2009 applicants have been able to submit applications for amendments "whose scale and nature results in a development which is not substantially different from the one which has been approved." (CLG, 2009); this is assessed by way of a variation of condition application (S73 of TCPA 1990, as amended).

The site has a detailed planning history as set out above. Most recently, planning permission was granted by the Planning Committee in 2012 for the five x two-storey dwellinghouses with basements, which also sought to resolve matters relating to the ground levels and relationship of the houses to the adjoining properties; this relationship was viewed by Members at the site visit for this application. However, since this approval, the works have not been carried out in full accordance with the approved plans or in full compliance with conditions attached to this planning permission. As a result, this planning application has been submitted in an attempt to regularise the works carried out and provide further details relating to landscape works which were required by condition. It should be noted that this application has been submitted by the developer however a number of the houses within the new development have been sold and are now occupied; the appropriate notifications have been carried out as part of this submission.

As a S73 application, the principle of the development has been agreed therefore consideration will focus on the changes made and whether these are acceptable in policy terms. As such, the assessment will focus on the following matters:

- Revisions to car park layout to provide 10 car parking spaces (previously 8 car parking spaces);
- Details of ground levels to three x four-bed terraced houses and fencing to boundary with properties fronting Gay Close;
- Proposed landscaping details.

Assessment

- ***Revised car park layout to provide 10 car parking spaces (previously 8 car parking spaces)***

The changes to the car parking are as a result of alterations made to the area of hard standing located centrally within the development . At the present time, this area is tarmaced with no demarcation of the parking spaces and the access road is paved.

For the five x four-bedroom dwellinghouse the maximum permissible spaces would be ten spaces; the proposed parking provision is therefore acceptable. Overspill parking is controlled by a clause within a s.106 agreement to prevent residents from applying for parking permits for the Controlled Parking Zone along Melrose Avenue.

Concerns were raised in relation to the location of two car parking spaces proposed adjacent to an existing garage located to the rear of 147a Melrose Avenue. These spaces have since been relocated outside of 5 Chanin Mews so as not to obstruct access to the garage; Transportation consider the revised arrangement to be acceptable. The location of the car parking spaces is not considered to give rise to any adverse amenity impacts.

Whilst the use of paint to mark the spaces is not always the preferred solution, given that the area is already predominantly tarmaced, it is considered the most appropriate solution to permit the spaces to be marked with paint. This will be conditioned with a requirement that car parking spaces are marked out and are maintained thereafter.

- Details of ground levels to three x four-bed terraced houses and fencing to boundary with properties fronting Gay Close

Further details of the final ground level were required to be submitted by condition as part of the previous planning approval. In addition, whilst the previous permission supported raising the height of the fence along the boundary with Gay Close, it did impose restrictions so that the fence is at least 2.0m from the ground level of the site and restricted the maximum height of the fence measured from the gardens of Gay Close properties of 2.8m.

This application does not propose to make changes to the ground level and fence height as constructed which in part is higher than envisaged. The most significant change in ground level is where the garden of 7 Chanin Mews is 0.83m higher than approved where it adjoins the gardens with the properties on Gay Close. Whilst this change in level is not insignificant, the fence height is 2.1m from the ground level of the site which would comply with the requirements of the planning approval to help protect the privacy of the neighbouring properties. This does mean that the fence height is 3.1m from Gay Close gardens at this point which is higher than the maximum height approved under the previous consent. However, the impact of this increase in height of 0.3m above the maximum height approved is not considered so significant to warrant refusal. The changes to the levels of the gardens and fence at 6 and 8 Chanin Mews is less significant considered acceptable.

- Revised landscaping details

An important part of the previous approval was the requirement to plant trees in the rear gardens of the properties to help protect the amenity of the neighbouring residents. The original plan submitted as part of this application did not propose to plant sufficiently mature trees to provide the level of screening required. On the advice of the Tree Protection Officer, the landscaping plans has been revised to provide trees in the gardens of the properties on Chanin Mews which are advanced nursery stock; these will establish more quickly than the slightly larger semi-mature and many of the trees proposed can grow 6-8m in height.

Overall the proposal is considered to provide a suitable planting in the garden to help provide privacy to the adjoining properties whilst also provide usable amenity space for occupiers of the houses in Chanin Mews.

Conclusions

The changes proposed are not considered acceptable subject to the landscape works being carried out in a timely manner. The obligations secured through the previous S.106 agreement remain applicable to this consent.

REASONS FOR CONDITIONS

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

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

Brent Unitary Development Plan 2004
Brent Core Strategy 2010
The London Plan 2011
Council's Supplementary Planning Guidance No. 17
Council's Supplementary Planning Document Section 106 planning obligations

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment
Housing: in terms of protecting residential amenities and guiding new development
Transport: in terms of sustainability, safety and servicing needs

CONDITIONS/REASONS:

- (1) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

09051/LD.01 Rev E *Landscaping*
09051/LD.02 Rev B *Landscaping*
AR/MA/01 Rev C
Landscape Maintenance Schedule
Landscape Management Plan

Details approved under 11/2414

09051/OS; 09051/S.00 Rev A; 09051/S.01; 09051/DT.01 Rev B; 09051/DT.02 Rev A; 09051/DT.03 Rev A; 09051/GA.00 *House Type 2 & 3 Basement Fl*; 09051/GA.01 Rev A *House Type 2 & 3 Ground Fl*; 09051/GA.02 Rev A *House Type 2 & 3 First Fl*; 09051/GA.03 Rev A *House Type 2 & 3 Roof Plan*; 09051/GE.00 Rev A *HT 2 & 3 Elevations*; 09051/GE.01 Rev A *HT 2 & 3 Elevations*; 09051/GS.00 *HT 2 Section*; 09051/GA.00 *HT 1 Basement & Ground*; 09051/GA.01 *HT 1 First & Roof Plan*; 09051/GE.00 *HT 1 Elevations*; 09051/GE.01 *HT 1 Elevations*; 09051/GS.00 *HT 1 Section AA*

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

- (2) Within 2 months of the date of this decision, all landscaping works shall be completed in full accordance with the approved plans.

Any retained trees and shrubs or those planted in accordance with the landscaping scheme which, within 5 years of planting, are removed, dying, seriously damaged or become diseased, shall be replaced in similar positions by trees and shrubs of similar species and size to those originally planted unless otherwise agreed in writing with the Local Planning Authority. In the case of the loss of retained trees these shall be replaced at the ratio of 2:1 (two new trees to one lost tree).

The management and maintenance shall adhere to the approved Landscape Maintenance Schedule and Landscape Management Plan.

Reason: To ensure a satisfactory standard of appearance and setting for the development and to ensure that the proposed development enhances the visual amenity of the locality in the interests of the amenities of the occupants of the development and to provide tree planting in pursuance of section 197 of the Town and Country Planning Act 1990.

- (3) Notwithstanding the provisions of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order

with or without modification), no enlargement, improvement or other alteration of the dwellinghouses or their curtilage shall be carried out, unless a formal planning application is first submitted to and approved by the Local Planning Authority.

Reason: In view of the restricted size of the site for the proposed development no further enlargement, increase or alteration beyond the limits set by this permission should be allowed without the matter being first considered by the Local Planning Authority, to prevent an over development of the site and loss of amenity to adjoining occupiers.

- (4) The secure covered storage area for a minimum of 14 secure cycle parking spaces approved under reference 11/2414 shall be provided within 1 month of the date of this decision. These facilities shall thereafter be retained for the use by residents of Chanin Mews.

Reason: To ensure satisfactory facilities for cyclists.

- (5) There shall be no change to the existing perimeter fencing and ground levels as approved without the prior written permission of the local planning authority.

Reason: To protect the amenity of neighbouring residents.

- (6) The approved car parking layout as shown on drawing 09051/LD.01 Rev E shall be marked out in white paint within 1 month of the date of this decision. The marking shall be maintained for the lifetime of the development.

Reason: To provide an acceptable level of parking and a safe and suitable arrangement.

INFORMATIVES:

- (1) The applicant is advised that the enforcement case E/12/0552 will remain open until all required works have been implemented.

REFERENCE DOCUMENTS:

Any person wishing to inspect the above papers should contact Rachel McConnell, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5223

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Planning Committee Map

Site address: THAMES WATER DEPOT AND TRAINING SH, 225 Harlesden Road, London, NW10 3SD

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This map is indicative only.

RECEIVED: 30 August, 2013

WARD: Willesden Green

PLANNING AREA: Willesden Consultative Forum

LOCATION: THAMES WATER DEPOT AND TRAINING SH, 225 Harlesden Road, London, NW10 3SD

PROPOSAL: Demolition of existing industrial buildings and construction of 26 residential units comprising of 9 two-storey dwellinghouses (3-bedroom), 1 part two/part three-storey dwellinghouse (3-bedroom) and 16 flats within a part two/part three-storey block (4x 1-bed, 10 x 2-bed and 2 x 3-bed) with associated access, parking, amenity space and landscaping

APPLICANT: Notting Hill Housing

CONTACT: CgMs

PLAN NO'S:
See condition 2

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 Services and Procurement.

SECTION 106 DETAILS

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

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
- Affordable Housing - 16 affordable units (62.5%) comprising of 10 affordable rent and 6 shared ownership units.
- Sustainability - submission and compliance with the Sustainability check-list, ensuring a minimum of 50% score is achieved and achieve Code for Sustainable Homes Level 4 with compensation should it not be delivered.
- Join and adhere to the Considerate Constructors Scheme.
- A Residential Travel Plan

And, to authorise the Head of Area Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the Unitary Development Plan and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

EXISTING

The subject site, accessed from Harlesden Road, is roughly triangular in shape, bound by the rear of the two-storey terraced properties along Harlesden Road and Kings Road, and the covered Willesden Reservoir. The site accommodates redundant Thames Water pumping equipment, warehousing/storage and workshop type space (B1/B8 uses). It is largely covered by historic hardstanding with a group of cherry trees in the north west corner subject to a Tree Protection Order. The adjacent reservoir is identified as a Site of Nature Conservation Importance (Grade II).

PROPOSAL

As above.

HISTORY

In 2012 a planning application (12/0144)was submitted for a "Residential development of 41 dwellings, consisting of a row of 2-storey terrace houses, a 2 to 3-storey block and a 4 to 5-storey block, with associated parking, infrastructure and landscaping". This application was refused by the Planning Committee on the 17th April 2012.

The applicant lodged an appeal which was dismissed by the Planning Inspectorate on 14th February 2013. This decision is a significant material consideration in the determination of the current application and is discussed in the "Remarks" section of this report.

The applicant also submitted a revised application (12/3403) for the site prior to the determination of appeal. This application was subsequently withdrawn by the applicant following the issue of the appeal decision on the previous application.

POLICY CONSIDERATIONS

National Planning Policy Framework

The NPPF was published on 27th March 2012 and replaces Planning Policy Guidance and Planning Policy Statements with immediate effect. It is intended to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. It includes a presumption in favour of sustainable development in both plan making and decision making and its publication.

Saved policies from the adopted UDP have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. Core Strategy policies also need to be in conformity with both the London Plan and the NPPF and have considerable weight.

Where LDF Core Strategy, UDP saved policies and SPG's are referred to in the report below they have been considerations in the assessment of the application. However, the recommendation is considered to comply with the NPPF.

London Plan 2011 and Mayor's Community Infrastructure Levy (CIL)

This applies to relevant developments from 01/04/2012

London Borough of Brent LDF Core Strategy 2010

CP2 Population and Housing Growth
CP6 Design & Density in Place Shaping
CP15 Infrastructure to Support Development
CP18 Protection and Enhancement of Open Space, Sports and Biodiversity
CP19 Brent Strategic Climate Change Mitigation Adaptation Measures
CP21 A balanced Housing Stock

London Borough of Brent Unitary Development Plan 2004 ('Saved' policies)

BUILT ENVIRONMENT

BE2 Townscape: Local Context and Character
BE3 Urban Structure
BE5 Urban Clarity and Safety
BE6 Public Realm: Landscape Design
BE7 Public Realm: Streetscape
BE9 Architectural Quality
BE12 Environmental Design Principles

HOUSING

H1 Additional Housing
H2 Requirement for Affordable Housing
H3 Proportion of Affordable Housing
H9 Dwelling Mix
H11 Housing on Brownfield Sites
H12 Residential Quality – Layout Considerations
H13 Residential Density

EMPLOYMENT

EMP9 Local Employment Sites.

TRANSPORT

TRN3 Environmental Impact of Traffic

TRN10 Walkable Environments

TRN14 Highway Design

TRN23 Parking Standards – Residential Developments

TRN35 Transport Access for Disabled People and others with Mobility Difficulties

PS14 Parking Standards – Residential Development

PS15 Parking for Disabled People

PS16 Bicycle Parking

OPEN SPACE, SPORT & RECREATION

OS13 Development on Site of Borough (Grade II) and Local Nature Conservation Importance

Supplementary Planning Guidance 17: Design Guide for New Development Supplementary Planning Document: S106 Planning Obligations

SUSTAINABILITY ASSESSMENT

A Code for Sustainable Homes pre-assessment has been submitted stating that the applicant is aiming to achieve code level 4, which concludes that if the assumptions mentioned in the report for achieving CfSH Level 4 are implemented then this level could be achievable. This complies with the target set in policy CP19 of Brent's Core Strategy which requires at least CfSH Level 3 to be achieved outside of growth areas and should be secured by way of a s106 agreement.

In terms of renewable energy, photovoltaic panels are proposed, from which each unit would benefit. Energy and water saving measures are proposed as well as green roofs.

At the time of submission, The London Plan (Policy 5.2) requires that major developments achieve a carbon dioxide emissions reduction of 25% beyond the requirements of Building Regulations, this is also a requirement of CfSH Level 4. The submitted energy statement predicts that at present the scheme would comfortably achieve the London Plan target. The scheme is also predicted to generate approximately 21% of the developments energy demand from on-site renewables. A sustainable development checklist has been submitted with the application, a score of 50% is required and a self assessed score of 50.9% is achieved.

Compliance with these predicted standards would need to be secured through a s106 agreement.

CONSULTATION

Public Consultation

The application was publicised through the following methods:-

- Consultation letters, dated the 26th September 2013, were sent to Ward Councillors and 381 local owner/occupiers.
- A site notice was displayed on the main site entrance on 17th September 2013.
- The application was advertised through the publication of a local press notice on 19th September 2013.

In response 6 letters of objection have been received. In summary the issues raised by the objectors include:-

1. The height of the three-storey block should be reduced to 2-storeys
2. External materials used should respect the character of the surrounding area
3. The development will cause traffic and highway safety problems, particular around the main access to the site.
4. There is not enough parking for the proposed development. This will cause parking problems on Harlesden Road..
5. The development will result in a loss of light, privacy and views to neighbouring properties and give rise to noise disturbance.
6. The building work will cause pollution for neighbouring occupiers.
7. The development would reduce the security of neighbouring properties.
8. The development will harm local wildlife
9. The development will overburden local infrastructure, schools, GP's, sports facilities etc.

10. The proposals are an overdevelopment of the site

Prior to the submission of the application the applicant also undertook their own public consultation in developing the proposals. The applicants programme of consultation is set out in a submitted Statement of Public Consultation.

Internal Consultation

Transportation Unit

No objections to the proposals on transportation grounds provided the proposed works to the site access are secured through a suitably worded planning condition.

Urban Design

No objection to the proposal subject to standard design related conditions.

Tree Protection Officer

The Council's Tree Protection Officer has visited the site and inspected the arboricultural report submitted as part of the application. No objections to the proposals are raised.

Environmental Health

Given the historic use of the site the Council's Environmental Health Officers have recommended a number of conditions be placed on any permission.

REMARKS

Background and recent Appeal Decision

1. As discussed in the 'History' section of the report the site has been subject to a recent appeal decision relating to previous proposals to erect 41 flats on the site within a range of 2-5 storey blocks. Notwithstanding the Council's original reasons for refusing the application, in dismissing the appeal the Planning Inspector concluded that the appeal should be dismissed on the following grounds.
 - The urban environment created would be of an unsatisfactory quality
 - The proposed building heights would be inappropriate for backland development contrary to UDP policy H15
 - The development would provide insufficient parking to accommodate the demand generated.
2. The appeal decision is a relevant material consideration in the determination of the current application. The proposals have been amended in the following way to respond to the concerns raised by the Planning Inspector
 - The height of the proposed buildings have been reduced to a maximum of three-storeys.
 - The number of residential units proposed has been reduced from 41 to 26, whilst the amount of on-site parking has only been reduced from 31 spaces to 28 spaces.
 - The urban design of the scheme has been reviewed, removing the central residential block, and the proportion of soft landscaping around the site has been increased.

Principle of Residential Use

3. The principle of a residential development in this location is considered to be acceptable. The buildings on site are derelict and the site has not been used in association with the reservoir or for any other purposes for a significant amount of time. Policy seeks to promote the use of appropriate sites for residential use.

Residential Unit Mix and Tenure

4. The scheme proposes 26 new homes comprising of the following unit types and tenures.

UNITS	1bed 2person	2bed 3person	2bed 4person	3bed 5person	3bed 6person	Total	%
Private				9	1	10	38.5%
Shared Ownership	2		4			6	23.1%
Affordable Rent	2	2	4	2		10	38.5%
Total	4	2	8	11	1	26	

%

15%	8%	31%	42%	4%
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5. In terms of unit mix, the proposed development would deliver 12 family sized (3-bedroom) units. This constitutes 46% of the total units provided. This exceeds the target set out in policy CP2 which sets out that at least 25% of units in new developments should have 3-bedrooms or more.
6. In total, 61.5% of the units provided would be defined as providing affordable housing. This exceeds the target in Core Strategy Policy CP2 which set out that 50% of new units should be allocated for affordable housing. This affordable housing is split roughly 60/40 between affordable rents and shared ownership. This complies with the London Plan.
7. Overall, the proposed unit and tenure mix is considered to comply with the relevant policies and is appropriate.

Urban Design

8. The proposed development has been scaled back significantly from those proposals considered on appeal. The development is now set out in an L-shape, with a 3-storey central block of apartments connecting two terraces, one running back-to-back with the existing properties along Kings Road and the other backing on to the boundary with the reservoir. The access road runs along the front of the development and this defines a central communal amenity space. Overall, the layout of the proposed development is considered to make an effective use of the site without creating an over intensive form of development that was considered to be a particular problem with the previous scheme.
9. The issue of scale, and particularly height, was considered to be a particular issue with the previous scheme. The Planning Inspector confirmed that the site should be treated as a backland development although it was also noted that the proposed development was in keeping with the character and appearance of the area and did not have detrimental impact on the amenity of the neighbouring residents. However policy H15 which relates to backland development states that any backland development should be subsidiary to the frontage housing and this was given as one of the reasons for dismissing the appeal.
10. The scale of development has been reduced significantly, to comprise of 2-storey terraced dwellings set either side of a central 3-storey block. Overall, the scale and height of the development is considered to be much more in keeping with the frontage housing along Harlesden Road and Kings Road. The scale of the development complies with the guidance contained in SPG17 which recommends that new development should be set below a line of 45 degrees taken from a height of 2m along the boundaries with neighbouring properties. The scale of the development also comfortably complies with the guidance in terms of the relationship with windows on the rear of properties along Kings Road and Harlesden Road.
11. Indicative details of some of the external materials and finishes has been supplied with the submission. The dwellinghouses would generally be finished externally with brickwork whilst the flats would be treated with a mixture of brickwork and cladding. The general approach proposed is considered to be in keeping with the context of the surrounding area but further details of these materials will be required to ensure sufficient quality of design. This can be secured through planning conditions.

Impact on Neighbouring Amenity

Daylight & Sunlight

12. As discussed, the submitted plans demonstrate that the form of the building has been designed to be within the guidance angles set out in SPG17. These angles are taken from the rear elevations and garden boundaries of all adjacent residential properties and are set out to inform designs particularly in terms of preventing a detrimental impact on daylight/sunlight. Council officers previously raised concerns that the 4 to 5-storey block on the appeal development was of a height that would have an overbearing impact on neighbouring amenity. However this matter was considered by the planning inspector who found that the proposed development at that time would not have a detrimental impact on the amenity of neighbouring residents. As the proposed development has now been significantly reduced in height and footprint, and the development complies with the Council guidance, it is considered that there would be a reasonable impact on the daylight & sunlight of neighbouring occupiers and that the development would not have an overbearing impact on neighbouring occupiers.

Privacy

13. There are a number of habitable room windows and a small number of balconies, along the northern edge of the development, both to the proposed terraced houses and the proposed block of flats, which would directly face towards the rear of the properties along Kings Road. However, the separation between the windows would exceed the usual minimum guidance of 20m set out in SPG17. In terms of the depth of rear gardens to the proposed houses adjacent to the rear of the properties along Kings Road, the guidance of 10m is generally met in most cases, although at the western end where the relationship is most tight this drops to approximately 9.6m. However, on balance, considering the generous window-to-window distances and the trees that will be retained along this boundary it is considered that sufficient privacy will be maintained between the proposed development and the neighbouring properties along Kings Road.
14. In general, the proposed development is set well back from the existing properties along Harlesden Road and sufficient window-to-window distances are comfortably maintained to ensure adequate privacy.

Quality of Accommodation

Internal space

15. The supporting planning statement confirms that all of the proposed residential units meet or exceed minimum space standards required by London Plan policy 3.5. The units are designed to meet Lifetime Homes standards and three of the units (>10%) will be designed to be wheelchair adaptable. All of the units are laid out to provide sufficient outlook, daylight and amenity for potential occupiers.

External space

16. The dwellinghouses in the development each have access to a private garden of at least 50sqm. In terms of the flats, each flat would have some form of private amenity space in the form of a balcony, terrace or private garden. Some of these spaces are of sufficient size to fully satisfy the standards set out in SPG17. However, where the SPG17 standards are not fully satisfied through the provision of private space it is noted that the proposed development enjoys a generous central communal amenity space which has an area of 550.5m². This equates to approximately 21m² per unit and is considered sufficient to ensure that all units have access to sufficient amenity space.
17. The central amenity area will be landscaped to provide a play space for children living within the development. Further details will be secured through a planning condition.

Highways

Parking

18. The site is in an area of moderate public transport accessibility (PTAL 2), there are three bus services within 8 minutes walk. The site provides 28 parking spaces which is below the maximum 35 spaces which could be provided under PS14 of Brent's UDP 2004. However policy TRN23 requires that where the full parking standard is not provided consideration be given to the impact on on-street parking in the area. Using data on likely levels of car ownership, it is assumed that car ownership will be 50% of the parking standard for the social rented units and 75% of the maximum standard for private and shared ownership units. Based on the proposed mix this would result in 24 cars on site, meaning that the provision of 28 spaces should provide adequate parking to avoid any overspill parking in the neighbouring streets.
19. The parking provision includes 3 disabled parking spaces, 1 per wheelchair adaptable unit, and 6 bays with electrical charging points which exceeds the requirement to provide charging points on 10% of the spaces provided.
20. 30 secure cycle spaces will be provided which exceeds the Council's standard of 1 space per unit.

Access Road

21. The proposed access road is intended to be laid out as a shared surface. A 500mm wide planting zone is incorporated alongside 227 Harlesden Road, leaving a width of 5.6m for the shared surface, of which a width of 1.2m is indicated for pedestrian priority using a subtle change in surfacing. As a whole, the access is proposed to be surfaced in tar and chippings, crossed at regular intervals by flush channels. Although these materials differ from the block paving that would typically be sought for a shared surface street, the design is sufficiently unorthodox to highlight to drivers that the road is not a normal street and that they should therefore drive with added caution. The Council's Transportation Unit accept the design

in principle, subject to the submission and approval of more detailed construction drawings showing make-up of the road and materials, including details of lighting and drainage.

22. The junction onto Harlesden Road is to be altered to include kerb build-outs with 4m kerb radii and a raised entry treatment to help to improve visibility and aid turning into and out of the site and this should be combined with a kerb build-out outside 193-195 Harlesden Road to provide a length of sheltered parking. These works should be undertaken through a S278 Agreement which would be required through a planning condition.

Transport Statement/Travel Plan

23. The proposal is estimated to generate 5 arrivals/26 departures in the morning peak hour and 20 arrivals/16 departures in the evening peak hour, of which 2 arrivals/6 departures in the morning and 5 arrivals/4 departures in the evening are estimated to be by car. Traffic surveys undertaken in Harlesden Road showed that the additional traffic generated by the development would amount to only about 1.6% of existing flows in the street, this is not considered particularly significant from a highways perspective
24. A residential Travel Plan is proposed for the site, with an outline plan included within the Transport Statement. This includes the appointment of a Travel Plan Co-ordinator to implement the plan, with welcome packs being issued to new residents promoting public transport use, walking, cycling car sharing and the promotion of local Car Clubs, including one years subsidised membership. No targets or monitoring arrangements have been set out at the present time, but the Travel Plan is nevertheless broadly welcomed, and can be secured through a s106 agreement.

Ecology

25. An ecological scoping report has been submitted as part of the application. This concludes that there are no habitats of international, national or local importance that would be directly or indirectly affected by the development and that no evidence of protected species have been recorded on the site.

CIL

26. The private housing within the proposed development would generate a CIL liability. CIL relief can be claimed for affordable housing.
27. On the basis of the current affordable housing split (assuming a successful claim for relief) the scheme would generate a Brent CIL liability of approximately £215,050. The development would generate a Mayoral CIL liability of approximately £38,483.
28. If the affordable housing provision increased beyond that reported above this could result in a reduction in the CIL liability.

Consideration of Objections

29. The concerns of the objectors are summarised and addressed in the following table.

Objection	Officers Comments
The height of the three-storey block should be reduced to 2-storeys	The issue of scale and height is discussed above (para 8-10)
External materials used should respect the character of the surrounding area	External materials are discussed above (para 11). Further details will be required by condition to ensure these enhance the character and appearance of the surrounding area.
The development will cause traffic and highway safety problems, particular around the main access to the site.	The likely traffic impact of the development is discussed above(para 21-24).The Council's Transportation Unit do not consider that the design of the access route would cause any particular safety issues for occupiers of 227 Harlesden Road.
There is not enough parking for the proposed development. This will cause parking problems on Harlesden Road. The development will result in a loss of light, privacy and views to neighbouring properties and give rise to noise	Discussed above (para 18-19). The level of parking is considered sufficient to meet the likely demand of the development Issue relating to loss of light and privacy are discussed above (para 12-14). Whilst general activity associated with the

disturbance.	development will generate some level of noise, it is not considered that this would be unreasonable within the context of the surrounding area.
The building work will cause pollution for neighbouring occupiers.	The developer will be required to join and adhere to the Considerate Contractors scheme to ensure that the impact of the building works is kept to a minimum.
The development would reduce the security of neighbouring properties.	The development has been designed to the principles of secured by design.
The development will harm local wildlife	The impact of the development on ecology and wildlife has been considered in a report accompanying the application. This is discussed above (para 25).
The development will overburden local infrastructure, schools, GP's, sports facilities etc.	Contributions from new development towards local infrastructure are secured through the Community Infrastructure Levy (para 26-28).
The proposals are an overdevelopment of the site	The scale of the development is no longer considered to constitute an overdevelopment of the site.

Conclusion

30. The development has been amended to address the issues raised by the Planning Inspector in their appeal decision on the site. Officers consider that the concerns raised have now been adequately addressed and that approval can now be recommended.

RECOMMENDATION: Grant Consent subject to Legal agreement

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

- National Planning Policy Framework
- Brent LDF Core Strategy 2010
- Brent Unitary Development Plan 2004
- Council's Supplementary Planning Guidance 17:- Design Guide For New Development

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

- Built Environment: in terms of the protection and enhancement of the environment
- Environmental Protection: in terms of protecting specific features of the environment and protecting the public
- Housing: in terms of protecting residential amenities and guiding new development
- Open Space and Recreation: to protect and enhance the provision of sports, leisure and nature conservation
- Transport: in terms of sustainability, safety and servicing needs

CONDITIONS/REASONS:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

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

PLANS

- 12428 90 01 D2
- 12428 90 02 D1
- 12428 90 03 D2
- 12428 90 04 D2
- 12428 90 05 D2
- 12428 90 06 D2
- 12428 90 07 D
- 12428 B 15 10 D4
- 12428 B 15 11 D4
- 12428 B 15 12 D4
- 12428 B 15 13 D4
- 12428 C 15 03 D4
- 12428 H 15 03 D4
- 12428 L 05 00 D4
- 12428 L 05 01 D4
- 12428 L 05 04 D5
- 12428 L 05 05 D5
- 12428 L 20 03 D5
- 12428 L 30 01 D5
- 12428 L 30 02 D5
- 12428 L 99 03 D4
- 12428 L 99 04 D4
- 12428 L 99 08 D5
- 12428 L 99 09 D5
- 2329 100 RevC

DOCUMENTS

- Planning Statement
- Design and Access Statement
- Site Investigation Report
- Additional Site Investigation Report
- Arboricultural Implications Study
- Air Quality Assessment
- Code for Sustainable Homes Pre-Assessment
- Ecology Assessment
- Energy Statement
- Statement of Consultation
- Sustainability Checklist
- Transport Assessment

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

- (3) Prior to the commencement of the development an undertaking under s278 of the Highways Act 1980 shall be agreed with the Local Highway Authority to provide the following works.

- (i) junction improvements at the site access incorporating kerb build-outs with 4m kerb radii and a raised entry treatment;
- (ii) a kerb build-out outside 193-195 Harlesden Road to protect parking bays along the street.

The agreed works shall be completed prior to occupation of the development hereby approved.

Reason: In the interest of highway and pedestrian safety.

- (4) The parking spaces, including those designed for disabled users and including the provision of electric car charging points, shown on the approved plans shall be constructed prior to the

occupation of the buildings and shall be permanently retained and used solely in connection with the development hereby approved.

Reason: To ensure that the approved standards of parking provision are maintained in the interests of local amenity and the free flow of traffic in the vicinity.

- (5) The development shall be carried out in accordance with Tree Protection details set out in the submitted Arboricultural Implications Study and details on the Arboricultural Layout Plan (2329 100 Rev C) unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that TPO and other important trees on the site are safeguarded during demolition and construction..

- (6) During demolition and construction works on site the operation of 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 0800 – 1800 Mondays-Fridays, 0800 -1300 Saturdays and at no time on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority;

Reason: To ensure that and occupiers of neighbouring premises do not suffer a loss of amenity by reason of nuisance caused by construction and demolition works

- (7) Details of materials for all external work shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. Sample of these materials shall be made available for inspection on request. 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.

- (8) Notwithstanding the approved plans, all areas of the site shall be suitably landscaped in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to commencement of any work on the site. The approved landscaping work shall be completed prior to occupation of the buildings.

The submitted scheme shall include details of the following:-

(i) Walls, fences and gates

Proposed walls and fencing, indicating materials and heights.

(ii) Children's Play

Provision of equipment and landscaping design for children's play..

(iii) Physical separation

Adequate physical separation, such as protective walls and fencing, between landscaped and paved areas.

(iv) Mounds existing contours and any alteration of the ground levels, such as earth mounding.

(v) Planting

Details of the planting of trees, shrubs and other plants including type and density

(vi) Hardstanding

Details of materials and appearance of all areas of hardstanding, including drainage details.

(vii) Lighting

Proposals for external lighting, including design and luminance levels

(viii) Maintenance details

Details of the proposed arrangements for maintenance of the landscaping.

Any trees and shrubs planted in accordance with the landscaping scheme which, within 5

years of planting are removed, dying, seriously damaged or become diseased shall be replaced in similar positions by trees and shrubs of similar species and size to those originally planted unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory standard of appearance and setting for the development and to ensure that the proposed development enhances the visual amenity of the locality in the interests of the amenities of the occupants of the development and to provide tree planting in pursuance of section 197 of the Town and Country Planning Act 1990.

- (9) Prior to the commencement of the development, a remediation strategy which specifies measures to contain, treat or remove any soil contamination found at concentrations deemed unsuitable for the proposed end use shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the occupation of the development a verification report, stating that the remediation identified in the approved remediation strategy has been carried out in full, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe development and secure occupancy of the site proposed for domestic use in accordance with policy EP6 of Brent's Unitary Development Plan 2004.

INFORMATIVES:

- (1) If the development is carried out it will be necessary for works to be undertaken on the public highway by the Council as Highway Authority. This will be done at the applicant's expense in accordance with Section 278 of the Highways Act 1980. Should Application for such works should be made to the Council's Safer Streets Department, Brent House, 349 High Road Wembley Middx. HA9 6BZ Tel 020 8937 5050. The grant of planning permission, whether by the Local Planning Authority or on appeal, does not indicate that consent will be given under the Highways Act.

REFERENCE DOCUMENTS:

National Planning Policy Framework
London Plan 2011
Brent LDF Core Strategy 2011
Brent Unitary Development Plan 2004
6 letters of objection

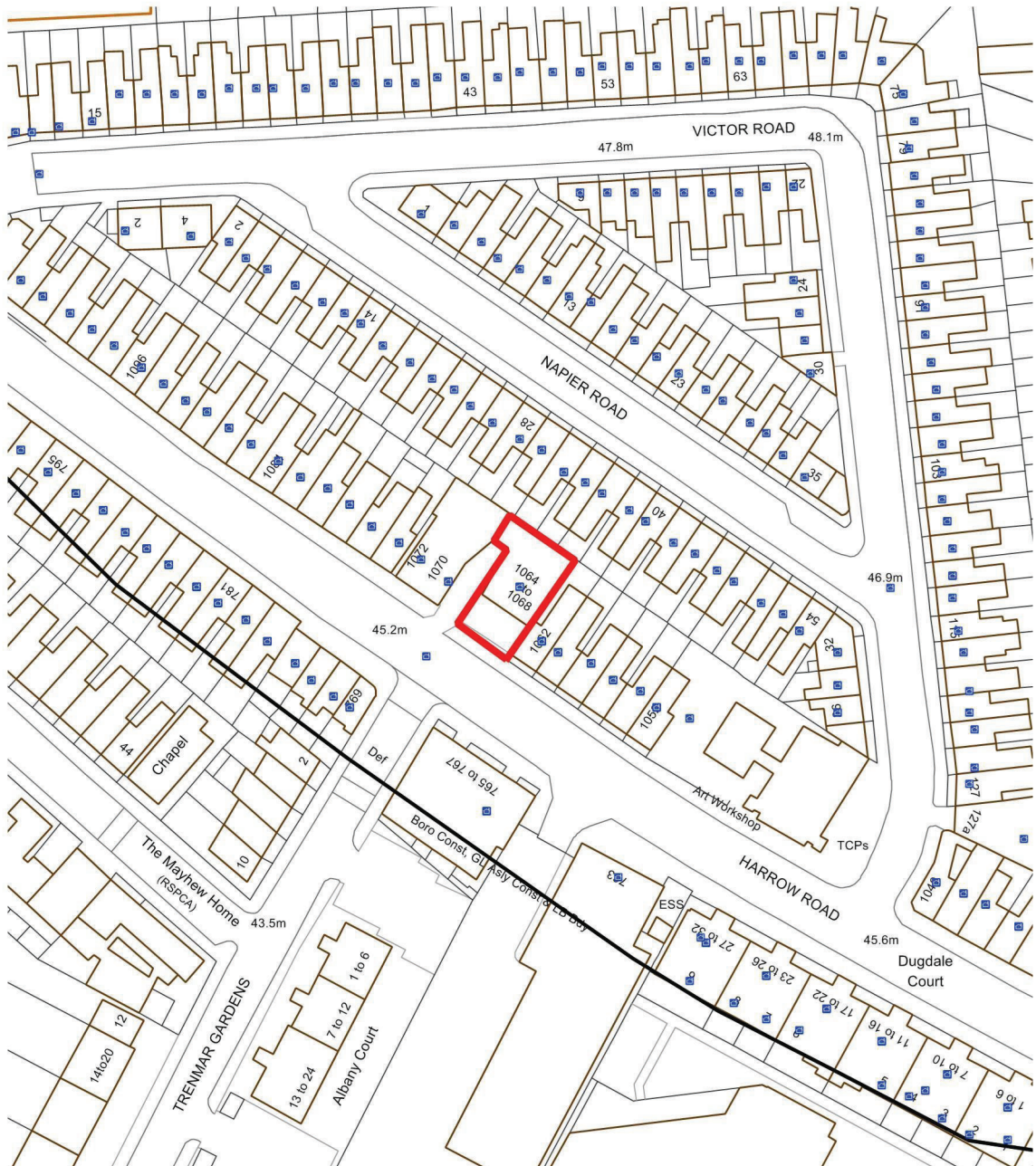
Any person wishing to inspect the above papers should contact Ben Martin, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5231



Planning Committee Map

Site address: 1064-1068 Harrow Road, London, NW10 5NL

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This map is indicative only.

RECEIVED: 5 July, 2013

WARD: Kensal Green

PLANNING AREA: Harlesden Consultative Forum

LOCATION: 1064-1068 Harrow Road, London, NW10 5NL

PROPOSAL: Demolition of existing single-storey building and erection of part 3 storey building with basement and roof space accommodation, comprising 7x1 bed and 2x2 bed flats with refuse and cycle storage facilities

APPLICANT: Spincross Ltd C/O City Land

CONTACT: Salisbury Jones Planning

PLAN NO'S:

Site Location Plan
7665/10
7665/15
7665/16
7665/50B
7665/51B
7665/60B
7665/61B
7665/62

RECOMMENDATION

Refusal

EXISTING

The site is occupied by a vehicle maintenance and repairs workshop and includes an open forecourt fronting onto Harrow Road between the flank walls of number 1062 and 1070 Harrow Road, and a single storey building on the rear of the site which is built up to the boundary with the rear gardens of the dwellings on nos.32-36 Napier Road.

The site is not within a Conservation Area nor is it within the setting of a listed building. This site is not within any designated shopping area but the neighbouring site at 1070 Harrow Road is within a local centre. The site is considered to be a local employment site

PROPOSAL

As above

HISTORY

In December 2012 a planning application (12/2916) was refused under delegated powers for the "*Demolition of existing single-storey property and erection of a proposed part 3/part 2/part single storey building with basement containing 394sqm of commercial floor space at basement and ground floor level and 5 (one-bed) flats above with associated roof terraces, refuse and cycle storage.*".

In summary the application was refused for the following reasons:-

1. The inappropriate loss of a local employment site.
2. The overbearing impact of the development on the outlook, light and privacy of neighbouring occupiers (two reasons).
3. The development would have a harmful impact on the character and appearance of the area.

4. In the absence of a legal agreement, a failure to secure appropriate s106 contributions.
5. In the absence of a legal agreement, the development would result in an unreasonable demand for on-street parking and servicing that cannot be met.
6. The development would fail to provide satisfactory standards of residential accommodation.

The current application is for a similar form of development but includes residential accommodation in the ground floor and basement area instead of commercial floor space.

POLICY CONSIDERATIONS

National Planning Policy Framework

The NPPF was published on 27th March 2012 and replaced Planning Policy Guidance and Planning Policy Statements with immediate effect. It is intended to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. It includes a presumption in favour of sustainable development in both plan making and decision making.

Saved policies from the adopted UDP have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. Core Strategy policies also need to be in conformity with both the London Plan and the NPPF and have considerable weight.

Where LDF Core Strategy, UDP saved policies and SPG's are referred to in the report below they have been considered in the assessment of the application. However, the recommendation is considered to comply with the NPPF.

Core Strategy 2010

CP2 Population and Housing Growth

CP17 Protecting and Enhancing the Suburban Character of Brent

CP20 Strategic Industrial Locations and Locally Significant Industrial Sites

CP21 A Balanced Housing Stock

UDP 2004

BE2 - Townscape and Local Character

BE7 - Public Realm

BE9 - Architectural Quality

BE25 - Development in Conservation Areas

BE26 - Alterations & Extensions to Buildings in Conservation Areas

H11 - Housing on Brownfield Sites

H12 - Residential Quality - Layout considerations

TRN3 - Environmental Impact of Traffic

TRN11 - The London Cycle Network

TRN34 - Servicing in New Development

TRN23 - Parking Standards – Residential Development

PS14 - Parking Standards

EMP9 - Development of Local Employment Sites

Supplementary Planning Guidance Note 17: Design Guide for New Development

Supplementary Planning Document: S106 Planning Obligations

CONSULTATION

Public Consultation

Consultation letters, dated 9th July 2013, were sent to Ward Councillors and 200 neighbouring owner occupiers. In response one letter of objection was received. The objector raises concerns that the development will exacerbate existing on-street parking congestion within the locality of the site.

Whilst the application has not been reported under the provisions for Member Call-In, Cllr Hector and Cllr Jones have expressed support for the application to be determined by the Council's Planning Committee.

As the site is adjacent to the borough boundary the London Borough of Hammersmith and Fulham were consulted. They raise no objection to the proposal.

Internal Consultation

Transportation Unit - The Council's Transportation Unit do not object to the proposal provided it is subject to a 'permit-free' agreement where future occupiers of the development would not be entitled to apply for on-street parking permits.

Environmental Health - The Council's Environmental Health Officer recommend conditions requiring sound insulation, the submission of further information relating to impact on local air quality and requiring soil contamination investigations should planning permission be approved.

Planning Policy & Research - Object to the proposal on the basis that it would result in the unjustified loss of a local employment site without meeting the tests set out in UDP policy EMP9 (further detail in the Remarks section).

REMARKS

Loss of Local Employment

1. 1064-1068 Harrow Road is a Local Employment Site that until recently was in use as a motor car workshop and MOT testing centre. The NPPF states the planning system is to contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support economic growth. Furthermore, paragraph 21 of the NPPF outlines the requirement for local planning authorities in their Local Plan to; *'meet the anticipated needs of businesses over the planning period*. If too much land is released the Council might be unable to meet these anticipated needs.
2. The mechanism for assessing if sufficient employment land of the right type and in the right place is available is through an Employment Land Demand Study (ELDS). Brent's updated ELDS (September 2013) assesses likely demand and available supply of employment land in quantitative and qualitative terms. To ensure 'anticipated needs' are met as required by the NPPF viable sites need to be retained, whilst those which are no longer fit for purpose or unviable released. Based on the qualitative assessment the study identifies sites which should no longer be safeguarded and those 'high quality or 'strategic' sites which should continue to be retained. The subject site is not specifically identified in the updated ELDS.
3. The study recommends any proposals to release employment land beyond the identified sites in the ELDS should continue to be assessed against the criteria in saved UDP policy EMP 9. Saved UDP policy EMP9 allows for the managed release of employment sites where there is no effective demand and corresponds to the principles of the NPPF. EMP9 states development of Local Employment Sites for non-employment uses will not be permitted except where:-
 - a) Unacceptable environmental problems are associated with the use of the site for employment use.
 - b) There is no effective demand for the premises.
4. Supporting text to the policy (paragraph 7.7.16) states lack of effective demand will normally be demonstrated by lack of success in finding an occupier after vigorous marketing efforts. The vacancy of the premises for at least two years despite marketing efforts would be seen as confirming a lack of effective demand.
5. As stated in the Design and Access Statement supporting the application the site was until recently in employment use and no marketing of the property has been undertaken. In addition the operation of a vehicle repair garage on the adjacent plot indicates there is demand for such a use in this location. Therefore criteria b of EMP9 does not apply.
6. The applicant states the continued use of the site would give rise to environmental problems as the building is not compliant with modern day requirements. It is stated that the emission testing which took place in the building required significant revving of engines which caused noise, disturbance and emissions.
7. The site is located adjacent a busy road in an area characterised by a mix of commercial and residential uses and is adjacent a vehicle repair garage. The majority of residential premises along this stretch of Harrow Road are located above commercial premises. The building on 1064-1068 Harrow Road in which the emission testing took place is set back from the residential premises to the east of the site.
8. The continued use of the site for employment use is in keeping with the character of the area and would

not significantly increase existing levels of noise or disturbance. It is also not clear why routine measures couldn't be introduced to limit potential problems. It is also noted that the proposed redevelopment of the site would result in residential premises in closer proximity to an employment uses of a similar nature to the MOT testing station, than the existing situation.

9. Furthermore, the supporting text to EMP9 makes it clear that where intrusive employment uses need to be removed, it may nevertheless still be possible for the site to be redeveloped to accommodate employment uses that have an acceptable impact. As stated the site is currently vacant, any future proposals for employment use would be assessed against saved UDP policy EMP10 (The environmental impact of employment development) which would ensure the site remains in employment use without unacceptable environmental impacts.
10. In conclusion the continued use of the site for employment is in keeping with the character of this section of Harrow Road, and it has not been demonstrated that this would result in unacceptable environmental problems. Therefore criteria a of EMP9 does not apply and the loss of the existing employment use is not supported by officers.

Design

11. The existing site is occupied by single storey flat roof workshop building which is set back from the main building line of both neighbouring forecourts to provide a forecourt area. The proposed development would involve the erection of a three storey building fronting on to Harrow Road with a pitched roof with dormer windows to the front. To the rear the main roof will have a mansard style with dormers. The rear of the property would be comprised of a part 3, part 2 storey projection with a pitched roof.
12. The proposed building appears to have been designed on the principle of extending the existing terrace of three-storey buildings along this section of the Harrow Road.. As such, in design terms a three storey frontage is considered to be appropriate in this location. However, although there has been an attempt to pick up on the rhythm of the fenestration on the uppers floors of the adjacent terrace, the proportion of the proposed windows varies significantly with the very consistent approach that characterises the adjoining terrace. Whilst it is recognised that the modern construction may have different floor to ceiling heights, there is clearly still potential to change the proportions of the windows to more closely reflect with the existing terrace. This will have the added bonus of creating much lighter and more attractive internal spaces as well.
13. The front elevation presents 4 prominent front dormer windows in a location where there is no precedent for this. This would also detract from the group quality and character of the adjoining terrace.
14. The front boundary treatment would comprise of a metal railing. This approach has presumably been adopted to limit the impact on the proposed basement. However, is not consistent with the brick wall boundary treatment to the rest of the terrace and is likely to increase litter and noise into the basement and ground floor units.
15. Whilst it is acknowledged that there are rear projections to other properties in the adjacent terrace, the change in roof pitch to the rear, in conjunction with the rear dormers, the stepped outrigger, the projecting bay windows and the significant site boundary treatment creates a building mass that will appear to be significantly larger than the adjacent buildings when viewed from the rear of Napier Road
16. The rear projection marginally fails to comply with the guidance on scale and massing contained in SPG17, but it is the lack of separation between the rear of the proposed building and the rear of the neighbouring properties on Napier Road which would primarily cause the proposed building to appear overbearing in terms of its scale and design. At first floor level this separation is only 7.9m.
17. The relationship between the existing rear projection to 1062 Harrow Road and that proposed to the new development would create an enclosed space, 3.35m wide with two/three storey structures on either side. There appear to be residential windows to the rear of 1062 which would overlook this space and, whilst these types of relationships are relatively common amongst Victorian/Edwardian terraced properties, these windows have enjoyed relatively unenclosed views up to now. It is considered that the proposed rear outrigger would have an unreasonably overbearing impact on the outlook from these windows.
18. At first floor level there appear to be habitable room windows in the flank wall of the existing building at 1070-1072 Harrow Road which would directly face the flank wall of the proposed development across a shared access road which is 3.63m wide. It is considered that the close proximity and bulk of the

proposed building would also appear overbearing to occupiers of these units.

Impact on neighbouring occupiers

19. In terms of the impact on adjoining properties, the overbearing impact of the proposed development on the outlook of neighbouring occupiers is discussed above.
20. The applicants have submitted a daylight/sunlight report in support of the application. Whilst, the report finds general compliance with the BRE guidance for daylight and sunlight, it does highlight some areas of concern with regards to the relationship with the flank wall of 1070-1072 Harrow Road, which contains habitable room windows. The report finds that there would be adverse impacts on the daylight and sunlight to these windows but concludes that as the resulting levels of daylight/sunlight would still be above the minimum standards that this would be acceptable. Whilst the resulting levels of daylight and sunlight may exceed the minimum guidance, the fact remains that there would be significant reduction for existing levels that would be noticeable to occupiers of the unit. As such, this compounds concerns raised above regarding the overbearing impact of the development on these occupiers.
21. In terms of privacy, the separation between the rear of the proposed development and the rear of the neighbouring properties at Napier Road would be only 7.9m at first floor level which would not comply with the 20m guidance set out in SPG17. However, to overcome this issue the windows at first floor level to the rear of the proposed development would have obscured glazing to a height of 1.8m. Whilst this may go some way to reducing any loss of privacy this would cause other issues with the quality of the internal accommodation (discussed below).

Residential Quality

22. The development would provide 9 units, two of which would be located at basement level. The quality of accommodation of these basement units (Flats 1 and 2) is of particular concern in terms of the outlook, light and amenity for potential occupiers.
23. The sole living/dining space to each of these units would have a solely north facing aspect across a small courtyard, with a depth of approximately 4m towards the retaining/boundary wall with the properties along Napier Road, which when viewed from the basement flats would have a height of approximately 6m. The sole bedroom to each of these units, whilst orientated towards the south, would also have a restricted outlook across a 2m lightwell, above which would be the footpath along Harrow Road, a busy and heavily trafficked distributor road. Disturbance to these bedrooms is likely to be high whilst outlook and privacy would be poor.
24. In order to address the limited separation (7.9m) between the proposed development and the windows on the rear of the properties along Napier Road, at first floor level, the sole living dining areas to flats 5 and 6 would be served by bay windows treated with obscured glazing to a height of 1.8m. This would severely inhibit the outlook from these habitable rooms and would provide substandard levels of residential quality for potential occupiers.
25. With the exception of the basement flats, no external amenity space is provided to the remaining 7 units. It is acknowledged that in some urban locations it will be difficult for new development to meet the normal amenity space standards and therefore SPG17 sets out ways in which a shortfall of amenity space might be addressed. One way would be through financial contributions to improve local public space, however, at present, until the Council finalise the publication of a CIL Regulation 123 list the Council are unable to secure this type of contribution and, in any case, there are a lack of Brent open spaces within the locality which could reasonable be improved for use by potential occupiers of the development.
26. The guidance contained in SPG17 suggests a more practical solution and that would be to provide increased unit sizes to provide more generous internal areas for potential occupiers. However, of the 7 flats without access to some private amenity, only 2 are some 20% over minimum standard. Flats 7, 8 and 9 only just meet the minimum internal floor space standard and flats 5 and 6 only exceed the minimum standard by 2sqm. The combination of minimum or near minimum internal areas and the absence of private amenity space for most of the flats is considered to be contribute to a cramp and substandard form of accommodation for potential occupiers.

Transport, Parking and Servicing

27. The existing B2 use is subject to parking standards set out in PS6 of the UDP-2004, whereby 1 car space can be permitted per 150sqm outside of major town centres. The site currently provides car parking for at least four vehicles on the forecourt. During a site visit it was observed that despite being vacant vehicles

were still being parked on the forecourt. The applicant has stated that these vehicles were parked without the owners consent.

28. The proposed development would attract a maximum parking standard of 6.3 spaces. The site following development will not have room to accommodate residential car parking, and an increase in on-street parking cannot be permitted on a Distributor road. However, since the PTAL rating is good and there is a CPZ, this issue could be resolved through a 'permit-free' agreement, secured via S106 Agreement, whereby future occupiers of the development would be restricted from applying for on-street parking permits. However, as the application is recommended for refusal no agreement has been entered into with the applicant and, in the absence of an agreement, the proposed development would have an unacceptable impact on parking in the local area and would need to be added as a separate reason for refusal.
29. Secure and covered cycle parking is shown for all 9 dwellings in a store adjacent to the rear lightwell of one of the basement flats. Other than this basement flat, occupiers of the other units would need to use a shared drive between the site and the adjoining premises at 1070-1072 Harrow Road which operates on the ground floor as a motor spares retail unit to the front with a car repair workshop to the rear. Refuse and recycling storage would be provided within an internal store to the flank of the new development and access to this store would also be dependent the shared access.
30. The reliance of the shared drive to access these residential facilities is of concerns for a number of reasons. Firstly, the shared drive is current outside of the redline application site and no blue line has been provided to indicate the applicants ownership over the land. The applicant has written to officers to confirm that they enjoy joint ownership of the shared drive with the owners of 1070-1072 Harrow Road. However, Officers need to be satisfied that access to the cycle and refuse/recycling stores can be reasonably provided.
31. Secondly,.during a site visit, car repairs were taking place within the shared drive. This was raised with the applicant who has stated that they have a legal opinion that the drive should be used for access only and that the neighbouring premises are not entitled to undertake repairs on the drive. This is issue is of concern as undertaking car repairs on the shared drive would give rise to conflicts with the proposed residential use harming amenity and the ability to properly service the proposed development. However, even if evidence of the ability to access and enforce the use of this accessway were provided, it is considered that the incident noted is likely to be an example of the problems associated with residential occupiers sharing an access with a use such as a vehicle maintenance business.
32. The redundant vehicular crossover on the south-eastern side of the development site will need to be restored to kerb-and-channel at the developers expense. If the application were to be recommended for approval, a condition would normally be attached to this effect.

CIL

33. Although refusal is recommended, if Members were minded to approve the application the development would attract a CIL liability. Whilst, the exact liability would be subject to a more detailed assessment, broadly it is likely that the scheme would attract a Brent CIL in the order of £75k and a Mayoral CIL in the order of £13.5k.

Conclusion

The proposed development is considered to be unacceptable for the reasons identified above. Accordingly the proposal is recommended for refusal for the reasons set out below.

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) The proposed development results in the loss of an employment use, that would prejudice the provision of such uses to the detriment of the Borough's economy and reduce employment opportunities for the Borough residents, contrary to policy EMP9 of the London Borough of Brent Unitary Development Plan 2004.

- (2) The proposed development, by virtue of its excessive bulk, scale and massing, would have an overbearing appearance and would harm the outlook of occupiers of neighbouring residential properties, in general, and, in the case of 1070-1072 Harrow Road, would also result in an unreasonable loss of daylight and sunlight, contrary to policy BE9 of the London Borough of Brent Unitary Development Plan 2004 and advice contained in Supplementary Planning Guidance 17:- Design Guide For New Development.
- (3) The proposed development, by reason of the lack of outlook and light to basement flats, the lack of outlook from living areas in the first floor flats and the absence of amenity space without suitable mitigation to a number of units, would constitute a substandard form of residential accommodation which would harm the amenity of future occupiers contrary to policy BE9 and H12 of the London Borough of Brent Unitary Development Plan 2004 and advice contained in Supplementary Planning Guidance 17:-' Design Guide for New Development' and the Mayor's Housing SPD.
- (4) The proposed development, by reason of the unsympathetic siting and proportioning of windows to the front elevation, the incongruous and excessive formation of front dormer windows, and the provision of an uncharacteristic and poor quality front boundary treatment, would result in a building design that would detract from the character and appearance of the adjacent terrace and streetscene contrary to policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan 2004 and advice contained in Supplementary Planning Guidance 17:- 'Design Guide for New Development'.
- (5) As it would require access over land which is outside of the application ('red line') site, the proposed development would fail to provide satisfactory arrangements for the storage of refuse/recycling and the secure storage of cycles contrary to policies TRN11 and TRN34 of the London Borough of Brent Unitary Development Plan 2004.
- (6) In the absence of a legal agreement to control the matter, the development would result in a local demand for parking which cannot be met either on site, on the adjacent Distributor Road or within the local side streets which are heavily parked, without causing unreasonable harm to local highway and pedestrian safety contrary to policies TRN3, TRN23 and TRN24 of the London Borough of Brent Unitary Development Plan 2004.

INFORMATIVES:

None Specified

REFERENCE DOCUMENTS:

Employment Land Demand Study 2013

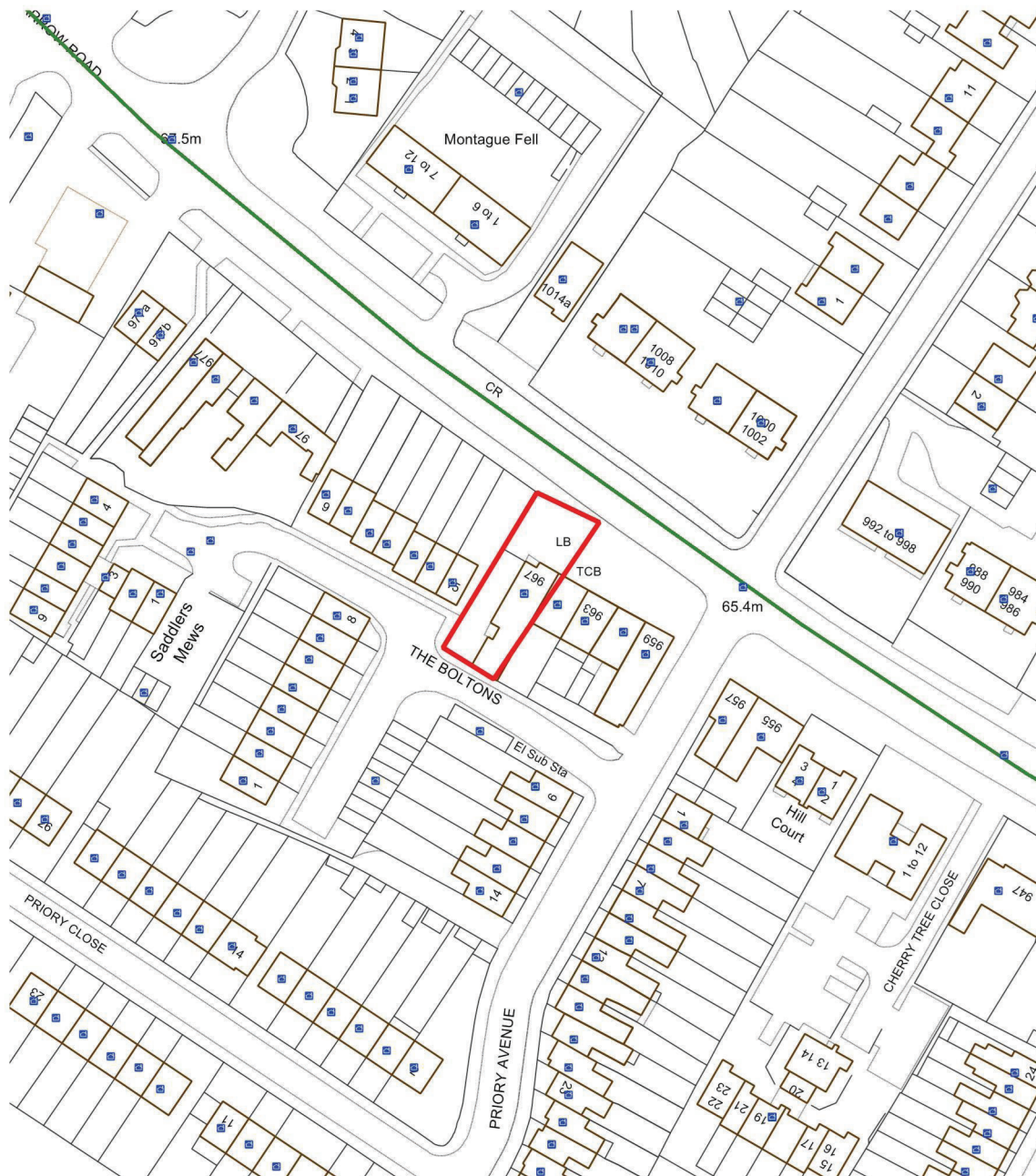
Any person wishing to inspect the above papers should contact Robin Sedgwick, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5229



Planning Committee Map

Site address: First and Second Floor, 967 Harrow Road, Wembley, HA0 2SF

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This map is indicative only.

RECEIVED: 13 September, 2012

WARD: Sudbury

PLANNING AREA: Wembley Consultative Forum

LOCATION: First and Second Floor, 967 Harrow Road, Wembley, HA0 2SF

PROPOSAL: Erection of three storey extension and change of use for part of building to five residential flats, comprising 1 x 4 bedroom flat; 2 x 2 bedroom flats and 2 x 1 bedroom flats.

APPLICANT: Kayman Enterprises Ltd

CONTACT: Building Design Consultancy UK Ltd

PLAN NO'S:
See condition 2

RECOMMENDATION

Approval

EXISTING

The application site comprises a 3-storey flat roof end of terrace commercial premises located on the southern side of Harrow Road, Sudbury. The building has been vacant for some time with the last authorised use of the building was as B1 offices.

The site is at the end of a local shopping parade, which has no designation in Brent's Unitary Development Plan. Vehicular access to the site is from Harrow Road. The site shares a side boundary with a three storey end of terrace dwellinghouse, 15 The Boltons. The site is not a listed building and is not located within a conservation area.

Planning permission was granted in 2012 for a three storey extension which is approaching completion. This extension included a new vehicle access from The Boltons which is located to the rear of the site.

PROPOSAL

Erection of three storey extension and change of the building to five residential flats, comprising 1 x 3 bedroom flat; 2 x 2 bedroom flats and 2 x 1 bedroom flats.

HISTORY

30.10.2013 Prior approval for the change of use of the building from office (Use Class B1a) to residential use (Use Class C3) refused – the new floorspace was not complete at the time the new procedures came into force. (Ref: 13/2637).

20/06/2012 Planning permission refused for a proposed three storey side extension to existing three storey building and the addition of a mansard roof to create a new fourth storey for B1 light industrial and office use with ancillary showroom on the ground floor and conference facilities on the new top floor, and including associated works to the curtilage including hard and soft landscaping and creation of a new crossover to the rear of the premises. (Ref: 12/1083).

16/03/2012 Planning permission granted for the erection of a three storey side extension and associated works to curtilage

including hard and soft landscaping and creation of new vehicle crossover to rear premises. (Ref: 11/3205).

POLICY CONSIDERATIONS

The following planning policy documents and guidance are considered to be of particular relevance to the determination of the current application

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaces planning Policy Guidance and Planning Policy Statements with immediate effect. It includes a presumption in favour of sustainable development in both plan making and decision making. It is considered that the saved policies referred to in the adopted UDP and Core Strategy are in conformity with the NPPF and are still relevant.

The NPPF seeks to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. It imposes a presumption in support of sustainable development.

The London Plan, 2011

Policy 3.5 – Minimum Unit Sizes.

The London Borough of Brent LDF Core Strategy 2010

CP17 – Protecting and Enhancing the Suburban Character of Brent

The London Borough of Brent Unitary Development 2004 ('saved' policies)

BE2 – Townscape: Local Context and Character

BE3 – Urban Structure: Space & Movement

BE4 - Access for disabled people.

BE6 – Public Realm: Landscape Design

BE7 – Public Realm: Streetscape

BE9 – Architectural Quality

H11 – Housing will be promoted on previously developed land.

H12 – Layout of residential development.

H13 – Residential development.

TRN3 – Environmental Impact of Traffic

TRN10 – Walkable Environments

TRN23 – Parking Standards –Residential Developments

Supplementary Planning Guidance

SPG17 - Design Guide for New Development.

CONSULTATION

External

Consultation letters were sent out to 37 neighbouring properties on the 03/10/2013 including properties in The Boltons, Harrow Road and Priory Avenue.

3 objections have been received. A summary of the matters raised along with the officers comments are set out in the table below.

Grounds of objection	Officer Comment
The number of parking spaces proposed is insufficient and the proposal will aggravate parking problems in the area.	The scheme now no longer includes commercial use on the ground floor and now accords with out Transportation Units advice on the appropriate number

	of parking spaces to be provided.
The extension will block out light and have an overbearing relationship to neighbouring properties.	The extension has already been approved under the earlier permission (Ref: 11/3205). The extension was considered acceptable in terms of its impact on neighbouring amenity.
Changing the use of the extended building to residential will result in overlooking and loss of privacy to neighbours.	There are no windows in the proposed extended building that look directly into neighbouring gardens or properties. The relationship between windows
The proposed balconies will cause overlooking and add to the bulk of the building.	The balconies are considered to be of an appropriate size and not out of scale with the building. Screens to the sides of the balconies will prevent direct overlooking of neighbouring gardens.

Highways:	Initially objected to the proposal but are satisfied that the amendments overcome their previous concerns.
Environmental Health:	No objections, although has advised that given the rear yard is now to be used as a residential garden that conditions be attached requiring an assessment of potential contamination and appropriate mitigation if contamination is found.
Landscape/Tree Officer:	Has recommended that trees may be planted to the front of the site, as well as some landscaping..
Ward Cllrs:	No comments received in relation to this particular application but Cllr Lorber has raised concerns in relation to the previous approval .

REMARKS

Summary

1. The application is a revised proposal for a 3-storey side extension to a 3-storey commercial property, located on Harrow Road, Sudbury and conversion of the extended building to provide 5 flats – 1 x 3-bed ground floor flat with private garden, 2 x 2-bed flats and 2 x 1-bed flats, The provision of 4 parking spaces and internal refuse/recycling and cycle storage and erection of balconies to the front of the building. The application originally proposed retaining commercial use on part of the ground floor has been dropped.
2. The 3-storey side extension was originally approved in 2012 as an extension to the existing vacant office building. This extension is now nearing completion.
3. The principle of an extension of this size was considered and approved by planning committee in 2012. The main considerations for the current proposal therefore are:
 - the loss of office accommodation,

- the impact of the residential use on the amenities of neighbours,
- the quality of the residential accommodation being proposed
- and the impact the impact of the residential on parking and servicing for the site.

Loss of office accommodation

4. The site does not lie in one of the Council's protected employment areas. Furthermore Council policy encourages new office development to be located within major town centres or sites with good public transport accessibility. Prior to its extension the existing office building had been vacant for some time and there was doubt expressed at the time about the viability of extending the office premises. The applicant had originally wanted a larger office building with an additional fourth storey. This was rejected and the applicant pressed ahead with the smaller 3-storey extension. He has been unable to secure a tenant for the extended building. Given the high office vacancy rate in Brent even in its more accessible town centres there is little doubt that demand for office space in this location is low. Brent's Employment Land Demand Study carried out earlier this year estimates that between 67,500 and 90,000 square metres of Brent's 277,000 square metres of office stock is vacant. This is between 25% and 35%. Rather than have the extended building lying vacant officers consider its change of use to residential use appropriate. The predominant use in the area is residential.

Impact on neighbouring residential amenity

5. The extension, as has already been stated in this report was approved by committee in 2012 and is now largely complete. It projects 1.1m beyond the rear wall and just less than 1.1 metres of the neighbouring dwelling at 15 The Boltons and to its side boundary. Officers are satisfied that the extension has been built in accordance with the previously approved plans.

6. While the proposal is not a domestic extension It is considered appropriate to consider whether the proposal complies with the 1:2 guidance, as set out in Brent's *Supplementary Planning Guidance 5 on Altering and Extending Your Home* (SPG5). This guidance is applied when assessing the impact of 2-storey or first floor extensions to residential properties, on neighbouring residential properties, if they are to project beyond the rear wall of those neighbouring properties. Both at the front and rear of property, the midpoint of the nearest habitable room windows at 15 The Boltons, is over 2.5m. This means that the proposed 3-storey extension would comply with this guidance, and illustrates that it is not considered that the impact of the extension would have an unduly harmful impact on the residential amenities of this property in terms of outlook and light to this property. The extension therefore complies with SPG5 requirements as set out in the 1:2 guidance.

7. The proposed conversion of the extended property is not considered to impact significantly on the neighbours of adjoining neighbours. Habitable room windows face towards the front and rear of the building and not the side so there will be no habitable room windows looking directly into neighbouring gardens. No 8 The Boltons has habitable room windows that have an oblique view of the rear of the application site. However the degree of separation between the habitable rooms of this property and those of the application site is approximately 18 metres and as they are not directly facing each other are not considered to result in unacceptable overlooking.

8. The current scheme does propose balconies to the front of the building and first and second floors. The two balconies closest to the adjoining property at 15 The Boltons have been reduced in size in order to comply with 1:2 rule. Screens are proposed to the side of the balconies to ensure no direct overlooking into number 15's garden.

Quality of residential accommodation being proposed

Unit	No of bedrooms	Proposed Floor Space	London Plan Standard	Amenity Space
1 (ground floor)	3 bed (5 person)	98 sqm	86 sqm	63 sqm private garden

2 (1st floor)	2 bed (3 person)	62 sqm	61 sqm	7 sqm balcony
3 (1st floor)	1 bed (2 person)	51 sqm	50 sqm	3 sqm balcony
4 (2nd floor)	2 bed (3 person)	66 sqm	61 sqm	7 sqm balcony
5 (2nd floor)	1 bed (2 person)	51 sqm	50 sqm	3 sqm balcony

- All units meet or exceed the London Plan internal floor space standards.
- The scheme provided a good mix of unit sizes.
- The larger 3 –bed family unit is located on the ground floor and has direct access to a private garden of 63 sqm. All other units have balconies.
- All units are dual aspect and are considered to enjoy acceptable outlook, daylight and sunlight.
- A 2 metre deep landscaped area is proposed to the front of the ground floor unit in order to provide a privacy buffer.
- The layout of the units are generally considered acceptable. The kitchen/living room of one of the first floor units is located over the bedrooms of the 3-bed unit below. While not ideal this is unavoidable. A condition is proposed requiring extra sound insulation between these units.

9. Overall the proposal is considered to achieve an acceptable of quality of accommodation.

Parking and Servicing

10. The application site has low access to public transport services (PTAL 1) and therefore the full allowances set out in PS14 apply. As such 1 space per 1-bed flat, 1.2 spaces per 2-bed flat and 1.6 per 3-bed flat giving a total parking allowance of 6 spaces. The Council's Transportation unit estimate that a residential development in this area would generate parking demand at about 75% of the full standard giving a likely demand for 4 spaces which are provided. The ground floor unit will have a parking space to the rear access from The Boltons. In addition 3 spaces are proposed on the building forecourt accessed from Harrow Road, with sufficient manoeuvring space to allow cars to enter and exit in a forward gear. The propose parking arrangements are therefore considered acceptable.
11. Generous refuse/recycling storage and cycle storage is proposed within the building.
12. A condition is proposed requiring the further details of the layout of the forecourt parking area including markings to prevent parking outside the allocated spaces. A further condition is proposed requiring all parking, refuse/recycling storage and cycle parking to be provided prior to occupation.

Other matters

13. The proposed 3-storey side extension, as revised, is considered to be in keeping with adjoining properties. Both the existing building and the neighbouring residential terrace at 9-15 The Boltons are 3-storey flat roof buildings. It is set back from the front building line of the original building by 4.8m at all levels, resulting in an extension which would be subsidiary to the original building.
14. A proposed landscape strip along the side boundary at the front of the premises as well as the proposed planting of 2 trees in the forecourt area will help mitigate the visual impact of the development when viewed from Harrow Road. A condition is attached requiring further details of landscaping and treatment of the hard surface area to the front of the building.

Community Infrastructure Levy

15. While the scheme does not require a s106 legal agreement it does attract both a Mayoral and Brent CIL payment of £13,706 and £78,317 respectively (£92,023 in total).

Conclusion

16. The proposal complies with requirements set out in The NPPF, London Plan, the Councils Core Strategy 2010 and Unitary Development Plan 2004 and on balance is considered to be an acceptable scheme. The proposal is therefore recommended for approval subject to the attached conditions.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

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

Brent Core Strategy 2010
Brent Unitary Development Plan 2004
Council's Supplementary Planning Guidance 17 Design Guide for New Development

CONDITIONS/REASONS:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

11381/01A;
11381/07C

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

(3) No windows or glazed doors shall be constructed in the flank wall of the building as extended without the prior written consent of the Local Planning Authority.

Reason: To minimise interference with the privacy of the adjoining occupiers.

(4) Notwithstanding the details of landscape works referred to in the submitted application, full details of proposed soft landscaping within areas so designated within the front forecourt and rear garden, (including species, plant sizes and planting densities) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. All detailed works shall be carried out as approved prior to the occupation of the development hereby approved. Such details shall include:

- (a) Details of measures to be taken to protect the existing Silver Birch tree located on neighbouring land at 15 The Boltons;
- (b) A plan showing the size, species and location of a minimum of 2 trees to be located within the forecourt and 1 tree in the rear garden;
- (c) Details of all soft landscaping within the proposed landscape strip along the side boundary with 15 The Boltons
- (d) Details of any boundary walls or fences, indicating materials and heights

Any new trees planted shall be watered for the first two years after planting, and any other planting that is part of the approved scheme that within a period of *five* years after planting is

removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season and all planting shall be replaced with others of a similar size and species and in the same positions, unless the Local Planning Authority first gives written consent to any variation.

Reason: To ensure a satisfactory appearance and setting for the proposed development and ensure that it enhances the visual amenity of the area.

- (5) Notwithstanding the details submitted, full details of the forecourt layout including surface materials, bollards and measures to prevent parking outside the three designated parking space, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. All approved works shall be implemented in full, and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority, as approved prior to the occupation of the development.

Reason: To ensure the proposed development does not prejudice the free flow of traffic or the safety of pedestrians, and to ensure a satisfactory standard of development in the interests of local visual amenity.

- (6) Notwithstanding the details submitted, full details of the proposed new vehicular access to the rear garden of the ground floor unit from The Boltons, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved. These details shall include details of any proposed gates and boundary fencing, indicating materials and heights. All approved works shall be implemented in full prior to the occupation of the development and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the proposed development does not prejudice the free flow of traffic, and to ensure that service vehicles cannot access the site from the new access in the interests of residential amenity, and pedestrian safety.

- (7) Further details of the access arrangement to the refuse/recycling storage area and cycle parking area shall be submitted to and approved in writing by the Local Planning Authority and implemented in full prior to the occupation of the development and there after these facilities shall be retained.

Reason: To ensure satisfactory servicing of the site.


- (8) Further details of the balconies including privacy screens shall be submitted to and approved by the local planning authority and shall be installed in accordance with the approved details prior to the occupation of the residential units.

Reasons: To ensure an acceptable appearance and an acceptable relationship with neighbouring properties.

INFORMATIVES:

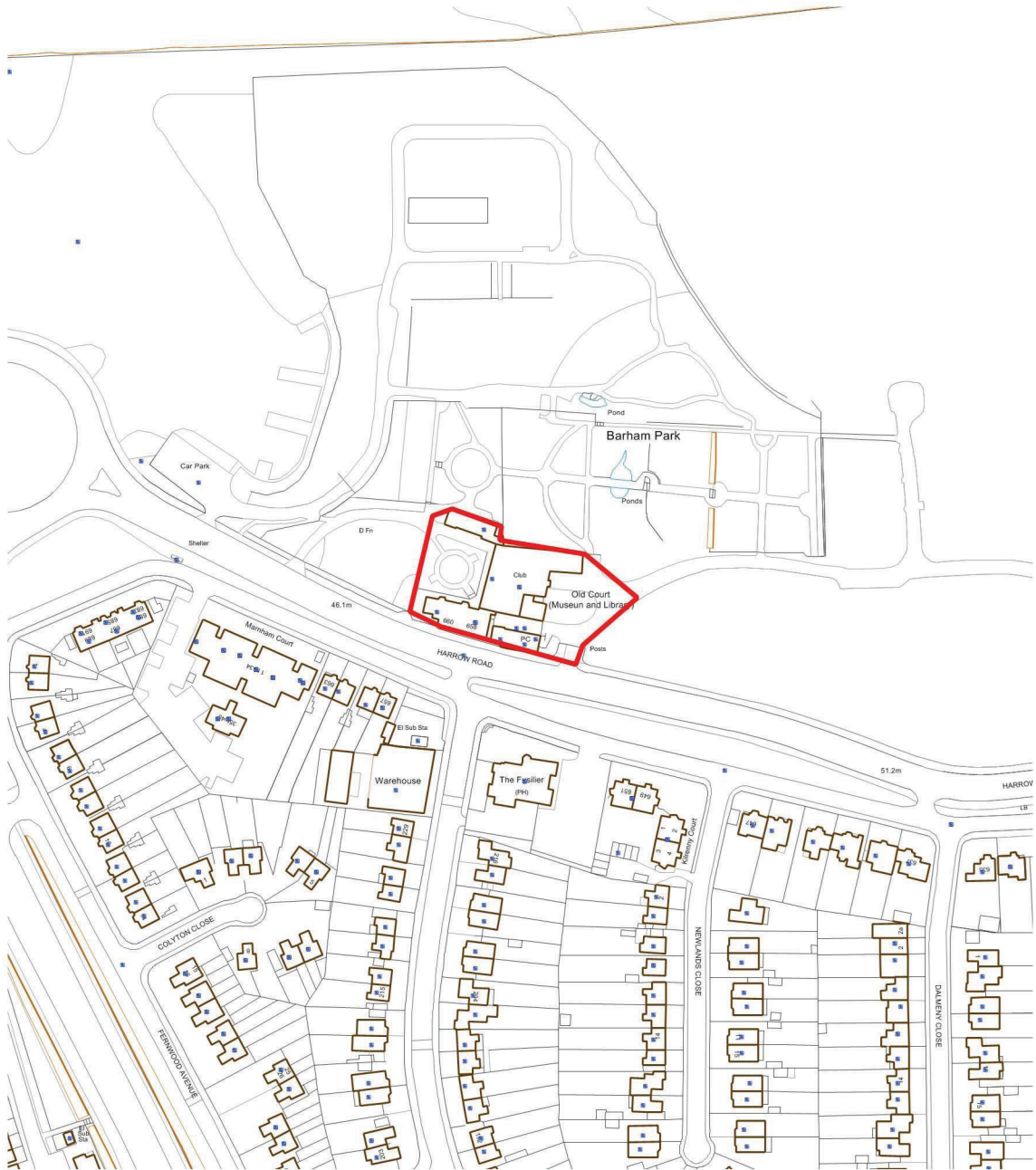
None Specified

Any person wishing to inspect the above papers should contact Neil McClellan, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5243

 **Planning Committee Map**

Site address: BARHAM PARK BRANCH LIBRARY and PARKS OFFICE, Harrow Road, Wembley, HA0 2HB

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This map is indicative only.

RECEIVED: 1 August, 2013

WARD: Sudbury

PLANNING AREA: Wembley Consultative Forum

LOCATION: BARHAM PARK BRANCH LIBRARY and PARKS OFFICE, Harrow Road, Wembley, HA0 2HB

PROPOSAL: Change of use of parts of the Barham Park complex of buildings from Use Class D1 (library) and Sui Generis (parks office) to Artists Studios (Use Class B1) and the change of use from Sui Generis (parks office with some community use) to Use Class D1 (Community).

APPLICANT: Barham Park Trust

CONTACT: Mr Howard Fertleman

PLAN NO'S:
See condition No. 2.

RECOMMENDATION

Grant Planning Permission

EXISTING

The subject site comprises a number of units within the Barham Park complex of buildings which are managed by the Barham Park Trust. Parts of the grounds of Barham Park are statutorily listed. However, the building is itself is locally listed.

DEVELOPMENT SCHEDULE

The table(s) below indicate the existing and proposed uses at the site and their respective floorspace and a breakdown of any dwellings proposed at the site.

Floorspace Breakdown

USE

Number	Primary Use	Sub Use
1	general business use	
2	non-residential institutions	

FLOORSPACE in sqm

Number	Existing	Retained	Lost	New	Net gain
1	558	558	0	301	301
2	896	595	301	0	-301

TOTALS in sqm

Totals	Existing	Retained	Lost	New	Net gain
	1454	1153	301	301	0

PROPOSAL

See description above.

HISTORY

13/2081 – Granted 16 August 2013

Certificate of lawfulness for the existing use of unit 4 and unit 5 on the first floor of the Barham Park complex for purposes within Use Class B1 (offices)

This application sought confirmation that two of the units have been used for purposes within Use Class B1 for a period of at least 10 years and that the lawful use of these units therefore falls within this use class. The submitted information was considered to be sufficient to confirm that these units were used for this period of time.

POLICY CONSIDERATIONS

The following planning policies and guidance are considered to be of particular relevance to the determination of the current application.

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaces Planning Policy Guidance and Planning Policy Statements with immediate effect. It includes a presumption in favour of sustainable development in both plan making and decision making. It is considered that the saved policies referred to in the adopted UDP and Core Strategy are in conformity with the NPPF and are still relevant.

Accordingly, the policies contained within the adopted SPG's, London Borough of Brent Unitary Development Plan 2004 and Core Strategy 2010 carry considerable weight in the determination of planning applications and appeals.

London Plan 2011

3.16 Protection and enhancement of Social Infrastructure

Core Strategy 2010

CP23 Protection of existing and provision of new Community and Cultural Facilities

UDP 2004

TRN11 The London Cycle Network

TRN22 Parking Standards – Non-residential Developments

TRN34 Servicing in New Development

SUSTAINABILITY ASSESSMENT

Not applicable.

CONSULTATION

Public Consultation

Letters were sent to other units within the complex, ward councillors, the Friends of Barham Park, Sudbury Town Residents' Association.

A site notice was also erected.

Objections were received from 25 people and one supporting e-mail was received. Objections were also received from Councillor Lorber.

A second round of consultation (14 days) was undertaken following the receipt of the Community Facilities Assessment. The consultation period for this only commenced at the start of this week and the comments on this document will be discussed in the Supplementary Report.

The objections can be summarised as follows:

Category	Objection	Discussion
Alternatives	The Council was prevented from selling Preston Library and it became a resource for local schools. At the very least, the same should be done here.	This application must be considered on its own merit and alternatives cannot be considered, save for those which may demonstrate that there is a need for the community facilities.
Alternatives	There is an opportunity to provide arts workshops in B1 parts of the building, but Unit 3 should stay in D1 use.	As above

Alternatives	The co-location of the Children's Centre with the previous library and children's library could have provided multi-use facility of which there is a shortage in the borough.	As above
Alternatives	Discussions with the Borough's health strategies have emphasised the lack of free local space for community use.	The community facilities assessment shows that significant capacity exists within the bookable facilities on site and in the vicinity and highlights the range of other community facilities. It also highlights the improvements to the Ealing Road library which includes space for informal and study activities.
Alternatives	Barham Park should be better used for sport and physical activity.	The Council's sports strategy does not highlight the need to provide facilities in Barham Park to meet need.
Covenant	The building and grounds at Barham Park were left under the protection of the Local Council for the recreation of the public. The proposed private studios/workshops would go against this.	Covenants cannot be considered within applications for planning permission.
Disturbance	ACAVA should be questioned about the proposed 24 Hour access which will cause significant noise and disturbance, in terms of the building and the associated parking an surrounding streets.	ACAVA have provided information on their late night use. They highlight that the hours that artists work are irregular but that they seldom work late at night. Most activity to take place during the day and the late night use will be infrequent and may relate to deadlines etc.
Inaccuracies	The use of the lounge for community purposes has been long established and the comment in the planning statement that it will "formalise the use" is misleading.	The changes that were set out in the original Planning Statement have been clarified within the Community Facilities Assessment, whereby the majority of the space within the Lounge is already used for community purposes and the increase in the floorspace relates to the part that was used as the Parks Office reception.
Inaccuracies	The space will be denied for long term community benefit and the planning statement is misleading.	The changes in the amount of floorspace that will be available for community use are clarified in the Community Facilities Assessment.
Inaccuracies	The change in Community Floorspace that is set out in the Planning Statement is misleading	This has been clarified within the Community Facilities Assessment.
Libraries	Distance and cost of travelling to the Civic Centre library by public transport, particularly those with mobility issues.	As above, the rationale for the closure of some libraries and improvement of others and the provision of the new Civic Centre library cannot be considered within this application and the resulting distances to the libraries cannot be considered within this application.
Libraries	The libraries should not have been closed.	As above.

Libraries	Barham library provided an "out of hours" service for children with access to books, computers, and support with reading and writing which isn't necessarily available in the home environment.	As above.
Libraries	As the library is within a park and in a gated location it provides a safe and secure space for children, especially those who require frequent physical exercise to maintain concentration (e.g.. Children with A.D.H.D)	As above.
Libraries	1 in 3 children start school with significantly impaired reading levels, highlighting the social need to provide a community library space.	As above.
Libraries	Friends of Barham Park operate from a shop unit on the high road and TfL have granted an affordable lease as a part of their social responsibilities policies. However, these premises are not are not big enough. The Barham Complex is big enough to accommodate a community library as a part of a shared use.	Friends of Barham Park bid for the unit, but were unsuccessful. It is recommended that they liaise with the Trust about this matter as it cannot be considered within this application.
Libraries	The efforts of the Friends of Barham Park are being blocked by another charity which proposes services that local people don't see a local need for.	The decision to close the library and let the units to ACAVA was taken by the Council and not by ACAVA.
Libraries	The facility was greatly used for study and other activities	As above, the libraries programme cannot be considered within this application.
Libraries	The local community want and need libraries and these provide an essential service for the local community	As above, the libraries programme cannot be considered within this application.
Local listing	The Barham Park is a locally listed building. Substantial alterations will undoubtedly be required for the proposed use and the proposal should have regard to this.	No physical works that require planning permission have been proposed. The applicant has specified that renovation and repair work will be undertaken. However, this does not normally require planning permission. Local listings can only be taken into account if physical works that require planning permission are to be undertaken.
Mitigation	Confirming Unit 2 as community use is not providing any new community space and this does not compensate for the change of unit 3 from D1 to B1	This has been clarified within the Community Facilities Assessment, which sets out the actual change in D1 floorspace.
Mitigation	The proposal does not demonstrate that mitigation is being proposed for the D1 floorspace that is proposed to be lost.	This is also clarified within the Community Facilities Assessment. Improvements to spaces are proposed. The proposal results in a reduction in community (D1) floorspace, but shows

		that the space that will remain will meet demand.
Need	The planning statement does not demonstrate that local community use is not needed.	This is considered in the Community Facilities Assessment.
Need	The use by 1,200 residents per month is more effective than the use of the building by 29 artists.	While this application will consider the loss of Community floorspace (purposes within Use Class D1), the rationale for the closure of the libraries and improvement of facilities (or provision of new facilities) cannot be considered within this application. The displacement of visitors from libraries that are closed to those that have been improved or the new Civic Centre library forms a part of that decision. The number of people who visited the library cannot be directly compared with the proposed use by ACAVA as the nature of the uses differ significantly and the proposed use will not attract the visitor numbers that the library did. This will be the case for many other uses, including both D1 community uses and other uses such as that proposed.
Need	The need for a community library service is demonstrated by the success of the volunteer library run by Friends of Barham Library.	As above, the libraries programme cannot be considered within this application.
Need	As there is need for the facilities, the proposal is contrary to Core Strategy Policy CP23, the London Plan and the NPPF.	The need for community facilities has been discussed in the Community Facilities Assessment.
Need	The presence of other bids for the units for community purposes demonstrates that there is a need for the community facilities. If market rents weren't requested by the Council then more bids may have been received.	This does help to show that there is some interest in the use of the floorspace for community purposes. However, it is considered that the submission demonstrates that significant capacity exists within the community floorspace that continues to be available in the complex and area.
Need	There is no demand for so much space by local artists	ACAVA believe that there is some interest and have commented that they will seek interest from local artists. Nevertheless, this application proposes the loss of D1 community use and is considered on this basis.
Other	CIL should be payable as the space has been vacant for more than 12 months	CIL is only payable where a development involves the construction of at least 100 square metres of new build floorspace or of new residential units. As such, CIL is not payable for this development.
Parking	The suggestion that parking in local streets is free is inaccurate as nearby areas are all within CPZs.	This has been clarified within the Community Facilities Assessment and within this report.

Parking	Objection on the basis of visual amenity in connection with highway safety	It is unclear how this relates to the proposal. Parking is proposed within the pay-and-display car parks and not in any locations that are detrimental to visual amenity.
Parking	The use of the pay-and-display car park will affect other users of the park and complex	Levels of parking are likely to be low, and lower than that for the former library.
Parking	At times it is impossible to park in the pay-and-display car park	See above.
Parking	Parking congestion is already high as a result of the Barham Park development and commuter parking.	See above.
Parking	Levels of parking have not been analysed in the submission.	This has been examined by Highways and further information has been provided in the Community Facilities Assessment.
Policy	This is not in line with the coalition plan.	The proposal must materially conform with planning policy and guidance which are set or can be altered by Government. Whether or not it is in accordance with the coalition plan cannot be considered.
Policy	The proposal is not in compliance with the Council's open space strategy because it militates against a wider community use and a proposal in the strategy for the park to provide public toilets and a café.	The community facilities that remain are considered to be sufficient to meet demand. Proposals for a café have not been received. If one is proposed then it will be considered on its merits. The proposal does not prevent this from coming forward.
Policy	The consideration of this application should take into account what the Neighbourhood Plan may say about community uses and this complex and the Council should refuse to determine this application on the basis of prematurity	The Council's policy team have advised that earlier versions of the Sudbury Town Neighbourhood Plan did not include proposals to retain the community floorspace within the Barham Park complex. As the Plan has not been adopted yet, limited weight can be given to it even if it did include such provisions. The application must be considered on the basis of current planning policy and could not be seen to be premature.
Policy	The neighbourhood plan will say that Local People want their library back and they want the Barham Park buildings to be used by and available for community space for the wider community and not just for the restricted few.	See above.
Policy	This consideration of this application should take the same approach as the application relating to the Kensal Rise library where the development must address local demands for wider forms of community facilities rather than the re-provision of the library itself.	This has been considered through the submission and assessment of the Community Facilities Assessment.

Previous use	Significant areas of the building have been vacant for years, preceded by partial use by the Parks Department and since then should have been available for community use.	This proposal will bring a large proportion of the complex back into use.
Process	No residents were consulted for this application while letters were sent to empty parts of the Barham Complex.	The Council is required to consult adjoining units and some of those units are in use. To ensure that local residents were aware, site notices were erected and consultation letters were sent to ward councillors, Friends of Barham Park and the Sudbury Town Residents Association.
Process	The planning application should have been submitted by ACAVA so that their proposals could be scrutinised.	Planning applications do not have to be submitted by the end user and it is common for them to be submitted on behalf of the owner. ACAVA have provided information about their proposed use.
Process	The Council should treat itself as a trustee of Barham Park the same as the private developers of the Kensal Rise library.	The consideration of the proposals must have regard for planning policy. The nature of the owner cannot be considered within an application. This proposal has been considered on its planning merits.
Process	The ACAVA use may be considered to be educational. Why, therefore, is a change of use required?	This is discussed in the report, whereby the use is considered to fall within Use Class B1 with ancillary community activity.
Proposed use	The future of the other community units is not clear.	No applications have been submitted for the other community units.
Proposed use	The consent sought is for B1 use and there are no guarantees that the artists will ever come from Brent.	ACAVA have confirmed that they will engage with local artists. However, your officers consider it unreasonable to restrict the consent to Brent Artists only.
Proposed use	The use by ACAVA excludes the local residents' general participation, and the public recorded amount of access is only two days a year	The community engagement programmes that Avaca have implemented elsewhere are set out within the Community Facilities Assessment. Nevertheless, the proposal has been considered on the basis that it will result in a reduction in community floorspace.
Restrictions	If officers are minded to approve, permission should only be temporary so that it reverts to D1 use. Alternatively, the use could be personal to ACAVA.	Your officers agree with this statement and have included such a condition.

The supporting e-mail specified that the library is being re-provided elsewhere in the borough and that the proposal represented a good use of the redundant space.

Internal Consultation

Highways: No objection. The comments from Highways are discussed in more detail in the Transportation section of this report.

REMARKS

Primary Considerations

1. This proposal would involve the change of use of units within the Barham Park Complex into artists' studios (Use Class B1) which are to be operated by the Association for Cultural Advancement through Visual Arts (ACAVA). This includes the former Barham Library, community workshop and the first floor of the former Parks Office.
2. The use of the Parks Office would normally fall within Use Class B1 and as such, no consent would be required for the change. However, as the office, which is situated on the ground and first floor, is mixed and internally connected to the Community Lounge, the use of the units 1 and 2 is Sui Generis despite the fact that the individual uses would fall within Use Class D1 and B1. Nevertheless, this report discusses the change in the actual use of the floorspace rather than change from Sui Generis to D1 or B1.
3. The application is accompanied by a Community Facilities Assessment which is discussed in detail later in the report. In addition to examining the change in community (Use Class D1 purposes) floorspace, it also provides information about the use of the premises by ACAVA. The studios that are to be provided through the use of movable partitions within the units are to be let to artists at affordable rates and as such, the use is considered to fall within Use Class B1. However, the artists that occupy studios run by ACAVA undertake a number of community outreach and engagement programmes and events and there is a reasonable amount of crossover between this work and an activity falling within Use Class D1. Nevertheless, the use is considered to be a B1 use with some ancillary D1 activities rather than a D1 use.
4. The primary planning considerations in relation to the determination of this application are:
 - the loss of floorspace used for community purposes, the need for community floorspace and any mitigation that is proposed;
 - the transportation implications of the proposal;
 - whether the proposal is likely to result in the disturbance of nearby sensitive uses / occupants.

Community Facilities

5. The majority of the community floorspace that is to be lost to other uses is within the former Barham Park Library unit. The library was closed on 13th October 2011 as a part of the Council's Library Transformation Project which reviewed and invested in the future library service across the borough. However, proposals need to demonstrate that local demands for wider forms of community facilities can be provided in the area. Whilst the Council's library use has ceased, the building remains capable of being used to meet other wider community needs and therefore sufficient mitigation would need to be provided or it must be demonstrated that there is sufficient space to meet demand if the loss of community floorspace is to be supported.
6. The applicant has submitted a Community Facilities Assessment which examines the amount of Community floorspace that is to be lost, mitigation measures and the demand for community facilities in the local area.
7. Planning policy presumes against the loss of community floorspace for which there is an identified need unless suitable mitigation is provided. Policy CF23 of the LDF Core Strategy refers to the need to ensure that the "continuing needs of Brent's diverse community are met", with facilities protected or mitigated where necessary. London Plan policy 3.16 sets out that proposals that result in the loss of social infrastructure in areas of defined need should be resisted unless there are realistic proposals for re-provision. With regard to redundant social infrastructure, it sets out the need to examine the suitability of the premises for other forms of social infrastructure for which there is a defined need. The National Planning Policy Framework also relates the provision of community and social infrastructure to local need, setting out the need to "guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs".
8. The Assessment sets out that there is net reduction of 301 square metres of floorspace that is used for Use Class D1 purposes. The total amount of Use Class D1 floorspace would reduce from 896 to 595 square metres, of a total of 1454 square metres of floorspace within the complex. While a significant amount of D1 community space would remain, the proposal would result in a reduction in community floorspace within the complex. As such, whether there is a local need for the community floorspace and whether proposed mitigation measures are sufficient needs to be considered.
9. The proposal includes the change of use of the Lounge and former Parks Office reception to Use Class D1. This increases the amount of D1 floorspace within the unit from 143 to 178 square metres. This

increase is factored into the net reduction discussed above. However, it provides two interconnected rooms within Unit 2 which could be hired or used separately if needs be. This unit is also to be refurbished as a part of the proposal, including the provision of a new kitchen and disabled toilet. The proposed refurbishment and inclusion of two hireable rooms within this unit are considered to be positive element in the reprovision of community facilities, but in themselves would not be considered to be sufficient to off-set the proposed loss of community floorspace.

10. The Community Facilities Assessment also examines the usage of the units within the Barham Park Complex and other council facilities in the vicinity (Vale Farm). It also highlights what other facilities are available to hire in the area. It concludes that the amount of community floorspace that will remain in the complex area and the local area will meet local demand and need.
11. Hireage data is presented for the Community Room within unit 2, with usage levels of this room being low and the space unused 89% of the time that it is available for bookings. Hireage information is not provided for the other units within the complex as those units are not available for formal bookings.
12. The library was used until it closed and is now proposed to change to artists' studios. The Community Facilities Assessment highlights the 2011 executive report on the Libraries Transformation Project which specified that the library was underused. The actual number of visitors has not been presented within the report. However, objectors specify that the library received 60,000 visitors per year. The visitor numbers associated with the library are likely to be associated with its various roles as a library and those facilities are to be provided in new and approved facilities in Ealing Road and the Civic Centre. as a part of the Libraries Transformation Programme. Objectors have said that the success of the pop-up library run by the Friends of Barham Park group highlights the need for a local library. They have also said that some have difficulties getting to the Civic Centre library due to cost, time or mobility issues. The decision to provide fewer better facilities in a more cost effective manner was taken as a part of the Libraries Transformation programme and the merits of this approach versus a greater number of smaller libraries cannot be assessed within this application. This assessment therefore concentrates on the usage of the other facilities within the complex and others in the vicinity.
13. Other units in the complex include the Children's Centre, the card room which is used by the Barham Park Veteran's Club in the afternoon and the pottery room which was used by Brent Learning Disabilities until 2011 but has been vacant since then. Aside from the Library and the pottery room, the remaining rooms are to remain within D1 use.
14. The Community Facilities Assessment also assesses the usage of facilities within the nearby Vale Farm complex which is also operated on behalf of the Council. Whilst levels of usage within Vale Farm are higher than Barham, the hireable rooms are only booked 52 % (Conference room), 59 % (Studio) and 62 % (Dojo) of the time.
15. The submitted Community Facilities Assessment also includes a list of non-Council facilities that are available for community hire in the local area.
16. Whilst the proposal results in a net reduction in the amount of community (Use Class D1) floorspace by 301 square metres, your officers consider that the submitted Community Facilities Assessment demonstrates that sufficient capacity exists within the units that remain within the complex and nearby. The refurbishment of the Community Lounge and change of the Parks office reception will improve this facility and provide two rooms of different sizes that can be used and accessed separately. The other rooms within the complex also have capacity. Whilst these are not available to hire, they would remain in Use Class D1 usage and under the control of the Trust and therefore could be opened up to multi-community use in the future. The Vale Farm complex supplements the community provision within this complex. The rooms within Vale Farm are due to be refurbished shortly, but will be available again after this has been completed. Opportunities for drop-in community use and access exist in the recently refurbished Ealing Road Library and the Community Facilities Assessment also highlights that a number of other rooms are available for hireage in the local area. As such, your officers consider that the proposal demonstrates that community facilities that will remain in the complex and local area are likely to be sufficient to meet local demand.
17. While your officers consider that the submission has demonstrated that the community facilities will meet demand, this submission puts weight on the nature of the use by ACAVA and that use has significant community benefits and as such, your officers recommend that the use is restricted to ACAVA, or other similar arts based charities, and that it will revert to the former D1 use if that use ceases. In terms of the other similar charities, this could include other similar arts based charitable organisations who provide

affordable studios such as Acme.

Transportation

18. The proposal looks to promote non-car access to the site for artists and to utilise existing public parking facilities in the area where artists do need to drive. The site has good public transport accessibility (PTAL 4). No car parking is provided within the complex itself, but cycle parking facilities are available.
19. The comments from Highways highlight the location of the nearby pay-and-display car park and the presence of a CPZ which operates between 10 am and 3pm on weekdays and longer hours on event days, but which includes some pay and display parking. There are parking restrictions on Harrow Road which prevent parking between the hours of 8-9.30 am and 4.30-6.30 pm. Distances to the nearest uncontrolled streets (i.e. non CPZ or event day only) are approximately 350 m from the units.
20. Highways are supportive of the absence of parking for the use and comment that the presence of the CPZ in the surrounding streets and the availability of pay-and-display parking will help to control potential overspill parking. The information submitted on behalf of ACAVA specifies that actual levels of parking are typically low for their studios and that they successfully run other studios without parking in other locations without detrimental impact on the surrounding streets. Given the public transport access levels of the site, your officers consider that the absence of parking is acceptable but that a condition should be attached which requires information about sustainable modes of transport to be made available for artists.
21. The submission specifies that servicing for artists will be undertaken from the nearby pay-and-display car park, with goods trolleyed to the studios. ACAVA has confirmed that the majority of goods are light and can be transported in this fashion. It should also be noted that the parking restrictions on Harrow Road only apply between 8 and 9:30 am and between 4:30 and 6:30 pm. Outside of these times vehicles can stop on the single yellow lines on Harrow Road to drop-off and pick up art supplies. Given that these restrictions would have been put in place to ensure the free and safe flow traffic on Harrow Road, parking outside of these times must therefore be considered to be acceptable. Highways have commented that they consider the servicing arrangements to be acceptable.
22. Objectors have expressed concerns regarding the potential levels of parking within the surrounding streets and that servicing may take place from Harrow Road. They also comment that the pay-and-display car park is often full. Given the nature of the use and the presence of the CPZ and pay-and-display parking facilities, your officers consider that the proposal is likely to give rise to significantly detrimental levels of parking in the surrounding area. The parking demand for the artists' studios is likely to be lower than that for the former library. With regard to servicing on Harrow Road, this is considered to be acceptable if it does not take place during the restricted hours.
23. In summary, it is considered that the proposal is unlikely to result in significant levels of overspill parking due to the nature of the use and the presence of a CPZ and pay-and-display parking facilities. However, it is considered appropriate to attach a condition regarding the provision of information to artists regarding non-car modes of access to the site. Servicing can safely take place from the pay-and-display parking areas or from Harrow Road outside of the restricted hours.

Noise and disturbance

24. Sensitive uses that are near to the Artists' Studios include the other units within the complex and the homes on the opposite side of Harrow Road. The proposed use falls within Use Class B1 and as such, is a use that is appropriate for residential areas.
25. Objectors have raised concern regarding the nature of the use as artists studios which they contend includes heavy industrial processes and the proximity of these uses to other units and to homes. ACAVA have responded to this by specifying that the majority of the activities undertaken by their artists do not create significant levels of noise or other disturbances, and that they will manage their artists so that they do not disturb or otherwise affect sensitive uses such as the children's centre. From a planning perspective, uses that may cause significant disturbance are not appropriate within a residential area and would fall within Use Class B2 (general industrial). If such uses took place within the premises then a change of use would take place (irrespective of whether they are still used as artists' studios) and action could be taken by the Council. Nevertheless, your officers consider that sufficient reassurance has been provided regarding the intended use of the studios to confirm that they are intended to fall within Use Class B1.
26. Objectors have also raised concern regarding the potential 24 hour use of the premises. Again, ACAVA

has provided further clarification regarding this matter. They comment that while the hours kept by artists are irregular, late night working will be infrequent and typically related to deadlines. They do not envisage that this will occur very often. On this basis and given the separation between the units and the nearest residential homes (on the opposite side of Harrow Road) and the nature of the use which is to fall within Use Class B1 and not B2, this is considered to provide sufficient reassurance. If there are isolated instances where excessive noise is created then this can be dealt with as a noise nuisance.

27. Objectors also highlight the potential for disturbance caused by artists who park outside of residential homes. Given that the number of artists who work late is likely to be low and that parking is possible in the street outside the public house opposite the site and on Harrow Road late at night, it is considered unlikely to result in significant noise and disturbance.

Summary

28. The proposal results in the loss of approximately 300 square metres of community floorspace (Use Class D1). However, your officers consider that the submitted Community Facilities Assessment confirms that the Community Lounge will be renovated and improved and that the facilities that remain in the complex will meet local demand. The proposed use, while falling within Use Class B1, includes some community access together with community out-reach programmes and as such, your officers consider that the consent should be restricted to ACAVA or other similar organisations.

29. It is considered likely that levels of parking and servicing will be low and unlikely to result in significant levels of on-street parking given nature of the use, the Public Transport Accessibility of the site and the presence of parking restrictions and pay-and-display parking.

30. It is also considered unlikely that the use will result in significant noise and disturbance given the nature of the use.

Your officers recommend that planning permission is granted.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

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

National Planning Policy Framework
London Plan 2011
LDF Core Strategy 2010
Brent Unitary Development Plan 2004

CONDITIONS/REASONS:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

“Community Facilities Assessment for Planning Application 13/2179”
“Location Plan”
“Ground Floor”
“Ground Floor” [Change of use]
“First Floor”
“First Floor” [Change of use]

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

- (3) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order

1987(or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the use class B1 floorspace hereby permitted shall only be by A.C.A.V.A. or other comparable arts based charitable organisations, details of which shall be submitted to and approved in writing by the Council prior to the commencement of use by those organisations, for purposes within Use Class B1 and following the cessation of the use by such organisations, the relevant premises shall be used for purposes within Use Class D1 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an appropriate use having regard to the potential future requirements for community infrastructure.

- (4) Details of how sustainable and non-car modes of access to the site will be promoted to future occupiers and visitors to the units shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use and the approved details shall thereafter be implemented.

Reason: To ensure a sustainable development and in the interest in the free and safe flow of traffic on the local highway network.

INFORMATIVES:

None Specified


Any person wishing to inspect the above papers should contact David Glover, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5344

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Agenda Item 9

Committee Report Planning Committee on 13 November, 2013

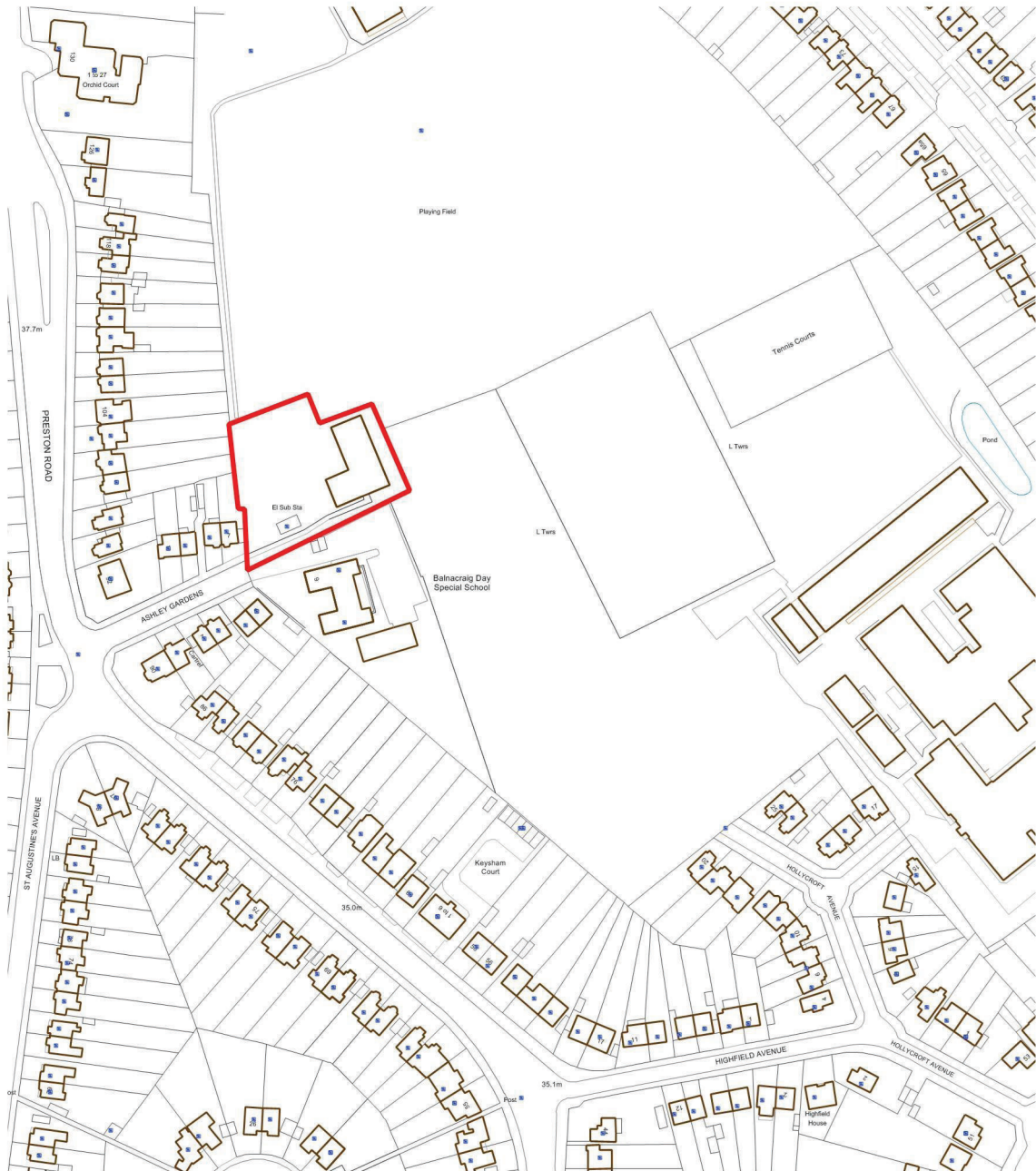
Item No. 09
Case No. 13/1975



Planning Committee Map

Site address: Preston Manor High School, Carlton Avenue East, Wembley, HA9 8NA

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This map is indicative only.

RECEIVED: 17 July, 2013

WARD: Preston

PLANNING AREA: Wembley Consultative Forum

LOCATION: Preston Manor High School, Carlton Avenue East, Wembley, HA9 8NA

PROPOSAL: Retention of a temporary primary school in the grounds of Preston Manor High School, to be accessed from Ashley Gardens, comprising a single-storey modular building incorporating two classrooms, assembly hall, staff room, medical area and ancillary office and storage space

APPLICANT: Mr Rajesh Sinha

CONTACT: Watts Group PLC

PLAN NO'S:
See condition 2.

RECOMMENDATION

Approval.

EXISTING

The site comprises approximately 2900 square metres of the existing school grounds of Preston Manor High School. The site is adjacent to Ashley Gardens, a short residential cul-de-sac that also provides access to Ashley Pavilion, a building that houses BACEs and a children's nursery. There is also a pupil referral unit located in a temporary building in the grounds of Ashley Pavilion. The proposed site is to the north of Ashley Pavilion, and borders the back gardens of dwellings facing Ashley Gardens and Preston Road. The site also adjoins an existing electricity substation, which is to remain. Within the site is a large oak tree, which is to be retained.

Temporary permission was granted in December 2010 for a temporary primary school. This was installed in 2011.

Access to the site is via Ashley Gardens.

The site is not situated within a conservation area.

PROPOSAL

Retention of a temporary primary school in the grounds of Preston Manor High School to be accessed from Ashley Gardens and comprising a single storey modular building incorporating two classrooms, assembly hall, staff room, medical area and ancillary office and storage space. The temporary school will continue to accommodate a maximum of 60 children.

HISTORY

Many history records on file, but the most relevant recent applications are:

- | | |
|------------|---|
| 04/10/2011 | Planning permission granted for the variation of Condition 13 (details of external lighting) of planning permission 10/3203 to allow restricted light spillage to neighbouring gardens in accordance with submitted lighting plans. (Ref: 11/2158). |
| 12/10/2011 | Planning permission granted for the installation of a new synthetic turf hockey pitch, the erection of six 14.5m high floodlights and 3m high fencing around the pitch, to be located on the high school playing fields. (Ref11/1822). |

- 06/07/2011 Approval of details pursuant to conditions 5 (cycle storage); 8 (parking layout/ pedestrian access/ drop-off point); 13 (boundary treatments) of planning permission 10/2738 (temporary school) (Ref: 11/0722.)
- 14/03/2011 Planning permission granted for the erection of a one and two storey building to form a new permanent primary school in the grounds of Preston Manor High School, with a new access between 109 & 111 Carlton Avenue East, comprising new classrooms, small and large halls, staff room, reception, kitchen and office space, with plant and photovoltaic panels, landscaping including new trees , staff car park, Multi Use Games Area (MUGA), play areas, access paths and an external amphitheatre. (Ref: 10/3203).
- 17/12/2010 Planning permission granted for the erection of a temporary primary school in the grounds of Preston Manor High School, to be accessed from Ashley Gardens, comprising a single-storey modular building incorporating two classrooms, assembly hall, staff room, medical area and ancillary office and storage space. (Ref: 10/2738).
- 22/06/2010 Planning permission granted for the erection of a two-storey lift shaft to courtyard of the high school's main building and re-surfacing to front of school to provide level access to main entrance. (Ref: 10/1059).
- 19/05/2010 Planning permission granted for the erection of a single storey extension to high school to provide space for an Autistic and Spectrum Disorder (ASD) Unit. (Ref: 10/0602).
- 10/01/2008 Planning permission granted for extension to high school comprising the erection of a single-storey block comprising 14 new classrooms, toilets and office space; the erection of a new sports hall; the relocation of outdoor hard play area and the relocation of 2 and removal of 1 existing mobile classroom buildings. (Ref: 07/3033).
- 01/06/2004 Planning permission granted for the erection of two single storey mobile classroom buildings to replace an existing fire damaged mobile classroom. (Ref: 04/0575).

POLICY CONSIDERATIONS

The following planning policy documents and guidance are considered to be of particular relevance to the determination of the current application

The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaces planning Policy Guidance and Planning Policy Statements with immediate effect. Its includes a presumption in favour of sustainable development in both plan making and decision making. It is considered that the saved policies referred to in the adopted UDP and Core Strategy are in conformity with the NPPF and are still relevant.

Paragraph 72 of the NPPF states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with schools promoters to identify and resolve key planning issues before applications are submitted.

Paragraph 74 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

The London Plan, 2011

The London Borough of Brent LDF Core Strategy 2010

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

CP19 – Brent Strategic Climate Mitigation and Adaptation Measures

CP23 – Protection of existing and provision of new Community and Cultural Facilities

The London Borough of Brent Unitary Development 2004 ('saved' policies)

BE2- Townscape- Local Context and Character

BE5 – Urban Clarity & Safety

BE8 – Lighting and Light pollution

BE9- Architectural quality

BE12 – Sustainable Design Principles

BE17 – Building services equipment

EP2 – Noise & Vibration

EP6- Contaminated Land

H22 – Protection of Residential amenity

TRN3 – Environmental Impact of Traffic

TRN4 – Measures to make Transport Impact acceptable

TRN11 – The London Cycle Network

TRN22 – Parking standards- non-residential developments

TRN34 – Servicing in New development

TRN35 – Transport access for disabled people and others with mobility difficulties

CF2- Location of small scale Community Facilities

CF10 – Development within school grounds

Supplementary Planning Guidance

SPG17 - Design Guide for New Development

SPG12 – Access for disabled people, designing for accessibility

CONSULTATION

Consultation letters were sent out to 320 neighbouring properties on the 16/08/2013 including properties in Ashley Gardens, Aylands Close, Carlton Avenue East, (odds,) Forty Avenue, Perrin Grange, Highfield Avenue, Hollycroft Avenue, Keysham Court, Preston Road, Orchid Court and Carlton Parade.

4 objections have been received. A summary of the matters raised along with the officer's comment are set out in the table below.

Grounds of objection	Officer Comment
<p>This application is in breach of the Restrictive Covenants on the playing fields. An application to modify the covenant has been made. This is due to be heard before the Upper Tribunal</p> <p><i>Document Imaged</i></p>	<p>This is not a planning matter. Legal advice is that the grant of planning permission does not prejudice any decision that the Land Tribunal may wish to make.</p> <p>Page 80</p>

(Land Chamber) in January 2014. Surely, no decision should be made regarding this application until the Upper Tribunal has given a ruling.

The original permission (Ref: 10/2738) for the temporary school granted consent for a limited period of two years or until the new Primary school is opened at Preston Manor, whichever arises first'. The new Preston Manor Lower School was occupied from November 2011. Why wasn't an application for an extension made at that time, not some 20 months later?

Increasing demand for school places required the Council to look at several options for temporary accommodation around the borough. Part of the delay was uncertainty as to which options were to be implemented. It is regrettable that this has resulted in breach of the original permission.

Condition 5 of the original permission relates to 3 secure cycle stands. I cannot see any evidence of these being installed.

Planning actually approved a covered bicycle stand for up to 6 cycles. This has not been installed, but the applicants agree to install if permission is granted for the retention of the building.

Condition 12 of the original permission mentions the planting of at least one replacement oak and a secure and nature-enhancing boundary treatment along the western boundary of the site. All I can see is a very sick looking oak sapling, which will die very shortly.

A tree and a hedge along the sites western boundary was approved and planted. We are awaiting confirmation from our Landscape Team as to the condition of this planting and whether it requires additional planting to enhance it. This will report in a supplementary report.

In the Supplementary Information, put before the Planning Committee on 15th December 2010, it was stated under Traffic Safety 'the applicants have agreed to the payment of a financial contribution of £25,000 towards highway safety improvements in Preston Road. This sum will contribute towards new pedestrian crossings and signage. Was this financial contribution ever paid? If so, where has it gone! No new pedestrian crossing or signage is evident.

This sum was paid however the works for which it was required have not been undertaken. The advice from the Council's highways officer is that if the school is to be retained and re-opened as a temporary school these works should be undertaken.

The committee report for the permanent provision of a school at this location would not be acceptable, as it would be contrary to planning policies that seek to safeguard school playing fields for sport and recreation.

This application is not seeking the permanent retention of the primary school – just for a period of less than a year to allow for the two class-rooms to re-open until the end of the current academic year (July 2014).

How temporary is temporary. December 2010 to September 2014 seems pretty permanent. How can it be certain that if the retention is allowed the time limitation will not be ignored again?

An extensive programme to expand school provision across the borough is currently under way. The applicant anticipates that this programme will be sufficiently advanced to not require the temporary school beyond the end of the current academic year. If the school is required for longer then it will require a further planning application that would be considered on its merits.

Document Imaged

Other Consultee comments:

Cllr Harshadbhai Patel, Member for Preston Ward. Objects on the following grounds:

- The temporary school was only approved on the condition that it remain in place for a maximum of 2 years. The school is already in breach of this condition.
- The granting of the original permission was against the policy CP18 – ‘inappropriate development of open space’ which was justified then on the grounds that there was a specific local need for a new primary school. However, since then a new primary school at Preston Manor has already opened and there are proposals in the pipeline to expand Preston Park School and open a new school at Strathcona. There is also a new reception/nursery in the old Preston Library building and the newly opened Wembley Primary School. It thus appears that there is no actual local need for the new school and that instead these new proposals will only serve children from outside of the area who will be schooled in Preston at the detriment of the local environment, transportation, noise, nuisance and inconvenience for those that live there.
- The financial contribution of £25000 for highway safety on Preston Road that was promised previously does not seem to have been utilised.
- All other objections to the previous application are as applicable today as they were then and there are no discernible new reasons why this application should be passed.

Environmental Health - According to their records, there does not seem to have been any complaints made to the department regarding the temporary Primary School. They do have a record of complaints relating to a school alarm going off and the use of a tannoy during a sports event, but this is believed to relate to the high school rather than the temporary primary school.

They therefore have no objections to the retention of a temporary primary school.

Transportation - Whilst there are no objections to this proposal in principle, this is subject to the previous conditions regarding bicycle parking, contributions towards local road safety improvements and a Travel Plan being complied with.

The Environment Agency. Raise no objections.

Sport England – Originally objected to the proposed retention of the school on the grounds that it would prevent the use of land that could be used as a playing field. Following the receipt of further information setting out the Council’s reasons for requiring the extension they subsequently removed their objection to a one year extension (only). Conditions must be imposed requiring the application to remove the temporary building at the end of the one year period and reinstate that land to fit for purpose playing field condition within 3 months of the removal of the building.

REMARKS

Introduction

A temporary school comprising a single storey modular building incorporating two classrooms, an assembly hall, staff room, medical area and ancillary office and storage space, located within the grounds of Preston Manor High School and accessed from Ashley Gardens was approved by planning committee in December 2010. It was to provide teaching for two primary school classes (60 places) for a period of up to two years or until the new permanent primary school located on the opposite side of Preston Manor High’s grounds (approved under planning reference 10/3203 in March 2011) was complete; whichever occurred first.

The new permanent school (Preston Manor Lower School) began admitting pupils in September 2011, at which time the temporary building should have been removed. While the temporary building was not removed it did cease operating as a school. The building has largely been vacant since that time apart from occasional use as a pupil assessment centre by Brent Admissions. The Council now wishes to re-open it as a primary school for up to 60 children until the end of the current academic year. Assuming that planning is granted and a successful outcome at the Lands Tribunal in January the Council will aim to reopen the school in January.

Purpose of seeking an extension:

The Council is proposing to retain the temporary school until the end of the current academic year (2013-14). It will provide up to 60 primary school places. A significant number of the original intake were local residents.

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*DocRepF
Ref: 13/1975 Page 6 of 17*

That local need still remains.

Members were provided an update on restrictive covenants at Preston Manor and the on-going Upper Tribunal proceedings in the July 2013 Executive report. Officers did not want to presume the outcome of the decision and after seeking legal advice considered that for the benefit of the local community, it would seek a one year fixed term extension for the use of the temporary building for educational purposes. If at a later time, the Upper Tribunal order was against such a short-term use, then the building will be removed as soon as possible.

It is envisaged that the pupils would be transferred to permanently expanded schools from the start of the next academic year e.g. Preston Park Primary school is currently in the process of expanding by 1FE from September 2014.

The Executive approved the July 2013 report and planning permission is now sought for a 1-year extension (September 2013 to August 2014, pending planning approval).

The demand for school places, which the Council has a statutory duty to meet, has been exceeding supply on an annual basis. In May 2013 the Executive approved proposals to deliver a total of 26 classes of temporary primary school places which were identified as required in advance of permanent places being delivered in 2014-15. It was noted in the report that the number would be confirmed after full review, that the timescale posed a particular challenge to all of the proposals and that further analysis would be undertaken. Further analysis of the approved proposals was presented to the Brent Executive in July 2013, which showed that some previously approved proposals were not deliverable and proposed alternatives. It also raised the number of temporary classes required by 1 to 27 in total.

The school place demand for 2013-14 is supported by the actual number of applications being received for the 2013-14 academic year. 3799 on time applications were received by 15 January 2013 compared to 3717 on time applications during the whole current academic year 2012-13. As in 2012-13, the council was able to offer all on-time applicants a school place for September 2013. However, between the closing date on 15 January 2013 and 17 June 2013 a further 472 late applications were received (including 30 applications for non-Brent residents), compared to 712 late applications (including 49 applications for non-Brent residents) for virtually the whole 2012-13 academic year. This also represented an increase of 239 applications since the figure reported in May 2013. Typically late applications reduce during the summer months and increase again in September. Based on previous years' experience, late applications will continue to be received throughout the current academic year and account for a small but significant percentage of demand. Arrangements would then be made for those children who will have reached statutory school age in September 2013 and places offered to those children who are currently out of school.

In order to address the shortfall in classes to be provided in the previously approved proposals and to accommodate the increase in total number of classes required, a review of all available non-school buildings and sites was undertaken by the Schools Capital Programme team and the Strategic Property team with Children & Families.

From this review the temporary building at Ashley Gardens was put forward to the Brent Executive as part of the proposals to provide further temporary standalone school provision offering 60 KS1 places (not linked to Preston Manor school) for a period of one year only i.e. academic year 2013-14.

A large proportion of the proposed 60 pupils at the Ashley Gardens temporary provision are likely to come from the local community, of which many are likely to walk to the proposed provision. This is based on the data which suggests that 59% who originally attended the school when it opened in 2011 were from HA0 and HA9 postcodes.

Transport

The original consent required a financial contribution of £25,000 to be paid to the Transportation Unit to undertake highway safety improvements in Preston Road. While we are informed by the applicant that this money was paid the work was never carried out. This money was identified for safety improvements to the pedestrian refuges and signing in Preston Road. Any renewal of planning consent therefore again needs to be subject to payment of this sum towards highway safety improvements.

In addition, the original consent required an amended Travel Plan to be submitted to and approved by the Local Planning Authority. There is no record of this being done either and the Transportation Unit's School Travel Plan team has never been involved in the monitoring of any Travel Plan for this site. The Council's Transportation unit still think there is benefit in implementing a Travel Plan for the site, in line with other

schools in the Borough and this may be done in conjunction with the existing Travel Plan for Preston Manor School if considered appropriate.

Details of a covered bicycle stand for up to 6 bikes was approved but never implemented. Again if permission is to be granted for the retention and further use of the school this requirement should be complied with.

In conclusion, whilst there are no objections to this proposal in principle, subject to the previous conditions regarding bicycle parking, contributions towards local road safety improvements and a Travel Plan being complied with.

Landscaping

As part of the original permission for the temporary school the applicants agreed to plant a new English oak with a 12-14cm girth, with appropriate protection and a mixed hornbeam, beech and dogwood hedge. This planting was carried out but is struggling to establish itself. If permission is granted for the retention of the building a condition is recommended requiring measures to enhance the approved landscaping scheme including additional planting if necessary.

Impact on sport provision

As part of the permanent primary school development, the following agreed improvements to sports provision required by Sport England, have been implemented:

- a) resurfaced football pitches,
- b) a new national level hockey pitch,
- c) a new multi used games area
- d) a new sports hall
- a) an upgraded community cricket pitch.

Both the secondary and primary schools are making good use of these new sports facilities and they are also available for use by the general community.

The application for an extension to planning permission does not affect the school's existing/new playing facilities. At the moment, the school does not have any plans to create further sports areas in the remainder of the fields; hence the land where the temporary school is located remains surplus.

A large proportion of the temporary provision is an existing grass area which will be used by the primary children to play, hence supporting the additional use of playing fields for its intended purpose. The temporary building will be removed after the proposed extension period comes to an end and the land underneath reinstated to grass.

Neighbouring Amenity

The building complies with SPG17 in terms of the building massing in relation to neighbouring gardens. It is closest to properties fronting Ashley Gardens and Preston Road. The original approval required the planting of a hedge along the boundary between the school and neighbouring gardens. As discussed above this hedge was planted but on recent examination by the Council's Landscape officer has found to be struggling to become established. As suggested above, work should be carried out to enhance the existing landscaping if the building is to be retained.

As with the original consent any external lighting will be restricted by condition to ensure that there is no light back-spill into the residential gardens in accordance with Policy BE8.

Noise

The original application included a noise assessment. This demonstrated that proposed noise levels arising from the temporary accommodation would result in noise levels 5-25dB below the prevailing background noise levels with the windows open, and with the windows shut would be even lower, and at least 10dB below the background noise level. This would not result in noise nuisance to adjoining residences.

The neighbouring properties are already adjacent to the school field and will experience some level of external noise from the existing High School. Furthermore the temporary school is unlikely to generate a sufficiently high level of noise to cause nuisance, and will wish to maintain a good relationship with adjoining properties, and so would react to any complaint. In any case this could be monitored by the Council's Environmental Health team, which has powers to enforce reasonable noise levels should this become a problem. They have commented that no noise complaints were received in relation to the temporary school

while it was in use. As with the original consent a condition is proposed will restricting any noise-generating equipment such as air conditioning in order to avoid machinery noise nuisance to neighbouring dwellings.

Conclusion

Subject to the conditions set out at the end of this report and subject to a commitment to carry out the pedestrian safety improvement works discussed above officers recommend approval for the application to retain the building until September 2014.

Remarks Section from Committee Report for 10/2738

This application is for the erection of a temporary school for; to meet an identified need to provide education places within the Borough. The main planning considerations are as follows:

- *Community facility/ need*
- *Size and scale of proposed building upon surroundings including residential amenities, the school playing fields, boundaries and pitches*
- *Impact on open space and sports provision*
- *Transportation impacts*
- *Flood risk*

Demand for Primary Places

Changes in Brent's population has created increasing demand for school places. The number of four year olds on school rolls is expected to rise strongly over the next three to four years.

In 2009-10, Brent Council analysed the increased demand for places and added a further 68 reception places, at Anson Primary School (7) Park Lane (30) Newfield (30) Avigdor Hirsch Torah Temimah (1), providing a total of 3428 reception places. Despite adding new places, there remains a shortfall of reception places in the Borough. As of 29 July 2010, there were 164 children of primary school age without a school place for the 2009/10 academic year. For the 2010-11 academic year beginning next September, temporary provision for 135 additional reception places has been created in the following schools; Brentfield (30) Wykeham (30) Braintcroft (30) Islamia (30) St Robert Southwell (15).

Applications for reception places 2010-11 are up on last year with 3817 applications compared to 3583 for 2009-10. Since the closing date for applications a further 295 have been received, making a total of 4112 applications. More applications will have come in since the start of the academic year.

As of 15 September 2010, after the additional 135 temporary places are taken into account, 208 Reception children are still unplaced, with 40 vacancies overall in schools; this leaves a net shortage of 168 Reception places in the current academic year. New arrivals to Brent continue to seek reception places. Furthermore many places at Brent's faith schools are taken up by children from outside the borough.

There is also a mismatch between where vacancies exist and where unplaced children live. Most parents seek a local school for primary aged children. During 2009-2010 in some cases the LA has had to offer places up to 5 kilometres away from where children live as this was the nearest offer that could be made.

The LA consulted with primary schools in the borough to explore the possibility of increasing the number of school places. It has been evident that the demand for places would be greater than the number of available places. This assessment was based on the number of applications received by LA, the current forecast of student numbers and

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DocRepF
Ref. 13/1975 Page 9 of 17

feedback from schools. Subsequently, the LA reviewed capacity constraints at all primary schools and identified the maximum need for school places in local areas. Discussions have taken place with schools that were suitable and willing for expansion. This was followed by an initial feasibility assessment.

Preston Manor High School

The Local Authority has asked the governing body of Preston Manor High School to consider the proposal to expand the school by creating a new permanent two form of entry primary school to open in September 2011.

Preston Manor High School is a Foundation school using the admission arrangements set by the Governing Body. It offers non-denominational mixed gender places for students aged 11-19 years. Student numbers on roll at the school in the academic year 2009-10 are given below:

Number on Roll*	Y7	Y8	Y9	Y10	Y11	Sixth Form	Total
Preston Manor High School	251	250	223	231	228	298	1481

*January 2010 Census Data

Preston Manor High School has agreed to accommodate two Reception classes (60 places) on a temporary basis from January 2011 until the end of the academic year. The temporary accommodation is the subject of this planning application, and is to be sited adjacent to Ashley Gardens.

A further planning application is likely to be submitted in the near future for the creation of the proposed permanent primary school. The proposed accommodation for the two form of entry primary provision would be of a permanent high quality modular construction and is expected to be situated at the north end of the school site with its own dedicated access from Carlton Avenue East. The proposed position is on land currently little-used by Preston Manor High School. If this future planning application were to be accepted, Preston Manor would offer two form of entry primary provision from September 2011. This would mean that the school would admit two form of entry (60 students) in the reception year from January 2011 and this cohort would progress to Year 6 by September 2016, after which they would transfer to the high school.

The proposed use

The application proposes the erection of a temporary primary school in the grounds of Preston Manor High School to be accessed from Ashley Gardens and comprising a single storey modular building incorporating two classrooms, assembly hall, staff room, medical area and ancillary office and storage space. The use of an existing school site for the provision of education facilities is acceptable and complies in principle with Policy CF10.

The proposed siting within the school playing field

The temporary school is proposed within the school grounds of Preston Manor High School. The school is to be run in conjunction with the established High School, under the same Headmaster. The site is within the western part of the school playing fields.

Brent's Core Strategy places great emphasis on the protection of Open Space. Policy CP18 states that "inappropriate development" of open space should be resisted. This is defined as any development harmful to the use or purpose of open-space unless very special circumstances apply. It has been demonstrated that there is a specific local need for a new primary school. The applicants have explained in supporting documents that other siting options were explored but were discounted. In addition the new primary school is functionally linked to the existing High School on site. The siting will allow a new pedestrian access from Ashley Gardens. The applicants consider the siting minimizes impact upon the existing High School's operation.

The "Brent Outdoor Sports Audit" by Ashley Godfrey Associates 2008 revealed that the school currently benefits from two Senior Football Pitch, (74% + 73%,) one Junior Football Pitch (61%), and 3 Tennis courts (78%.) Since that survey a new sports hall have been provided on site.

The applicants have provided revised drawings that demonstrate that the existing pitches on site are to be retained. They confirm that the proposed temporary primary school site has not been used by the High School for recreation recently. They have provided information that demonstrates that the school still has an appropriate level of play area. The supporting documents demonstrate that the current operation of the school will not be harmed by the application. The applicants have confirmed that the proposed siting of the temporary school will not impinge upon the High School's ability to expand in the future in compliance with Policy CF10 of Brent's Unitary Development Plan 2004. It is therefore not considered appropriate to refuse the current children's centre application on the grounds of harm to the schools potential future expansion.

The site is in an area not currently used for sports or recreation and is not marked out as a pitch at any time of the year. The application does not result in the loss of a pitch but nevertheless will take up land that has potential to form a pitch. In order to comply with PPG17 the applicants would need to demonstrate that the playing fields are surplus to requirements. Whilst the site area is not actively used by the school, there is a deficient of pitches within the Borough of Brent. This deficient is identified within the Council document "Planning for Sport and Active Recreation Facilities Strategy 2008."

Furthermore Sport England has issued a PPS that prevents building on pitches or playfields with the potential to form pitches. In order to comply with Sport England's policy guidelines, the applicants would need to demonstrate that the proposal is one of the 5 identified exceptions to building on playing pitches. Sport England raised objections to the proposal as originally submitted, and comment that the proposal cannot be considered as one of the 5 exceptions. However, Sports England have confirmed that as the school is to meet a dire need in the Borough to provide education to children currently out of school, they will consider removing their objection if the planning permission granted is only temporary, for up to 2 years and thereafter the site would be returned to playing fields. The applicant has agreed to this condition and Sport England have now removed their objection. It should be noted that the proposed temporary school is likely to bring permanent drainage improvements to the area, which are considered to improve the quality of the playing field locally after the temporary school has been removed.

Design

The proposed new buildings are single storey and with two number 68sqm classrooms and one 97sqm multifunction hall presented in an L-Shape. The building's external skin will be plastic coated steel laminated exteriors. The cladding proposed is in a beige and green finish. This is a standard approach on school sites, and is acceptable for a temporary building. The building is designed with a pitched felt roof. The applicants were asked to consider a green roof, to improve the building's sustainability. However the applicants have advised that given the budget and timeframes required to implement this temporary accommodation this is not feasible.

Impact of the building upon neighbouring residential amenities

The proposed building complies with SPG17 in terms of the building massing in relation to neighbouring gardens. It is closest to properties fronting Ashley Gardens and Preston Road. The applicants have suggested a green palisade fence to the boundary of the residential properties. Your officers have requested that the applicants consider a more substantial boundary treatment, as an alternative to the palisade fencing. It is used around the Pavilion in the vicinity of the site, but it is not considered to be very neighbour-friendly immediately adjoining residential gardens.

A hedge is seen to be a more robust boundary treatment as there is not a standardised boundary finish along this site edge. Feathered whips (Hornbeam, Beech and Dogwood) planted in a double-staggered row at 500mm centres, protected by chestnut pale fencing would suffice. With regards to the additional oak trees, it is considered that future tree stock in appropriate positions (5m-10m from boundaries) will not incur onto future pitches as the existing oak tree and substation are located here. The applicants have requested that this be dealt with by way of condition, which is acceptable.

Any external proposed lights will be restricted by condition to ensure that there is no light

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back-spill into the residential gardens in accordance with Policy BE8. This ensures that neighbouring amenities are not harmed by the development.

Noise

The applicants have submitted a noise assessment. This demonstrates that proposed noise levels arising from the temporary accommodation will result in noise levels 5-25dB below the prevailing background noise levels with the windows open, and with the windows shut would be even lower, and at least 10dB below the background noise level. This would not result in noise nuisance to adjoining residences. The Noise Assessment further states that if noisy activities levels are high, windows could be closed to reduce levels lower. This is not considered reasonable. The consent would be limited to 2 years, so there would only be the higher noise levels in this part of the grounds associate with a temporary primary school on a short-term basis. The neighbouring properties are already adjacent to the school field and will experience some level of external noise from the existing High School. Furthermore the temporary school is unlikely to generate a sufficiently high level of noise to cause nuisance, and will wish to maintain a good relationship with adjoining properties, and so would react to any complaint. In any case this could be monitored by the Council's Environmental Health team, which has powers to enforce reasonable noise levels should this become a problem. A condition will restrict any noise-generating equipment such as air conditioning in order to avoid machinery noise nuisance to neighbouring dwellings in accordance with policies H22 and EP2.

Transportation issues

The site lies at the end of Ashley Gardens. On-street parking in Ashley Gardens is generally unrestricted

, although the area is within the Wembley Stadium event day protective parking scheme, whereby on-street parking on event days is restricted to residents' permit holders only. Public transport access to the site is moderate (PTAL 2), with Preston Road Underground station (Metropolitan line) within 960 metres (12 minutes' walk) and four bus services within 640 metres (8 minutes' walk).

Car parking allowances for educational uses are set out in standard PS12 of the adopted UDP 2004. This allows up to one space per five staff, plus an additional 20% for visitors. As such, no more than two spaces should be provided for this temporary school. Use is proposed to be made of two standard spaces and one disabled space within the existing BACES 31-space car park. This approach is acceptable in principle and will also satisfy requirements for disabled parking policy TRN35. Standard PS16 requires the provision of at least one bicycle parking space per ten staff, so at least one such space will be required. Further details of bicycle parking provision are therefore required as a condition of any approval. The applicant has provided an indicative area where cycles will be stored.

Refuse and recycling collection will be managed through the extension of the service already being provided to the BACES Adult Education Centre and Nursery. Appropriate receptacles will be housed within the school boundary in the area indicated on the revised plan. This complies with policy TRN34 of Brent's Unitary Development Plan and the provision of the bin store will be required as a condition of any approval.

The Council's Highway Engineers require that the remainder of the BACES car park be made available for parents that do bring children to the school by car to use to set them down and collect them at the start and finish of the school day in order to minimise congestion in Ashley Gardens, particularly since the road does not benefit from a turning head. The applicants have confirmed that this setting down area will be created, and this will be a condition of approval.

Given the sensitivity of this proposal, a Transport Statement has been prepared by Capita Symonds Ltd. and submitted in support of the application. This has assessed the likely trip generation and modal split for journeys to and from the school. This assessment has been based on data held on the TfL database (TRAVL) for two schools in Northwest London (Maple Walk in West Kensington and nearby Wembley Manor in East Lane). However, only the latter of these is considered suitably representative of this site, as Maple Walk has all the locational characteristics of an inner London school, rather than

an outer London school such as this. As such, the Highway & Transport Delivery Unit has discarded the data from Maple Walk School in vetting this application and has instead applied only data from Wembley Manor School to this site.

The Wembley Manor Primary School survey (undertaken in 2006) showed 50% of staff driving and 32% of pupils being driven to the school by car. Applied to this proposal, three staff could be expected to travel as car drivers and 19 pupils to arrive and depart as car passengers, which is considerably greater than the estimated figures given in the Transport Statement. Nevertheless, even these more robust estimated traffic flows are not considered to be large enough to give rise to any capacity problems at the junction of Ashley Gardens and Preston Road (given that Ashley Gardens is otherwise very lightly trafficked), so the proposal is still considered generally acceptable in traffic generation terms by the Council's Highway Engineers.

However, it should be noted that the junction of Ashley Gardens onto Preston Road, being on the inside of a bend, has substandard sightlines (2.4m x 35-40m) in either direction. The accident history of the junction has therefore been examined for the last 36 months, which shows just one personal injury accident over that period relating to a bus braking sharply and thereby injuring a passenger. Nevertheless, the junction is considered unsuitable for use to serve a major school in the future and for this reason, this permission should be very strictly capped at a maximum of 60 pupils for a temporary two-year period only. Pupil numbers will be restricted by a condition.

Pedestrian access to the site has been given very little consideration in the Transport Statement, even though the figures supplied suggest that walking trips to the school could make up more than 50% of total trips to the site. All that was shown on the original site layout plan is a footpath from the BACES car park that emerges at the rear of a line of car parking spaces, which would be likely to be obstructed. Furthermore, the lack of existing continuous pedestrian routes into and through the BACES car park makes the provision of the pedestrian access in this location unacceptable in pedestrian safety terms. Aside from this, the addition of extra vehicular traffic into and out of the BACES Centre would also be likely to compromise pedestrian safety at the site entrance amongst visitors (particularly nursery children).

To address this, a revised site layout plan has been submitted that includes a pedestrian footpath directly from the end of Ashley Gardens into the school building. This is welcomed and will avoid any need for pedestrians travelling to the school to walk through the BACES Centre car park or its narrow access gates. This revised plan is considered acceptable by the Council's Highway Engineers.

Further afield, the lack of pedestrian crossing facilities on Preston Road at the Ashley Gardens junction causes the Council's Highway Engineers to be concerned. At present, there are traffic islands on either side of the staggered crossroad junction with Ashley Gardens and St. Augustine's Avenue, but these do not have dropped kerbs or tactile paving so are not currently suitable for use by parents with children and pushchairs. It is essential that this is rectified if a school is to be accessed from Ashley Gardens, even for only a temporary period. In addition, school warning signage will be required on Preston Road to give warning of the presence of schoolchildren. To cover the likely cost of these works, a financial contribution of £25,000 will be required. The applicants have indicated that they will pay this £25,000 through a head of term of an associated s106.

Finally, to help to minimise the traffic impact of the proposal, a School Travel Plan has been prepared. This includes information on the site (based on the information set out in the Transport Statement) and includes a set of measures to be introduced to help to reduce car use amongst parents and staff, to be implemented by a Travel Plan Co-ordinator. However, the proposed measures are limited in extent (no mention of season ticket loans for staff or car parking management), whilst the plan is also particularly weak in terms of setting targets for future car use, or stating how the plan will be secured or funded. As such, it has scored a FAIL using TfL's ATTrBuTE assessment programme. An improved Travel Plan is therefore required and the applicants have agreed that this will be secured as a s106.

Flood Risk

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The site area is less than a hectare within Flood Zone 1. In accordance with PPS25 on Development and Flood Risk, the development only needs to consider good practice on drainage. The Environment Agency raise no comments to this specific proposal.

Other matters

The site is close to an electricity substation; accordingly the applicant has been asked to clarify whether electromagnetic radiation has been considered. The Health Protection Agency has confirmed that the magnetic fields around local area substations are measured at a maximum of 10 microtesla, which is much less than the ICNIRP reference level of 100 microtesla which is regarded as the safe limit for public exposure. It also states that at a distance of between 5- 10m from the substation boundary fence, magnetic fields from substations were undetectable. The proposed temporary school building is set at 14 metres away from the substation and is therefore not considered to be at risk. The statement suggests that there is absolutely no risk to occupants of the school and no special measures are needed, On the advice of the consultant the applicants have agreed to ensure that the boundary fence is set 5 metres from the edge of the substation to safeguard children at play.

The site incorporates a large, established oak tree. The Council's Arboricultural Officer has assessed the submitted tree report by Landscape Planning that is considered to deal comprehensively with all the details relating to protection of T1 Oak. He concludes that provided Landscape Planning's tree protection specification is adhered to, the tree should not be at risk. The tree protective measures specified in the report will be conditioned. A new tree will also be required, in order to provide a future replacement for the existing sizeable tree and contribute to local visual amenity.

Local residents have raised concerns about the number of consultations and contradictory dates that they have been consulted upon. This is because the Council is statutorily required to consult neighbouring residents under the Town and Country Planning Act 1990, as amended, regarding the planning application 10/1738 for a proposed temporary school in the grounds of the High School.

The document entitled "Statutory Notice" is notice under the Education and Inspections Act 2006 of the changes to the school from the School Governors. There have been three public forums where parents and residents have been invited to air their views by the Schools and Families department. Two of these sessions (parents and residents) took place at Preston Manor School on 13th October 2010, the third at the Wembley Area Forum on 20th October 2010 and a fourth on 29th November 2010 at Preston Manor School. These sessions have been arranged to address both the temporary and permanent proposals from an education perspective. The Council's Children and Families department has also provided the following response to the specific question regarding consultation on the temporary proposal. "The Local Authority has a statutory duty to provide sufficient school places in the borough. As stated above, 72 Reception aged and 29 Year 1 aged children are currently without a school place. Where permanent expansion is not feasible or whilst waiting for such an expansion to be completed, it is necessary to provide temporary places to ensure that all children in the borough are allocated a school place. Borough wide consultation on such schemes is not always feasible due to the urgent need associated with such additional provision, however, an agreement with the expanding school and its governing body is always sought. This includes the schools which have an Academy, Foundation or voluntary aided status."

Local residents have raised concerns about the proposed catering strategy for the school. The applicants have confirmed that meals for the temporary reception classes would be produced in the main High School kitchens and moved to Ashley Gardens by Brent Transport, where they will be served to pupils in the multi-function hall using retractable tables. All pupils will either eat school meals or bring a packed lunch. The catering proposal is to prepare meals in the main school kitchens and transport to Ashley Gardens by Brent Transport. The multi-function hall will have retractable seating for use during meal times. Being of reception age, all children will be kept within the confines of the site during break times. It is proposed that existing arrangements for the BACES Centre at Ashley Gardens will be extended to cover the waste and recycling created by the temporary school

Conclusion

The proposed temporary school is for a finite period only, (maximum 2 years,) in order to meet a recognised need to provide education for primary school aged children within the Borough. The proposed temporary school is on balance considered acceptable provided it is for a temporary period only, allowing the playing field to be reinstated following the temporary school's removal. The applicants have demonstrated that subject to a legal agreement, the proposal will not harm the local highway network as contributions will be made towards pedestrian crossing improvements on Preston Road, and signage, in addition to providing a new pedestrian footway to the site from Ashley Gardens. In order to ensure that the impact of the temporary school is acceptable on local amenities and the highway network, the number of students who may attend the school will be limited by condition to 60. The applicants have demonstrated that the proposal will comply with local and national planning policies, and accordingly approval is recommended.

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

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

Planning Policy Guidance 17 – Planning for open space, sport and recreation
Planning Policy Statement 25 – Development & Flood Risk
Planning Policy Statement – A sporting future for the playing fields of England
Brent Unitary Development Plan 2004
Brent Core Strategy 2010
SPG17 - Design Guide for New Development
SPG12 – Access for disabled people, designing for accessibility

CONDITIONS/REASONS:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2) The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s):

Arboricultural Method & Materials Statement - Sept 2010
Design & Access Statement
Temporary Accommodation Noise Assessment
Preston Manor Temporary Reception School Travel Plan
Preston Manor Temporary School Transport Statement
113130/001RevB
113130/002RevB
2K1009-11/P(C) plan
2K1009-11/E(C) elevations
2K1009-11/RP
Letters from Watts dated 26/11/10
Elite Systems samples

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

(3) No more than 60 children shall be present on the site at the same time unless the Local Planning Authority agrees in writing to an increase.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties or harm the local highway network

- (4) This permission shall be for a limited period of 1 year only, expiring on 13/11/2013 . Thereafter all buildings, all hard standing areas and any temporary boundary treatments shall be removed from the site, and the playingfield grass shall be made good across the site, in the positions that it is currently, with the additional soft landscaping planting unless otherwise agreed in writing by the Local Planning Authority

Reason: The building are temporary in nature only and would be contrary to design, highway and playingfield protection policies and therefore could not be supported on a permanent basis

- (5) Prior to the re-occupation of the temporary school the cycle parking details approved under planning reference 10/0722 shall be installed unless the Council agree in writing to an alternative arrangement.

Reason: To ensure the adequate provision of cycle-parking to promote the use of non-car modes of access to the site.

- (6) No external lights shall be erected unless otherwise agreed in writing by the Local Planning Authority through the submission of details, which shall then only be implemented in accordance with the approved details

Reason: In order to safeguard local residential amenities

- (7) No new plant machinery and equipment (including air conditioning systems) associated with the proposed development shall be installed externally on the building without the prior written approval of the Local Planning authority. Details of the equipment and the expected noise levels to be generated, shall be submitted to and agreed in writing by the Local Planning Authority prior to installation, unless agreed otherwise in writing by the Local Planning Authority, and thereafter shall be installed in accordance with the approved details and maintained in accordance with the relevant manufacturer's guidance
The noise level from this plant together with any associated ducting, shall be maintained at a level 10 dB (A) or greater below the measured background-noise level at the nearest noise-sensitive premises. The method of assessment should be carried out in accordance with BS4142:1997 "Rating industrial noise affecting mixed residential and industrial areas". Should the predicted noise levels exceed those specified in this condition, a scheme of insulation works to mitigate the noise shall be submitted to and approved in writing by the Local Planning Authority and shall then be fully implemented.

Reason: In order to ensure adequate insulation and noise mitigation measures and to safeguard the amenities of adjoining occupiers and future occupiers

- (8) Any development on site including the removal of temporary buildings/ paths/ hard surfacing and/or demolition shall comply with the measures set out within the approved Arboricultural Statement. This includes provision for supervision of tree protection by a suitably qualified and experienced arboricultural consultant.

Reason: To ensure retention and protection of the sizeable oak trees on the site in the interests of amenity.

- (9) No new plant machinery and equipment (including air conditioning systems) associated with the proposed development shall be installed externally on the building without the prior written approval of the Local Planning authority. Details of the equipment and the expected noise levels to be generated, shall be submitted to and agreed in writing by the Local Planning Authority prior to installation, unless agreed otherwise in writing by the Local Planning Authority, and thereafter shall be installed in accordance with the approved details and maintained in accordance with the relevant manufacturer's guidance
The noise level from this plant together with any associated ducting, shall be maintained at a level 10 dB (A) or greater below the measured background-noise level at the nearest

noise-sensitive premises. The method of assessment should be carried out in accordance with BS4142:1997 "Rating industrial noise affecting mixed residential and industrial areas". Should the predicted noise levels exceed those specified in this condition, a scheme of insulation works to mitigate the noise shall be submitted to and approved in writing by the Local Planning Authority and shall then be fully implemented.

Reason: In order to ensure adequate insulation and noise mitigation measures and to safeguard the amenities of adjoining occupiers and future occupiers

- (10) Prior to the re-occupation of the building a scheme to enhance the landscaping approved under reference 10/0722 shall be submitted to and have approved in writing by the Local Planning Authority.

The approved scheme shall be implemented within 3 months of this decision or in accordance with a programme agreed in writing with the Local Planning Authority. Any existing boundary treatment shall not be uprooted or removed except where in accordance with the approved plan and shall be protected from building operations during the course of development. Any permanent planting that is part of the approved scheme that within a period of *five* years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season and all planting shall be replaced in the same positions with others of a similar size and species, unless the Local Planning Authority first gives written consent to any variation.

Reason: To safeguard the character of the area and the reasonable residential amenities of local residents.

- (11) Prior to the re-occupation of the building the applicants shall submit a Travel Plan for the proposed temporary school, which shall also have regard to the existing Travel Plan for the High School. This shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be monitored on an annual basis and the results of the ITrace-compliant monitoring incorporated into the submission requirements below:

)Within 3 months of occupation, the Travel Plan shall be audited, with a site and staff ITrace-compliant survey and these details shall be submitted to the Local Planning Authority and approved in writing within 6 months and associated measures implemented unless otherwise agreed in writing by the Local Planning Authority

A review of the Travel Plan measures over the first 9 months of operation shall be submitted to the Local Planning Authority within 15 months of the commencement of the use and the review shall be approved in writing within 18 months and associated measures implemented unless otherwise agreed in writing by the Local Planning Authority

Reason: In order to promote sustainable transport measures where on-street parking and manoeuvring may cause highway safety problems.

INFORMATIVES:

None Specified

Any person wishing to inspect the above papers should contact Hannah McCashin, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 2707

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Planning Committee: 13 November 2013

LOCATION: 70A Dartmouth Road, London, NW2 4HA

PROPOSAL: Erection of single storey side and rear extension and basement to ground floor flat

RECOMMENDATION

This application is being reported to Members with a recommendation to endorse the decision to grant planning permission for this development.

In accordance with legal advice, this application is being reported to the Planning Committee following approval of the application under delegated powers prior to the expiry of the 21 day consultation period. The application was determined on 17 September 2013 and the statutory 21 day consultation expired on 20 September 2013. During this intervening period, four further representations were received that were not reviewed prior to the decision being made.

The purpose of reporting this application to the Planning Committee is therefore to allow for an impartial review of the decision by officers following the submission of additional representations to determine whether the Planning Committee would have in the circumstances granted planning permission, taking into consideration all representations received.

If the Planning Committee are minded to support the recommendation, no further action would be taken by the Council. However, it should be noted that there is a six week period in which third parties are able to challenge the decision by way of judicial review whereby a High Court Judge will consider the lawfulness of a decision and test whether it was legally right or wrong applying public law principles. The Courts have the power to intervene as a matter of discretion to: (a) either quash, prevent, or require a decision, (b) clarify the law or, (c) to compensate the applicant where it is necessary and reasonable to do so. In the present case the Court cannot rule on the policy merits of a decision, only in order to put right a recognisable public wrong. This would not prevent the applicant from applying again for the same development.

In the event that the Planning Committee do not agree with the recommendation, the decision will need to be taken as to whether to seek a revocation of the planning permission. The Council as Local Planning Authority has no power simply to withdraw a permission unilaterally. Once planning permission has been granted, any revocation of the permission leaves the applicant able to claim compensation in permitted circumstances. The normal measure of compensation is the damage suffered in consequence of the order by depreciation of the value of an interest in the land on the proviso that the applicant can demonstrate firstly he has implemented the planning permission and secondly acted to his detriment by suffering loss flowing

directly from the revocation. An example of this would be the applicant incurring professional costs by employing consultants and builders or losing out on the sale of the property because a third party had sought reliance on the permission.

EXISTING

The existing site comprises a ground floor flat within the Mapesbury Conservation Area, on Dartmouth Road. The building would have originally been one two storey semi detached single family dwellinghouse, but appears to have been converted to three flats some time ago. The property is not listed.

PROPOSAL

Erection of single storey side and rear extension and basement to ground floor flat.

HISTORY

12/3226: Erection of single storey side and rear extension and lower ground floor extension to rear of ground floor flat with associated rear terrace alterations in accordance with revised plans received 02/05/2013 - *Refused, 08/05/2013.*

Related site history (70A-C Dartmouth Road inclusive)

02/2331: Conservation Area Consent for demolition of chimney stack to first-floor maisonette (Article 4 direction) – *Refused, 30/10/2002*

E/00/0064: Side extension to provide secondary entrance – *Validated 10/07/2000, No further action taken*

87/1651: Conversion to three self contained flats, reconstruction of single storey rear extension, installation of two rear dormer windows and 3 flank roof lights, alterations to front windows and front entrance door, reconstruction of front wall and provision of hardstanding, landscaping and dustbin enclosure – *Granted, 05/01/1988*

D373: Use of ground floor room for dress making – *Refused, 11/06/1949*

POLICY CONSIDERATIONS

See appended Delegated Report

CONSULTATION

Seven neighbours and the Mapesbury Residents' Association were consulted on 23/07/2013, a Press Notice was placed in the local paper on 29/08/2013 and a Site Notice was placed outside the property on 30/08/2013.

Prior to the decision being made on 17th September 2013, three neighbours had objected to the proposal. The matters raised are set out below:

Objection	Officer response
Impact of basement/lower ground floor extension & Construction	

<ul style="list-style-type: none"> - structural engineering report and geological/hydrological report should be provided - validation requirements agreed at 18 September Committee not provided; - structural damage to the upper floors of the property; - basement may have an impact on the adjoining properties and their foundations alongside the fences to the neighbouring properties; - impact on surface water run-off on surrounding properties; - No detail has been given with regard to a plan for building works, which could cause disruption to adjoining neighbours. 	<p>The subject application was submitted prior to the endorsement by the Planning Committee on 17 September 2013 for future changes to validation requirements relating to basement extensions.</p> <p>Building Control approval will be required which will take into consideration the impact on load bearing walls.</p> <p>A condition is proposed to ensure that rear soft landscaping details, including boundary treatments, are provided prior to the commencement of works.</p> <p>As set out in the report to Members on 17 September 2013, Brent does not generally have a high water table and areas with a history of flooding are usually related to local surface drainage issues. In terms of geology, the majority of the Borough sits on London clay which does not necessarily raise specific construction problems that should not be able to be covered by conventional design and build techniques.</p> <p>The applicant will be reminded of the relevant British Standard Code of practice for demolition and Construction.</p>
<p style="text-align: center;">Character and Amenity</p> <ul style="list-style-type: none"> - lower ground floor level extends beyond the footprint of the proposed extensions, contrary to the Council's advice; - reduction in the size of the garden is not in keeping and proposed balcony eats up far too much garden space; - lower ground floor staircase would fail to respect the existing character of the garden; - size of the proposed extension/basement would be out of character with the other buildings in the Mapesbury Conservation Area; 	<p>Officer advice following the previous refusal did set out that the extension should not extend beyond the footprint of the proposed extensions. An assessment of the further extension is set out in paragraph 14 of the <i>Remarks</i> Section.</p> <p>There will be no reduction in areas of soft landscaping in the garden although part of the existing terrace will be built on (total of just under</p>

<ul style="list-style-type: none"> - the depth of the extension to the outrigger will result in loss of amenity viewed from the upper flats; - proposed windows on both levels, together with the juliet balcony would look more in place on a modern block of flats, rather than a traditional Edwardian house; - would set a precedent for unattractive extensions within the Conservation Area; - overlooking to the properties opposite. 	<p>16sqm).</p> <p>Consideration of the acceptability of the design and amenity considerations are set out in the <i>Remarks</i> section of the report. Given the size and design of the proposed extension, whilst it will be visible from upper floor flats, it is not considered that there are any significant amenity concerns.</p>
<p>Process</p> <ul style="list-style-type: none"> - notice has not been served under the Party Wall Act; - The applicant has failed to gain permission from the Management Company of the property for the extension, which is part of the requirement of the leasehold; - proposed drawings are not to scale and no floor area measurements are provided. 	<p>The applicant will be reminded of their duties under the Party Wall Act.</p> <p>It is noted that the relevant Certificates have been served as stated within the application form to flats B and C within the property. The grant of planning permission does not override covenants or requirements within a lease.</p> <p>The plans have been provided at an appropriate scale. It is not a validation requirement to request plans to be annotated with measurements.</p>

Four further consultation responses were provided following the application being granted. These included three residents' objections, alongside an objection from the Mapesbury Residents' Association.

These objections, including an Officer response, are set out below:

Objection	Officer response
<p>Impact of basement/lower ground floor extension & Construction</p> <ul style="list-style-type: none"> - development will result in subsidence - no detail has been provided as part of the application that suggests will not suffer structural damage as a result of the construction; - loss of wildlife and help to form the character of the Conservation Area as well as counter balancing the high water table level of the Conservation Area; - impact on surface water run-off; 	<p>See response to 'Impact of basement/lower ground floor extension & Construction' to initial objections received.</p>

<ul style="list-style-type: none"> - disruption during construction; 	
<p>Character and Amenity</p> <ul style="list-style-type: none"> - basement is too extensive and should not extend beyond the original building line; - the proposal results in an overdevelopment that is out of keeping with the integrity of the building; - terraced area is aggressive in design; - the infill extension will extend more than 4m in depth exceeding the limit set out within the Mapesbury Conservation Area Design Guide; - extensive use of glass in the doors on two storeys, the glass balcony and surrounding hard surfaces are not appropriate to the character of the house and surrounding buildings; - the application proposes to raise the height of the existing patio which will mean the neighbours will overlook the garden of No. 68 resulting in loss of privacy; - adjoining room within No. 68 is the living room and the increase in height of the wall on this boundary will reduce light coming into the living room at No. 68; - large rear juliet balcony will be viewable from the neighbouring grounds of No. 68 and possibly the balcony to be installed on the new terrace, adding to the intrusive nature of the work being carried out and further invading privacy; - reduction in size of the garden and wider impact on the Mapesbury Conservation Area; - visual intrusion, reduction in privacy and significant adverse impact on the property and the enjoyment of the garden; - fails to meet the requirements of UDP policy BE26; - extension will impact from the view from the kitchen and terrace of no.72; - aspect from other properties will be distorted and will have a different visual appearance from the other dwellings that is not in keeping with the Conservation Area; - such a development is unacceptable as it would create a precedent for such extensions across the Conservation Area 	<p>See response to 'Character and Amenity' to initial objections received.</p>
<p>Process</p> <ul style="list-style-type: none"> - recommendation to grant permission should not appear on the website prior to the 	<p>This report has been prepared to take account of this matter with legal</p>

consultation closing date	advice provided.
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REMARKS

1. The Officer's Delegated Report for this application is appended to this report. The following details are intended to clarify the main key issues and assessment.

2. Key considerations

3. The main planning issues are considered to be:

- changes since previous refusal of planning permission in 2012 (LPA Ref: 12/3226);
- whether the proposal extensions would have an unacceptable impact on the amenities of neighbouring occupants;
- whether the proposed alterations and extensions would preserve or enhance the character of the property and the wider Mapesbury Conservation Area.

4. Changes since previous refusal of planning permission in 2012 (LPA Ref: 12/3226);

5. A previous planning application for a single storey rear and basement extension were submitted to the Council in 2012 (LPA Ref: 12/3226) and subsequently refused under delegated powers on 8 May 2013. This planning application was for a 3m deep, 3m high extension beyond the outrigger, wrapping around the property to east, adjoining the boundary of No. 68 covering a total width of 6.9m and thus projecting beyond the shallower rear wall to a total depth of 8.5m. The application also proposed an increase in height to the existing terrace by 400mm. A lower ground floor extension was also proposed covering the footprint of the proposed single storey rear extension.

6. The application was refused for the following reasons:

(1) The proposed ground floor side and rear extension and terrace, by virtue of its excessive depth, height and proximity to the site boundary of the extension and relationship of the extended terrace to the shared boundary, would have an unacceptable impact on outlook and privacy from the rear habitable room and patio of No. 68 Dartmouth Road, and would fail to preserve or enhance the character of the Mapesbury Conservation Area. As such, the proposal is contrary to policies BE2, BE9, BE25 and BE26 of the adopted Brent Unitary Development Plan 2004, policy CP17 of Brent's Core Strategy and paragraph 64 of the National Planning Policy Framework.

(2) The proposed lower ground floor extension, in conjunction with the single storey side and rear extension, would fail to reflect the footprint of the main dwelling and result in an out of scale addition to the property which would fail to respect the character of the existing property and wider Conservation Area, contrary to Unitary Development Plan policies BE2, BE9, BE25 and BE26 of

the adopted Brent Unitary Development Plan 2004, policy CP17 of Brent's Core Strategy and paragraph 64 of the National Planning Policy Framework.

7. The main changes to the scheme under consideration since this refusal (as revised during the course of the application) are set out below:

- *Single storey infill extension to eastern outrigger* - The proposed infill extension (1.2m depth) to the outrigger adjoining the eastern boundary of the property has been reduced to be the same depth as the existing outrigger and height to follow that of the flank wall of the extension between Nos. 70 and 68.
- *Single storey rear extension to outrigger.* The proposed extension is 3m deep and 3m high to the existing outrigger; the link to the side extension has been removed and the terrace level is retained as existing. The extension would be set off the boundary with no.68 by 2.8m and no. 72 by approximately 3m.
- *Lower ground floor extension & alterations to rear terrace:* The proposal makes changes to the position and size of the lower ground floor extension. It is proposed to extend below footprint of the proposed single storey side and rear extension alongside an additional 8sqm to the north east of the site adjoining the boundary with no. 68. The amended plans show the terrace to be maintained at its existing depth, height and width to the north east void space between the lower ground floor level and the side of the outrigger.

8. Assessment of the proposal

9. Residential Amenity

10. Single storey infill extension to eastern outrigger

The extension is the same depth as the existing boundary wall with no.68 and is not significantly different in height. Although it is noted there is a habitable room located in the main rear wall of no 68, in consideration of the height of the existing wall and design of the proposed extension, it is not considered that the extension would result in significant loss of light, outlook or appear overbearing. As such, a reason for refusal based on this amenity impact considered unlikely to be supported on appeal.

11. Single storey rear extension to outrigger

In consideration of the distance of the extension from the flank boundaries and given that there are no significant level changes between the application site and the neighbouring properties, it is considered that the proposal will not give rise to any unacceptable amenity impacts. It is further noted that under permitted development, this type of extension could be erected in the conservation area without needing to apply for planning permission.

13. Lower ground floor extension & alterations to rear terrace

The Council generally allows lower ground floor/ basement extensions where they extend below the original footprint of the property and any extensions; this is to ensure that basements are proportionate with the size of the original property and do not result in any unacceptable impact to the garden as this would restrict the area of soft landscaping.

14. Whilst the basement extension would be 8sqm larger than the footprint of the proposed extensions and main dwellinghouse, in consideration that the extension would be underneath the existing terrace and would not erode garden space, nor result in an extension that is considered disproportionate, it is considered that the extension can be supported.

15. The amended plans show the terrace to be maintained at its existing depth, height and width to the north east void space between the lower ground floor level and the side of the outrigger. The steps and terrace level adjoining no. 72 would also be maintained as existing thus not causing any additional impact to the property. The remainder of the terrace would be excavated to allow for the provision of the lower ground floor and steps up to the garden and as such would not cause any significant amenity or overlooking impact.

16. The subject application was submitted prior to the endorsement by the Planning Committee on 17 September 2013 for changes to validation requirements relating to basement extensions .

17. Design & Impact on Conservation Area

18. In terms of the impact on character, whilst it is noted neither of the adjoining properties have basement extensions, there are a number of examples of Mapesbury properties which effectively have a lower ground levels such as those properties on Teignmouth Road. In view of the design and siting of this extension, views of this lower level will be limited. Proposals for other properties would be dependent on the individual site characteristics and each case would be considered on its own merits.

19. The Mapesbury Conservation Area Design Guide sets out that an extension must be designed to harmonise with the original building. In this case, the extension is a simple design and brick built to match the existing house. Further details on the proposed materials for the extension are required by planning condition which would ensure the proposed materials would preserve the character of the Conservation Area and whilst the doors are a more modern design, this is not considered to detract from the character of the existing property. It is considered that simplicity of the design and overall appearance of the extension is acceptable and would preserve the character of the existing property and the wider the conservation area. It is noted that the depth of the extension is greater than set out in Design Guide as being acceptable for this type of property. Work is being undertaken to update the Design Guide to take into account changes to permitted development (N.B. dwellinghouses in the Mapesbury Conservation Area benefit from permitted development rights for single storey rear extensions). Notwithstanding this, overall the extension is considered acceptable in design terms and would not have an unacceptable impact on neighbouring amenity.

20. There is a Rowan (Mountain Ash) tree which may be affected by the proposal. This tree is not considered to be of high value therefore its loss would be acceptable if a replacement tree is provided. There is also a eucalyptus tree within the rear garden, however this would not be affected. Further details on soft landscaping are

required by planning condition including screening to the adjoining boundaries and replacement trees where necessary, which would minimise any impact the development may have on soft landscaping.

21. Conclusion

22. It is considered that the proposal does not give rise to any significant amenity concerns and the proposal would preserve the character and appearance of the Mapesbury Conservation Area. The Planning Committee are thus recommended to endorse the previous decision to grant planning permission.

23. LEGAL IMPLICATIONS

24. The Council has a duty under Part (3) Schedule 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 to comply with the statutory time limit of 21 days for consultation in respect of all planning applications. Where the Council has acted in a way which is to give rise to a breach of the aforementioned Order, it should take such steps so as to remedy the matter so far as is reasonably practicable. The Council acknowledges that an error has been made and is therefore reporting the up to date position to Members for urgent attention. Time is of the essence so the Council has to act promptly and diligently to minimise any potential adverse consequences to the applicant. The justification for this course of action is to ensure transparency and procedural propriety.

25. The Council has powers under Section 97 of the Town and Country Planning Act 1990 ("The Act") to revoke or modify any planning permission which has been granted to the extent that such permission has not already been implemented.

26. The Council's powers to revoke or modify planning permission may be exercised (please note that the power is not automatic but discretionary in nature) where it is "expedient" to do so but Section 97 (2) of the Act provides that the planning authority shall have regard to the development plan and to any other material considerations.

27. Accordingly, if a revocation order is made notice must be served on the owner and occupiers of the land and on any persons who will be affected (including the applicant). If these persons indicate that they have no objection to the revocation in principle the Council will then have to advertise the making of the order in the local press before it is confirmed. However, if, objections are received the matter is referred to the Secretary of State for decision and a Public Inquiry will be held.

28. Where planning permission is revoked or modified a right to compensation arises under Section 107 of the Act. Section 107 of the Act provides:-

"Subject to section 116, where planning permission is revoked or modified by an order under section 97, then if, on a claim made to the local planning authority, within the prescribed time and in the prescribed manner, it is shown that a person has an interest in the land or in minerals, in or under it –

(a) Has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or

*(b) Has otherwise sustained loss or damage which is directly attributable to the revocation or modification.
The local authority shall pay that person compensation in respect of that expenditure, or loss or damage.....”*

29. Compensation is due whether or not the person entitled to such compensation has consented to the revocation. It is difficult to quantify the level of compensation payable in this case (if any), however, if as mentioned above, the applicant has engaged the professional services of consultants/builders this could prove costly to the Council and this needs to be balanced against the fiduciary duty owed towards the local tax payer. Members are advised that the applicant would in any event be obliged to submit to the Council a full breakdown of his losses before any financial assessment is made.

RECOMMENDATION: Endorse decision to grant planning permission
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Appended: Officers Delegated Report

Delegated Report

Case No.

13/2075

LOCATION: 70A Dartmouth Road, London, NW2 4HA

PROPOSAL: Erection of single storey side and rear extension and basement to ground floor flat

RECOMMENDATION

Approval.

EXISTING

The existing site comprises a ground floor flat within the Mapesbury Conservation Area, on Dartmouth Road. The building would have originally been one two storey semi detached single family dwellinghouse, but appears to have been converted to three flats some time ago. The property is not listed.

PROPOSAL

Erection of single storey side and rear extension and basement to ground floor flat.

HISTORY

12/3226: Erection of single storey side and rear extension and lower ground floor extension to rear of ground floor flat with associated rear terrace alterations in accordance with revised plans received 02/05/2013 - Refused, 08/05/2013.

POLICY CONSIDERATIONS

National Planning Policy Framework (NPPF)

Paragraph 64

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions

Brent Core Strategy 2010

CP17 Protecting and Enhancing the Suburban Character of Brent

Brent UDP 2004

The statutory development plan for the area is the London Borough of Brent Unitary Development Plan (UDP), which was formally adopted on 15 January 2004.

The following are the policies within the UDP relevant to this decision:

BE2 Local Context

Relates to design within the local context and character and the need to take into account existing landforms and respect and improve existing materials and townscape.

BE9 Architectural Quality

Relates to extensions and alterations to existing buildings and requires them to embody a creative and appropriate design solution specific to the site's shape, size, location and development opportunities. They should be designed to be of a scale, massing and height appropriate to their setting and the townscape location. It also requests that development respects without necessarily replicating the positive local design characteristics and satisfactorily relate to them. The design should exhibit a consistent and well considered application, and be laid out to ensure that building and spaces are of a scale design and relationship to each other that promote the amenity of users, provide satisfactory levels of sun and day light, privacy and outlook for existing and proposed residents.

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*DocDelRepF
Ref: 13/2075 Page 1 of 7*

BE25 Development in Conservation Areas

Seeks to ensure that the scale and form of new development is consistent with the preservation or enhancement of the Conservation Area.

BE26 Alterations and extensions to buildings in Conservation Areas

Alterations to buildings including window designs and shop fronts should retain the original design and materials or should where not practical be sympathetic to the original design in terms of dimensions, texture and appearance, having regard to any design guidance issued by the planning authority.

NOTE: Since 27th September 2007 a number of the adopted Brent Unitary Development Plan 2004 policies have been deleted. This is part of a national requirement (introduced in the Planning & Compulsory Purchase Act 2004). The policies that remain valid are described as 'saved' policies and will continue to be relevant until new policy in the Local Development Framework is adopted and, therefore, supersedes it. Only saved policies are considered in determining this application.

SPG

The Council produces a series of Supplementary Planning Guidance Notes that give additional information on a variety of issues and which are intended to be read in conjunction with the adopted UDP. These SPG were subject to widespread public consultations as part of the UDP process before being adopted by the Council and given this widespread public consultation the Planning Authority would suggest that considerable weight be attached to them.

SPG 5 Altering and extending your home

Adopted September 2002.

CONSULTATION

Seven neighbours and the Mapesbury Residents' Association were consulted on 23/07/2013, a Press Notice was placed in the local paper on 29/08/2013 and a Site Notice was placed outside the property on 30/08/2013.

Three neighbours have objected to the proposal on the following grounds:

- The proposed lower ground floor level extends beyond the footprint of the proposed extensions, contrary to the council's advice
- The proposed drawings are not to scale and no floor area measurements are provided
- The size of the proposed extension/basement would be out of character with the other buildings in the Mapesbury Conservation Area;
- The proposed windows on both levels, together with the juliet balcony, would look more in place on a modern block of flats, rather than a traditional Edwardian house
- A structural engineering report and geological/ hydrological report should be provided for the lower ground floor extension as well as those validation requirements for basements, to be agreed at 18th September Committee
- The extension would result in overlooking to the properties opposite
- The addition of deeper lower ground floor staircase would fail to respect the existing garden's character
- The reduction in the size of the garden is not in keeping with the character of the Conservation Area
- The basement may have an impact on the adjoining properties and their foundations alongside the fences to the neighbouring properties
- A change in the level of the garden, making it lower than the surrounding gardens, may impact on the foundations of the surrounding fencing. If this were to be allowed, and more people were to do the same, what would be the impact on surface water run-off on surrounding properties
- The proposal would set a precedent for unattractive extensions within the Conservation Area
- The applicant has failed to gain permission from the Management Company of the property for the extension, which is part of the requirement of the leasehold
- The extension will result in the removal of load bearing walls and may result in structural damage to the upper floors of the property
- The depth of the extension to the outrigger will result in loss of amenity viewed from the upper flats

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Ref: 13/2075 Page 2 of 7*

- No detail has been given with regard to a plan for building works, which could cause disruption to adjoining neighbours

No notice has been served under the Party Wall Act

REMARKS

Key considerations

The main planning issues are considered to be:

- (a) whether the proposed alterations and extensions would have an unacceptable impact on the amenities of neighbouring occupants;
- (b) whether the proposed alterations and extensions would preserve or enhance the character of the property and the wider Mapesbury Conservation Area.

Site and surroundings

This application relates to a ground floor flat within a period property that would have originally been one semi detached dwellinghouse.

The ground floor flat, the subject of this application, has an existing single storey side/ rear infill extension 4.3m in depth to the east of its two storey outrigger, approximately 1.2m short of the full depth of the existing outrigger.

The infill extension has a mono-pitched roof which is approximately 2.85m in height at its eaves, measured from terrace level. There is an existing wall on the eastern side of the extension which is flush with the terrace, and is also approximately 3m in height. Beyond this there is a boundary fence which has a height of approximately 1.6m.

There is an existing terrace to the rear of the property which extends to a depth of 6.2m beyond the rear door of the existing outrigger. It is 500mm below the property's Finished Floor Level, for which there is access via rear/ flank steps. Beyond the terrace lies the rear garden which was measured to be 800mm below terrace level, accessed via some centrally located rear steps to the garden. Beyond the rear of the terrace, the garden continues to fall to its rear.

Previous planning application

A previous application was submitted to the council and subsequently refused.

The proposed application was for a 3m deep, 3m high extension beyond the outrigger, wrapping around the property to east adjoining the boundary of No. 68 covering a total width of 6.9m and thus projecting beyond the shallower rear wall of 8.5m.

The application also proposed an increase in height to the existing terrace, by 400mm.

A lower ground floor extension was also proposed covering the footprint of the proposed single storey rear extension.

The council generally allows 3m deep infill extensions to outriggers although where it can be demonstrated that there would be no impact on amenity/ adverse visual impact, either through design solutions or through the property's individual siting, a full extension covering the total depth of the outrigger may be acceptable. In consideration that the extension would have projected 3m beyond the outrigger on the eastern elevation and would have wrapped around the outrigger at this depth, it was considered to be out of proportion with the property and would fail to preserve the Mapesbury Conservation Area.

The council allows lower ground floor/ basement extensions where they cover the original footprint of the property and any extensions if acceptable. In consideration that the lower ground floor would have projected a further 3m in depth beyond the existing property and would have a total footprint of 45sqm, it was not considered to be proportionate to the 130sqm flat and would project beyond both the existing property and the extension.

The raised terrace was also considered to have an unacceptable impact on amenity by way of overlooking.

The Case Officer thus requested the following amendments to the proposed extension to ensure that the proposals would comply with Supplementary Planning Guidance 5 and Brent's Unitary Development Plan policies:

- Amendments to the plans to ensure they accurately showed the existing level changes and terrace depth
- Removal of the wrap around extension to the east adjoining No. 68 Dartmouth Road
- The retention of a 3m deep extension to the rear of the existing outrigger, with the height and depth of the terrace retained as existing
- The lower ground floor extension to cover only the existing dwelling and single storey rear extension footprint, with the existing terrace height and depth retained

These details were not received and as such the application was refused for the following reasons:

1. *The proposed ground floor side and rear extension and terrace, by virtue of its excessive depth, height and proximity to the site boundary of the extension and relationship of the extended terrace to the shared boundary, would have an unacceptable impact on outlook and privacy from the rear habitable room and patio of No. 68 Dartmouth Road, and would fail to preserve or enhance the character of the Mapesbury Conservation Area. As such, the proposal is contrary to policies BE2, BE9, BE25 and BE26 of the adopted Brent Unitary Development Plan 2004, policy CP17 of Brent's Core Strategy and paragraph 64 of the National Planning Policy Framework.*
2. *The proposed lower ground floor extension, in conjunction with the single storey side and rear extension, would fail to reflect the footprint of the main dwelling and result in an out of scale addition to the property which would fail to respect the character of the existing property and wider Conservation Area, contrary to Unitary Development Plan policies BE2, BE9, BE25 and BE26 of the adopted Brent Unitary Development Plan 2004, policy CP17 of Brent's Core Strategy and paragraph 64 of the National Planning Policy Framework.*

This application is a re-submission of refused application reference 12/3226.

The revised proposals are considered in further detail below.

Assessment of proposals

Ground floor infill. rear extension

The proposed infill extension adjoining the flank wall of the outrigger would be extended by 1.2m so that it is flush with the existing outrigger. It would have the same height as the boundary wall, i.e. 3m, and as such would not have any additional impact on the adjoining property to the east, No. 68.

A 3m deep, 3m high rear extension covering the width of the outrigger is also proposed. It would be set off the joint boundary with No.68/ No. 70 by 2.8m. There is a habitable room within the shallower rear wall of the adjoining property, No. 68; however in consideration of the extension's distance from the joint boundary, and in consideration that there are no level profound level changes between Nos. 68 and 70 Dartmouth Road, it is considered to have an acceptable impact on amenity on No. 68.

Turning to the impact on No. 72, the extension would be set off the joint boundary by 1.7m and it is further noted there is a side access 1m in width which forms part of a separate side access for the residents of No. 72. There are no level changes across either property and it is noted that the rear property lines are the same. As such, in consideration of this set in, the extension is considered to have an acceptable impact on the amenities of No.72.

Lower ground floor extension

A lower ground floor extension is proposed which would cover the footprint of the proposed single storey side and rear extension.

As previously noted, the council allows lower ground floor/ basement extensions where they cover the original footprint of the property and any extensions; this is to ensure that basements are proportionate with the size of the original property and do not result in any unacceptable impact to gardens.

In this case, the proposed lower ground floor extension covers the proposed extensions and outrigger, and would also cover an additional 8sqm to the north east of the site adjoining the boundary with No. 68, flush with the depth of the proposed extension (i.e. 2.7m wide and 3m deep). Given that the extension would be underneath the existing terrace and would not erode garden space, nor cause additional visual impact to the adjoining properties/ flats to the upper floors, it is considered acceptable.

It is noted within the plans that the lower ground floor would require the rear garden to be partly excavated to allow for additional ceiling height to be created, thus resulting in the potential loss or damage to a semi mature tree to the rear garden. The Case Officer has consulted the Tree Officer on the proposal and it is noted that the tree is a Rowan (Mountain Ash) which is not considered to be of high value, and therefore its loss would be acceptable if a replacement tree was provided. This could be attached as a condition.

Alterations to rear terrace

The amended plans show the terrace to be maintained at its existing depth, height and width to the north east void space between the lower ground floor level and the side of the outrigger, and as such is acceptable. A It is noted that the flank steps and terrace level adjoining No. 72 would also be maintained as existing. The rest of the terrace would be excavated to allow for the provision of the lower ground floor and steps up to the garden and as such will not have any impact on amenity.

A juliet balcony will be provided to the single storey rear extension and a barrier provided to the rear of the single storey infill extension. Materials shall be required to be submitted to the council prior to commencement of works.

Response to objections

The case officer has responded to each of the objections as follows:

Objection	Officer response
<ul style="list-style-type: none"> The proposed lower ground floor level extends beyond the footprint of the proposed extensions, contrary to the council's advice 	<p>It is noted the lower ground floor extension extends beyond the footprint of the existing building / extensions and would normally be permitted. However, in consideration that this additional 8sqm of lower ground floor level would be under the existing terrace and would not result in any additional visual impact/ erosion of garden space.</p>
<ul style="list-style-type: none"> The proposed drawings are not to scale and no floor area measurements are provided 	<p>The plans are to scale. Annotated floor measurements to the plans are not a validation requirement.</p>
<ul style="list-style-type: none"> A structural engineering report and geological/ hydrological report should be provided for the lower ground floor extension as well as those validation requirements for basements, to be agreed at 18th September Committee The extension will result 	<p>The council's validation requirements for basement extensions are not yet agreed by the members.</p> <p>Building Control approval will be required which will take into consideration the impact on load bearing walls.</p>

<p>in the removal of load bearing walls and may result in structural damage to the upper floors of the property</p>	
<ul style="list-style-type: none"> The extension would result in overlooking to the properties opposite 	<p>The extension/ terrace would not give rise to any additional raised floor levels</p>
<ul style="list-style-type: none"> The addition of deeper lower ground floor staircase would fail to respect the existing garden's character 	<p>The proposed lower ground floor level would not adversely erode any of the existing garden and would be maintained within the depth of the existing patio.</p>
<ul style="list-style-type: none"> The reduction in the size of the garden is not in keeping with the character of the Conservation Area The size of the proposed extension/basement would be out of character with the other buildings in the Mapesbury Conservation Area The depth of the extension to the outrigger will result in loss of amenity viewed from the upper flats The proposed windows on both levels, together with the juliet balcony, would look more in place on a modern block of flats, rather than a traditional Edwardian house 	<p>There will be no reduction in garden space although part of the terrace will be built on (total of just under 16sqm). The total rear garden/ patio area to be built on is approximately 6% and is considered acceptable.</p> <p>The 3m deep extension to the outrigger and the infill extension to the outrigger are considered acceptable and do not result in any adverse impact on amenity to warrant refusal.</p>
<ul style="list-style-type: none"> The basement may have an impact on the adjoining properties and their foundations alongside the fences to the neighbouring properties 	<p>A condition will be included to ensure that rear soft landscaping details, including boundary treatments, are provided prior to the commencement of works</p>
<ul style="list-style-type: none"> A change in the level of the garden, making it lower than the surrounding gardens, may impact on the foundations of the surrounding fencing. If this were to be allowed, and more people were to do the same, what would be the impact on surface water run-off on 	<p>The principle of a basement extension is not unacceptable. It is noted that there are already level changes to the property between the terrace and rear garden level and it is not considered that these are profound enough to change the garden to the extent that refusal is warranted.</p>

<ul style="list-style-type: none"> surrounding properties. The proposal would set a precedent for unattractive extensions within the Conservation Area 	
<ul style="list-style-type: none"> No notice has been served under the Party Wall Act The applicant has failed to gain permission from the Management Company of the property for the extension, which is part of the requirement of the leasehold 	<p>It is noted that the relevant Certificates have been served as stated within the application form to flats B and C within the property.</p> <p>The applicant will be reminded of their duties under the Party Wall Act.</p>
<ul style="list-style-type: none"> No detail has been given with regard to a plan for building works, which could cause disruption to adjoining neighbours 	<p>This is not a requirement and falls outside of the remit of the planning system, however the applicant will be reminded of the relevant British Standard Code of practice for demolition and Construction.</p>

Conclusion

The lower ground floor and single storey side and rear extensions preserve the character of the Mapesbury Conservation Area. Approval is recommended.

RECOMMENDATION: Grant Consent

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Received **PLANNING Appeals** between **1-Oct-2013** and **31-Oct-2013**

Planning Committee: 13 November, 2013

Application Number: 12/3233 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 28/10/2013 **Appeal Against:** Refusal of planning permission
Location: Flats 1-6 at 51, 53, 57, Flats 1-5 at 55, 63, Flats 1-4 at 59, Flats 1-8 at 61 INC, 51-63 High Road
Proposal: London, NW10

Demolition of existing pitched roofs, removal of existing chimney pots to nos 51-63 High Road, demolition of existing gable erection of replacement Dutch gable, to enable the erection of a third floor roof extension to provide 6 self contained flat external terraces, plus the installation of replacement windows to all flats facing High Road, installation of Communal satellite dishes to each property, reduction of side brickwork panel to no.63 High Road, removal of brick pilaster to side elevation of No.63 High Road (as amended 30/01/2013).

Application Number: 12/3234 **Team:** Southern Team **Application Type** S78 CAC
Appeal Received: 28/10/2013 **Appeal Against:** Refusal of planning permission
Location: Flats 1-6 at 51, 53, 57, Flats 1-5 at 55, 63, Flats 1-4 at 59, Flats 1-8 at 61 INC, 51-63 High Road
Proposal: London, NW10

Conservation Area consent for reduction of side brickwork panel to no.63 High Road, removal of brick pilaster to side elevation of No.63 High Road, removal of existing chimney pots to nos 51-63 High Road, removal of all pitched roofs to nos 51-63 High Road, pitched gable to nos 51 & 53 High Road, removal of all windows fronting Willesden Green High Road in association with application ref:12/3233 ...erection of a third floor roof extension to provide 6 self contained flats with private external terraces, installation of replacement windows to all flats facing High Road, installation of Communal satellite dishes and satellite dishes to each property, reduction of side brickwork panel to no.63 High Road, removal of brick pilaster to side elevation of No.63 High Road (as amended 30/01/2013).

Application Number: 13/0612 **Team:** Northern Team **Application Type** Other CLD
Appeal Received: 29/10/2013 **Appeal Against:** Refusal of planning permission
Location: Former Oriental City, 399 Edgware Road, Kingsbury, London, NW9
Proposal:

Certificate of lawfulness for proposed use of retail floorspace approved under permission 90/1727 dated 14 January 1995 for purposes within the Use Class A1

Application Number: 13/1063 **Team:** Southern Team **Application Type** S78 HSE
Appeal Received: 10/10/2013 **Appeal Against:** Refusal of planning permission
Location: 836 Harrow Road, London, NW10 5JU
Proposal:

Rear dormer windows and 2 front rooflights to dwellinghouse

Application Number: 13/1065 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 07/10/2013 **Appeal Against:** Refusal of planning permission
Location: Marada House, Brondesbury Park, Kilburn, London
Proposal:

Retrospective application for an existing single storey one bedroom flat and ancillary store to rear of Marada House

Application Number: 13/1116 **Team:** Northern Team **Application Type** S78 HSE
Appeal Received: 28/10/2013 **Appeal Against:** Refusal of planning permission
Location: 39 Aylesbury Street, London, NW10 0AR
Proposal:

Retrospective application for installation of UPVC double glazed windows to front of dwellinghouse (Article 4 direction)

Received PLANNING Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: 13/1190 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 10/10/2013 **Appeal Against:** Refusal of planning permission
Location: Garages Merley Court rear of 11-13, Mallard Way, London
Proposal:

Demolition of existing garages and erection of 5 No. x 1 bedroom two storey dwellinghouses with associated hard and soft amendments to existing parking/ landscaping layout to Merley Court.

Application Number: 13/1240 **Team:** Southern Team **Application Type** S78 HSE
Appeal Received: 07/10/2013 **Appeal Against:** Refusal of planning permission
Location: 54 Brondesbury Park, Kilburn, London, NW6 7AT
Proposal:

First floor front extension to dwellinghouse

Application Number: 13/1679 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 07/10/2013 **Appeal Against:** Refusal of planning permission
Location: 9 Tudor Court South, Wembley, HA9 6SQ
Proposal:

Two storey side extension, gable end roof extension, rear dormer window and 2 front rooflights to dwellinghouse

Application Number: 13/1704 **Team:** Western Team **Application Type** S78 FUL
Appeal Received: 25/10/2013 **Appeal Against:** Refusal of planning permission
Location: 4 Central Road, Wembley, HA0 2LH
Proposal:

Demolition of existing garage and erection of a 2 storey side extension to create a 2 bedroom dwellinghouse with associated landscaping, bin enclosure and off-street car parking.

Application Number: 13/1742 **Team:** Southern Team **Application Type** S78 HSE
Appeal Received: 17/10/2013 **Appeal Against:** Refusal of planning permission
Location: 40A The Avenue, London, NW6 7NP
Proposal:

Demolition of storage area and raised terrace to the rear, conversion of the garage into a habitable room and erection of side to rear extension with a basement level to ground floor flat.

Application Number: 13/1757 **Team:** Western Team **Application Type** Other CLD
Appeal Received: 28/10/2013 **Appeal Against:** Refusal of planning permission
Location: 243 Oakington Manor Drive, Wembley, HA9 6NF
Proposal:

Certificate of lawfulness for proposed demolition of existing outbuildings and creation of new single storey detached garage to rear of dwellinghouse

Replacement of existing garage and sheds with new garage/utility as shown on drawings

Application Number: 13/1830 **Team:** Southern Team **Application Type** S78 FUL
Appeal Received: 18/10/2013 **Appeal Against:** Refusal of planning permission
Location: 33C Brondesbury Road, London, NW6 6BA
Proposal:

Enlargement of existing rear roof terrace to first floor flat

Received PLANNING Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: 13/1999 **Team:** Western Team **Application Type** S78 HSE
Appeal Received: 07/10/2013 **Appeal Against:** Refusal of planning permission
Location: 44 Manor Drive, Wembley, HA9 8EF
Proposal:

Single storey side extension to dwellinghouse

Application Number: 13/2269 **Team:** Northern Team **Application Type** S78 FUL
Appeal Received: 22/10/2013 **Appeal Against:** Refusal of planning permission
Location: 179 Anson Road, London, NW2 4AS
Proposal:

Erection of a detached ground and subterranean storey single bedroom dwelling house with fully accessible accommodation associated hard and soft landscaping

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Received ENFORCEMENT Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: E/13/0130 **Appeal Against:** Enforcement Appeal **Team:**
Appeal Started: 10/10/2013

Location: Flats 1-3, 79 Pine Road, London, NW2 6SB

Description:

Without planning permission, the erection of a dormers roof extension located on the existing 2 storey rear projection ("the unauthorised development")

AND

Without planning permission, the change of use of the premises into three flats

("the unauthorised change of use")

Application Number: E/13/0141 **Appeal Against:** Enforcement Appeal **Team:** Northern Team
Appeal Started: 11/10/2013

Location: 2 Beverley Gardens, Wembley, HA9 9QY

Description:

The erection of a building in rear garden of the premises used for residential purposes.

("the unauthorised development")

Application Number: E/13/0160 **Appeal Against:** Enforcement Appeal **Team:** Northern Team
Appeal Started: 02/10/2013

Location: 61A Beverley Gardens, Wembley, HA9 9RB

Description:

Without planning permission, the erection of a new dwelling.

("the unauthorised development")

Application Number: E/13/0777 **Appeal Against:** Enforcement Appeal **Team:** Northern Team
Appeal Started: 09/10/2013

Location: 109 Winchester Avenue, Kingsbury, London, NW9 9TB

Description:

1) The erection of new extension onto an existing extension at the rear of the premises

and

2) The erection of extensions onto the outbuilding.

("the unauthorised development")

Application Number: E/13/0926 **Appeal Against:** Enforcement Appeal **Team:** Northern Team
Appeal Started: 24/10/2013

Location: 9 Whitby Gardens, London, NW9 9TU

Description:

Without planning permission, the erection of a rear dormer window, roof extension and the increase in height of the ridge

("the unauthorised development")

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Decisions on PLANNING Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13-Nov-2013

Application Number: 12/2701	PINSRefNo APP/T5150/A/13/2198678	Team: Southern Team
Appeal Decision: Appeal Allowed		Appeal Decision Date: 30/10/2013
Location: 146A High Street, London, NW10 4SP		
Proposal:		
Retrospective application for change of use from self contained flat to house in multiple occupation		
Application Number: 12/2857	PINSRefNo A/13/2193694	Team: Southern Team
Appeal Decision: Appeal Dismissed		Appeal Decision Date: 14/10/2013
Location: Land adjacent 23, Bolton Gardens, London, NW10		
Proposal:		
Proposed demolition of garages (x3) and erection of two storey domestic dwelling. amended scheme from application re		
Application Number: 12/3057	PINSRefNo X/13/2193495	Team: Northern Team
Appeal Decision: Appeal Dismissed		Appeal Decision Date: 24/10/2013
Location: 239 Kenton Road, Harrow, HA3 0HQ		
Proposal:		
Certificate of lawfulness for proposed hip to gable end roof extension, rear dormer window with juliet balcony and 3 front dwellinghouse		
Application Number: 12/3114	PINSRefNo X/13/2195266	Team: Southern Team
Appeal Decision: Appeal Allowed		Appeal Decision Date: 09/10/2013
Location: 2 Epcot Mews, London, NW10 5LL		
Proposal:		
Certificate of lawfulness for existing use of roof as garden terrace to dwellinghouse		
Application Number: 13/0731	PINSRefNo D/13/	Team: Western Team
Appeal Decision: Appeal Dismissed		Appeal Decision Date: 25/10/2013
Location: Ohm, 1 Queen Victoria Avenue, Wembley, HA0 4RW		
Proposal:		
Demolition of existing garden shed and erection of a single storey side and rear extension to dwellinghouse		
Application Number: 13/0945	PINSRefNo D/13/2201953	Team: Western Team
Appeal Decision: Appeal Allowed		Appeal Decision Date: 24/10/2013
Location: 11 Highfield Avenue, Wembley, HA9 8LE		
Proposal:		
Retrospective application for canopy to rear garden of dwellinghouse		
Application Number: 13/1402	PINSRefNo D/13/2203918	Team: Northern Team
Appeal Decision: Appeal Allowed		Appeal Decision Date: 10/10/2013
Location: 154 Salmon Street, London, NW9 8NU		
Proposal:		
Retrospective application for existing front boundary wall and railings (1.45m high and 0.45m wide) to dwellinghouse		
Application Number: 13/1443	PINSRefNo D/13/2201973	Team: Northern Team
Appeal Decision: Appeal Dismissed		Appeal Decision Date: 28/10/2013
Location: 94 Ravenscroft Avenue, Wembley, HA9 9TG		
Proposal:		
Prior approval for a single storey rear extension to dwellinghouse, extending beyond the rear wall of the original house b maximum height of 2.8 metres and height of eaves 2.5 metres		

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Decisions on ENFORCEMENT Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: E/09/0108 **PINSRefNo** C/13/2191236**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 21/10/2013**Location:** 64 and 64 (A-E) Craven Park Road, London, NW10 4AE**Proposal:**

Without planning permission, the change of use of the premises to a shop and five self-contained flats, (incorporating the ground floor level and timber-framed fence and gated access/enclosure to rear)

Application Number: E/09/0792 **PINSRefNo** C/13/2197223**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 28/10/2013**Location:** 69 Salusbury Road, London, NW6 6NJ**Proposal:**

The erection of a rear timber and plastic canopy and infill extension to the premises.

("The unauthorised development")

Application Number: E/10/0473 **PINSRefNo** C/13/2191491**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 15/10/2013**Location:** 30 Chatsworth Road, London, NW2 4BS**Proposal:**

Without planning permission, the change of use of the rear garden of the premises to the storage of building materials, household items associated with the maintenance and repair of residential properties

("the unauthorised change of use")

AND

Without planning permission, the erection of a timber clad building and a metal shed in the rear garden of the premises

("the unauthorised development")

Application Number: E/12/0057 **PINSRefNo** C/13/2195345**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 31/10/2013**Location:** Rear of 120B Brondesbury Park, Brondesbury, London, NW2 5JR (Also known as 2C Staverton Road, NW**Proposal:**

Without planning permission, the erection of a dwelling in the rear garden of 120B Brondesbury Park with access on to 5

("The unauthorised development")

AND

The breach of Condition 1 of Inspector's decision dated 17/05/2007 (appeal reference APP/T5150/C/06/2022440), which the outbuilding extension in the rear garden of the premises within three months of the date of failure to submit a scheme the flank walls of the building and for planting on the boundary with 118 Brondesbury Park ("the scheme") within 3 months decision.

There is no record of the scheme being submitted to the Council. Even if the scheme was submitted to the Council, no a State for non determination was made as required by condition 1, part ii.

("The unauthorised breach of condition")

Decisions on ENFORCEMENT Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: E/12/0321 **PINSRefNo** C/13/2197467**Team:** Northern Team**Appeal Decision:** Appeal part dismissed / part allowed**Appeal Decision Date:** 25/10/2013**Location:** 1 Mentmore Close, Harrow, HA3 0EA**Proposal:**

Without planning permission, the partial removal of a front boundary wall and formation of hard surface to the front garden replacement of uPVC windows to the front elevation of the premises.

("The unauthorised development")

Application Number: E/12/0390 **PINSRefNo** C/13/2193365**Team:** Western Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 30/10/2013**Location:** 49 Paxford Road, Wembley, HA0 3RQ**Proposal:**

Without planning permission, the erection of a building to the rear of the premises.

("the unauthorised development")

Application Number: E/12/0417 **PINSRefNo** C/13/2199089**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 25/10/2013**Location:** 85A Cricklewood Broadway, London, NW2 3JG**Proposal:**

Without planning permission, the erection of a roof extension on top of the existing two-storey rear projection.

("The unauthorised development")

Application Number: E/12/0453 **PINSRefNo** C/13/2195299**Team:** Northern Team**Appeal Decision:** Appeal Allowed**Appeal Decision Date:** 21/10/2013**Location:** 15 Beverley Gardens, Wembley, HA9 9RD**Proposal:**

Without planning permission, the erection of a timber and plastic roof canopy extension to the rear of the premises.

("the unauthorised development")

Application Number: E/12/0465 **PINSRefNo** C/13/2195278**Team:** Southern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 09/10/2013**Location:** 2 Epcot Mews, London, NW10 5LL**Proposal:**

Without planning permission, the erection of balustrading, decking and hatch to stairway to form a roof terrace

("the unauthorised development")

The breach of Condition 5 of planning permission 87/0135 dated 28th April, 1987. Condition 5 states "no access shall be extension by way of window, door or stairway and the roof of the extension hereby approved shall not be used as a balcony. A stairway has been created to give access to the roof and the roof is being used as a balcony and sitting out area in breach of condition 5."

("the unauthorised breach of condition")

Decisions on ENFORCEMENT Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: E/12/0477 **PINSRefNo** C/13/2195757**Team:** Southern Team**Appeal Decision:** Appeal Allowed**Appeal Decision Date:** 21/10/2013**Location:** 20 Berens Road, London, NW10 5DT**Proposal:**

Without planning permission, the formation of a rear roof terrace on top of the existing two storey rear projection including decking and timber railings.

("the unauthorised development")

Application Number: E/12/0610 **PINSRefNo** C/13/2195697**Team:** Western Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 08/10/2013**Location:** 58 Abbey Avenue, Wembley, HA0 1LL**Proposal:**

Without planning permission, the erection of a building in the rear garden of the premises.

("The unauthorised development")

Application Number: E/12/0655 **PINSRefNo** C/13/2195824**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 30/10/2013**Location:** 5 Queens Walk, London, NW9 8ES**Proposal:**

Without planning permission, the construction of a dwelling.

("The unauthorised development")

Application Number: E/12/0718 **PINSRefNo** C/13/2196661**Team:** Western Team**Appeal Decision:** Appeal part dismissed / part allowed**Appeal Decision Date:** 29/10/2013**Location:** 22 Pebworth Road, Harrow, HA1 3UD**Proposal:**

Without planning permission, the erection of a two storey side and rear extension and rear and side dormer windows to

("the unauthorised development")

Application Number: E/12/0791 **PINSRefNo** C/13/2196368**Team:** Northern Team**Appeal Decision:** Appeal Dismissed**Appeal Decision Date:** 29/10/2013**Location:** 14 Lavender Avenue, London, NW9 8HD**Proposal:**

Without planning permission, the unauthorised erection of a building used as residential accommodation.

("The unauthorised development")

Application Number: E/12/0834 **PINSRefNo** C/13/2196722**Team:** Northern Team**Appeal Decision:** Appeal Allowed**Appeal Decision Date:** 21/10/2013**Location:** 34 Dartmouth Road, London, NW2 4EX**Proposal:**

Without planning permission, the installation of gates to the front of the premises.

("The unauthorised development")

Decisions on ENFORCEMENT Appeals between 1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Application Number: E/12/0836 **PINSRefNo** C/13/2195997

Team: Western Team

Appeal Decision: Appeal Dismissed

Appeal Decision Date: 17/10/2013

Location: 103 Preston Road, Wembley, HA9 8NN

Proposal:

The erection of single storey buildings in rear garden of the premises.

**PLANNING SELECTED appeal DECISIONS between
1-Oct-2013 and 31-Oct-2013
Planning Committee: 13 November, 2013**

Introduction

In order to keep Members fully informed of Planning Appeal decisions, copies of Inspector's decision letters concerning those that have been allowed or partly allowed on appeal, are attached to the agenda. These include the following:

Our reference: 12/2701	Appeal Decision: Appeal Allowed	Appeal Decision Date: 30/10/2013
Team:	Southern Team	
Location:	146A High Street, London, NW10 4SP	
Proposal:	Retrospective application for change of use from self contained flat to house in multiple occupation	
Our reference: 12/3114	Appeal Decision: Appeal Allowed	Appeal Decision Date: 09/10/2013
Team:	Southern Team	
Location:	2 Epcot Mews, London, NW10 5LL	
Proposal:	Certificate of lawfulness for existing use of roof as garden terrace to dwellinghouse	
Our reference: 13/0945	Appeal Decision: Appeal Allowed	Appeal Decision Date: 24/10/2013
Team:	Western Team	
Location:	11 Highfield Avenue, Wembley, HA9 8LE	
Proposal:	Retrospective application for canopy to rear garden of dwellinghouse	
Our reference: 13/1402	Appeal Decision: Appeal Allowed	Appeal Decision Date: 10/10/2013
Team:	Northern Team	
Location:	154 Salmon Street, London, NW9 8NU	
Proposal:	Retrospective application for existing front boundary wall and railings (1.45m high and 0.45m wide) to dwellinghouse	

Background Information

Any persons wishing to inspect an appeal decision not set out in full on the agenda should check the application details on contact the Technical Support Team, Planning and Development, Brent House, 349 High Road, Wembley, HA9 6BZ. Telep 5210 or email tps@brent.gov.uk

Chris Walker, Assistant Director - Planning and Development

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ENFORCEMENT SELECTED appeal DECISIONS between
1-Oct-2013 and 31-Oct-2013

Planning Committee: 13 November, 2013

Introduction

In order to keep Members fully informed of Enforcement Appeal decisions, copies of Inspector's decision letters concerning where Enforcement action has been initiated and the appeal has been allowed or part allowed, are attached to the agenda. The following include the following:

Our reference: E/12/0321	Appeal Decision Date: 25/10/2013
Team: Northern Team	Appeal Decision: Appeal part dismissed / part allowed

Location: 1 Mentmore Close, Harrow, HA3 0EA

Proposal:

Without planning permission, the partial removal of a front boundary wall and formation of hard surface to the front garden and installation of replacement of uPVC windows to the front elevation of the premises.

Our reference: E/12/0453	Appeal Decision Date: 21/10/2013
Team: Northern Team	Appeal Decision: Appeal Allowed

Location: 15 Beverley Gardens, Wembley, HA9 9RD

Proposal:

Without planning permission, the erection of a timber and plastic roof canopy extension to the rear of the premises.

Our reference: E/12/0477	Appeal Decision Date: 21/10/2013
Team: Southern Team	Appeal Decision: Appeal Allowed

Location: 20 Berens Road, London, NW10 5DT

Proposal:

Without planning permission, the formation of a rear roof terrace on top of the existing two storey rear projection including timber decking and timber railings.

Our reference: E/12/0718	Appeal Decision Date: 29/10/2013
Team: Western Team	Appeal Decision: Appeal part dismissed / part allowed

Location: 22 Pebworth Road, Harrow, HA1 3UD

Proposal:

Without planning permission, the erection of a two storey side and rear extension and rear and side dormer windows to

**ENFORCEMENT SELECTED appeal DECISIONS between
1-Oct-2013 and 31-Oct-2013**

Our reference: E/12/0834	Planning Committee: 13 November, 2013	Appeal Decision Date: 21/10/2013
Team: Northern Team	Appeal Decision:	Appeal Allowed

Location: 34 Dartmouth Road, London, NW2 4EX

Proposal:

Without planning permission, the installation of gates to the front of the premises.

Background Information

Any persons wishing to inspect appeal decision letters not set out in full on the agenda should contact the Planning Service Support Team, The Planning Service, Brent House, 349 High Road, Wembley, HA9 6BZ.
Telephone 020 8937 5210 or email: tps@brent.gov.uk.

Chris Walker, Assistant Director - Planning and Development



Appeals Decisions

Hearing held on 17 September 2013

Site visits made on 16, and 17, September 2013

by **C A Thompson** **DiplArch DipTP Reg Arch RIBA MRTPI IHBC**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 October 2013

Appeal (A) Ref: APP/T5150/X/13/2195266

2 Epcot Mews, Pember Road, LONDON, NW10 5LL

- This appeal is under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is by City and Suburb Properties Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/3114, dated 21/11/2012, was refused by notice dated 6/2/2013.
 - The application was made under section 191(1)(a) of the Act.
 - An LDC is sought for the use of the roof as a garden terrace.
-

Appeal (B) Ref: APP/T5150/ C/13/2195278

2 Epcot Mews, Pember Road, LONDON, NW10 5LL

- This appeal is under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is by Mr Matteo Galliani against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/12/0465.
 - The notice was issued on 13/2/2013.
 - The breach of planning control as alleged in the notice is the erection of balustrading, decking and hatch to stairway, to form roof terrace.
 - The requirements of the notice are:
Step 1, cease the use of the roof as a roof terrace /balcony or sitting out area, and;
Step 2, remove the balustrading, decking, hatch and staircase and any other item associated with the use of the roof as a roof terrace /balcony or sitting out area from the premises.
 - The period for compliance with the requirements is 3 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Act.
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Decisions

Appeal (A)

1. The appeal is allowed and attached to this decision is an LDC describing the extent of the existing use which is considered to be lawful. (NB the corrected enforcement notice plan (see below) doubles-up as the relevant LDC Plan.)

Appeal (B)

2. I direct that the enforcement notice is corrected by replacing the plan as set out in my paragraph 9 below.
3. I make a split decision and further direct that the enforcement notice be varied under **SCHEDULE 2 THE ALLEGED BREACH OF PLANNING CONTROL**, in the sub paragraph below the heading, by the deletion of the words *...and hatch to stairway...* the rest of the sub-paragraph to remain extant. Under **SCHEDULE 4 WHAT YOU ARE REQUIRED TO DO TO REMEDY THE BREACH OF PLANNING CONTROL – S173(4)(A)** the deletion of STEP ONE in its entirety and, under STEP TWO the deletion of everything after *...Remove the balustrading (and) decking...*
4. Subject to this correction and these variations the appeal is dismissed and the enforcement notice is upheld, as corrected and varied, insofar as it relates to the land shown edged and hatched black on the plan annexed to this decision and the balustrading and decking, and, planning permission is refused in respect of the balustrading and decking on the application deemed to have been made under section 177(5) of the Act as amended.

Procedural Matters

Appellants

5. There are two Appellants. This is because there has been a recent change of ownership. The long term original owners, City and Suburb Properties Ltd, are solely involved in the LDC application and appeal. The second Appellant, Mr M Galliani, purchased the property on 6 March 2013 and made the enforcement notice appeal.

Appeal Procedure

6. Despite the first Appellant's 2 Statutory Declarations, and my explanation of the penalties surrounding knowingly or wilfully making false statements in them (section 5 of the Perjury Act 1911), as well as the wider effect of section 194 of the Act on the evidence given for the LDC, the Local Planning Authority (LPA) maintained its objections to the Hearing procedure. Instead, the Council believed that the Appellants' evidence needed to be given under oath, and tested by cross examination, because this case involves complex legal issues. Such action is only possible at an Inquiry.
7. Notwithstanding this dispute it was agreed by the main parties that the Hearing should precede, using more formal questioning of the witnesses giving the SDs, and that the matter be reviewed after considering the oral evidence. Before adjourning to the site the Appellants maintained their supportive stance towards the informal proceedings but the LPA maintained its objections.
8. At the completion of the second accompanied site visit (ASV) I told the parties that I would review the matter of procedure. They would either get a decision, if I concluded it was appropriate, or, in the alternative, a notice that the Hearing is aborted for an Inquiry. The issue of this decision is confirmation that, after due reflection, I have decided that the informal procedure is indeed appropriate for this case. Relevant case-law is not especially complex and the

evidence, on the significant facts, is covered by the perjury laws. Indeed, I do not see what more would be likely to be achieved by a Public Local Inquiry in this instance.

The Notice Plan; Appeal (B)

9. The enforcement notice plan denoting, the appeal property, is slightly wrong. I will correct this as agreed by the main parties.

Appeal (A) LDC and Appeal (B) Ground (d); The Use

10. Although I will deliberate upon elements of both matters together, in regard to the ground (d) enforcement appeal I will just be considering the alleged garden terrace use jointly with the LDC appeal. The later decking and balustrading, operational development, element of this ground will be determined separately.

Reasons

11. An LDC is just a snap-shot in time. It is concerned simply with whether what is applied for would be lawful at the date when the application is made. A ground (d) enforcement appeal asserts that it is too late to take enforcement action and requires similar evidence.
12. In these kinds of legal cases concerns about planning policy, or the impact of the scheme on the environment, are not relevant. My decisions are concerned solely with an interpretation of planning law. Although it is for the Appellants to prove what they assert the evidential test involves just what is the most likely explanation of the facts; that is on the balance of probabilities. In other words is what is alleged more probable than less probable? Mathematically, this could mean that, if it is found that the asserted garden terrace use is 51% more likely to have been maintained for the requisite period then the appropriate test would have been satisfied and the Appellants would have proved their cases sufficiently. In such circumstances the appeals would succeed. Lawful can sometimes be awful.
13. The LDC is sought solely for the garden terrace use.
14. This is a breach of condition case because using the roof of the dwelling house, as a garden terrace, would not normally be development under the Act (it would be a use of the building for a purpose incidental to the enjoyment of the dwelling house as such (section 55(2)(d))).
15. The relevant condition is number 5 attached to planning permission reference 87/0135 (condition 5). It states that *...No access shall be provided to the roof of the extension by way of window, door or stairway, and the roof of the extension hereby approved shall not be used as a balcony or sitting area...* It is accepted by the Appellants that the word *extension* used in the condition, whether or not it is a misnomer, does apply to the appeal property. It follows that the 10 year rule, under section 171(B)(3) of the Act, applies. There are two relevant periods (RPs) starting with: 21/11/2002 (10 years after the original LDC application was made to the LPA) for Appeal (A), and; 13/2/2003 (10 years after the enforcement notice was issued) for Appeal (B).

16. There are two Statutory Declarations (SDs). One from Mr Mark Smith who is the Managing Director of the first Appellant company. The other is from Mr Shan Slavin who has been in the employ of the first Appellant company, as its Property Maintenance Builder, since 1996. Both stated, from their direct knowledge, that the roof of N^o 2 has been used as a garden terrace following works carried out to the property in the latter part of 2000. As already noted SDs carry the risk of imprisonment and /or a significant fine, if the person involved knowingly or recklessly makes a false statement, so they are unlikely to be undertaken lightly. As a consequence SDs carry considerable weight. Section 194 of the Act, extends section 5 of the Perjury Act 1911 for LDCs, by making the withholding of any material information an offence as well.
17. There is little doubt in my mind that a staircase, and hatchway access, was provided onto the roof of appeal property during the latter part of 2000 (as set out in the: SDs; Estimates from McLouchlin and Sons dated 1 September 2000, and; the sales particulars from the Queens Park Partnership (dated 25 January 2001)). The staircase and access hatch provide a way of using the roof in direct breach of condition 5; works which took place more than 10 years before the beginning of either RP.
18. That the stairs were replaced, and the hatchway enlarged, during the summer of 2012 is not to my mind a new breach. It is instead a continuation of the earlier breach. This is because the replacement stairs are works which only affect the interior of the building, and the hatch alteration has not materially affected the external appearance of the building, so neither later operation is development under the Act (section 55(2)(a)(i) and (ii)).
19. I am not surprised that during Mr Smith's and Mr Slavin's visits to the property, over the years, it was seldom that tenants were seen actually using the roof. Not all visits were announced and most probably took place during the day when tenants could be at work. The weather in England is also a factor regarding any minimal nature of the roof's use. It is not often that there are periods of warm or dry weather, sufficiently calm and pleasant, to make outside use of a second floor roof in London appealing.
20. Neither am I surprised that not much physical evidence, of the roof being in garden terrace use, has shown-up either at the visits or in any aerial photographs. But even the recorded presence of just: the couple of deckchairs; ashtrays; a barbeque; a carpet (used as a temporary roof covering): plant pot, and; plastic furniture, observed over the years, is enough to give me a clear indication of appeal use having been active over the RP. These artefacts, together with the access arrangements, would have been sufficient to make it clear to any visitor, or Council enforcement officer, coming to the property after the end of 2000, that the garden terrace use was taking place.
21. During one of the more formal questioning sessions Mr Slavin, in particular, was asked some questions which were leading, and wrongly framed, resulting in a few answers which conflicted with his SD. But such matters were corrected and did not appear to me to damage either: the integrity of this witness; the main thrust of what he had to say, or; the overall impression

that he was being truthful about his recollections. It was simply a matter of some genuine confusion which was the principally the fault of the questioner.

22. The only significant contrary evidence, submitted by the Council, was in the form of some aerial photographs and an email from a neighbour living at 37 Kilburn Lane. That the former did not show much happening on the roof, apart from some shadows which could have been a roof hatch (in or around its present location), is not surprising. The active occupation of the roof was at best occasional and any items associated with its use were small and portable. The aerial photographs were taken from a high altitude, are fuzzy, and only capture one moment every year or so. However, even such a crude and incomplete record does show what could be items of garden furniture /plant pots on the roof (particularly the photos for 2003, 2005/6 and 2008, provided with the Appellants' LDC evidence).
23. Other concerns about loss of privacy and an absence of any formal planning permission are raised by Mrs Papaspyrou (in an email dated 16 September 2013). But her evidence does not take the case about the roof's historic use much further. Although Mrs Papaspyrou indicates that she cannot remember having seen anyone on the appeal roof before the railings went up she, very fairly, comments that during the week she usually spends 10 hours each day at work. Unfortunately this neighbour could not attend the Hearing because of work commitments.

Conclusion on this part of the Appeals

24. The main thrust of what I found to be the Appellants' compelling case, backed up by two SDs, was largely unchallenged by any significant contrary evidence. It follows that I find that a breach of condition 5 over the RPs has been proven as a matter of fact and degree, on the balance of probabilities, so the LDC appeal (Appeal (A)), and the usage part of ground (d) for the enforcement appeal (Appeal (B)), should be allowed.

Case Law

25. In forming this opinion I have taken into account the judgement tabled by the Council at the Hearing (*Ellis and the SSfCLG and Chiltern DC [2009] EWHC 634 (Admin)*). But the *Ellis* judgement refers to a residential use of a dwelling with an agricultural occupancy condition attached to it and is substantially different to the case before me. Clearly each time a non-agricultural use of the *Ellis* dwelling ceased a fresh breach occurred and the appropriate relevant period started again. As already noted I do not accept that the works done in 2012 (which included replacement stairs and hatchway) amounted to a fresh breach, or new chapter in the planning history of the site, sufficient to reset the 10 year "clock" to zero. The *Ellis* case does not impact on my decision.
26. Instead the judgement in *Basingstoke and Dean Borough Council v SSfCLG and Sir Thomas Stockdale [2009] EWHC 1012 (Admin)* is more relevant. Here it was found that...*continuous physical occupation is not required for there to be occupation in breach...* In *Thurrock Schiemann LJ* made the point that the Inspector should have asked himself *...whether enforcement action could have been taken throughout the...clearly defined...period.* And in *Swale BC v FSS and Roger Lee [2005] EWCA Civ 1568*, Keen LJ similarly had no doubt that the

same question should have been asked, concluding *...that this is a quite different question from whether the use had been abandoned...* Although he recognised that *...it would be a question of fact and degree whether it could properly be said that the unlawful use was continuing...* To my mind the presence of the stairs and hatchway, supported by the more ephemeral presence of some "garden furniture", was sufficient to indicate to any visitors that the use was active throughout the RP.

Appeal (B) Ground (d); The Works

27. This ground is that it is too late to take enforcement action against the timber decking and balustrading.

Reasons

28. The Appellants accept these works were done during the summer of 2012. Neither operation was claimed to be permitted development. The relevant part of the Act is section 171B(1). Because it is agreed that the works were carried out less than 4 years ago they have not acquired immunity against enforcement action. Development, under the Act, requiring planning permission, has been undertaken without the necessary consents. This part of the Ground (d) appeal must fail and results in a split decision on Appeal (B).

Appeal (B), Ground (a); The Balustrading and Decking

29. This ground is that planning permission should be granted for what has been done. Because I have found that the use of the roof as a garden terrace is lawful this part of the Ground (a) appeal does not fall to be considered here because this use is lawful.

Main Issue

30. There is one. This is the effect of the later operational development (the balustrading and decking) on the privacy of residential neighbours.

Reasons

31. This is a high density urban area. Houses are packed closely together. The second Appellant confirms that during the recent hot weather a number of other neighbouring flat roofs were also used by residents for sitting out.

32. In this kind of densely built-up residential place some loss of privacy is inevitable. Distances between the overlooked windows of neighbouring dwellings are generally less than ideal. Indeed, I saw that it is possible to look into the rear upper, bathroom and bedroom, windows of some neighbours' houses from the inside of the appeal dwelling; even though the relevant overlooking windows are high level ones.

33. It is clearly already feasible, for the determined "Peeping Tom", to cause an unacceptable loss of privacy to neighbours even ignoring the use of the appeal roof garden terrace. But such a person would have, deliberately, to peer out of a high level window and actively seek to observe his or her neighbours. This is not usual behaviour and there is little the land use planning system can do to prevent such potential abuse retrospectively.

34. But visibility from the roof of N° 2, which is on the top of a 3 storey building, is of a different order. It is from an open, high, vantage point which offers a dominating position for overlooking. From here it is easy to see into surrounding properties; including the upper windows of some of the nearest neighbours' dwellings and what could normally be expected to be their private back gardens. No conscious effort is needed for there to be an unacceptable level of overlooking because just being on the roof inevitably results in a significant problem. As was noted, on the first ASV, it was difficult not to see what neighbours were doing in some of the more private parts of their homes; even when the observers tried consciously to look away.
35. Although I have found that the use of the roof garden terrace, without any decking or balustrading, is lawful, sitting out on an unimproved asphalt roof would not be a particularly pleasant experience; except in the most exceptional of good weather conditions. And even then the asphalt roof would not provide an ideal surface for such a use (it gets hot). But granting planning permission, to retain the balustrading, and timber decking, would make the roof garden terrace use eminently more practical and enjoyable. This would encourage, what in land use planning terms in this case, is a materially harmful activity and should not be countenanced.
36. Overall the works are not something which would contribute positively to making this part of London a better place for people, in general as opposed to the Appellant in particular, to live. Development would not therefore accord with: the relevant part of the National Planning Policy Framework; Policy BE9(e) of the 2004 adopted London Borough of Brent Unitary Development Plan, or; the relevant part of the Council's 2001 Supplementary Planning Guidance 17, on privacy. It follows that planning permission should be withheld for the retention of the balustrading and decking.
37. I have taken account of the intrinsically attractive design of the works and the fact that they are not very apparent from surrounding public view points. But this is not sufficient to countenance the likely increased loss of privacy which the unlawful works have facilitated. A condition moving the balustrade further back, from what appears to be the northern edge of the roof, would not reduce the resulting loss of privacy to neighbours sufficiently enough to overcome the significant land use planning objections to the development.

Colin A Thompson

APPEARANCES

FOR THE APPELLANTS:

Mr M Pender BA Hons DipTP MRTPI, PPM Planning Ltd	Agent
Mr M Smith	Witness for the first Appellant
Mr S Slavin	Witness for the first Appellant
Mr M Galliani	The second Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr N Wicks MRTPI, Environment Services Ltd	Planning and enforcement witness
Mr T Rolt MRTPI, Brent Council	Planning and enforcement witness

DOCUMENTS

- 1 Letter of Notification of the Hearing and the list of persons notified
- 2 Email form an interested person
- 3 The *Ellis* Judgement transcript



Plan (LDC, and amended Enforcement Notice, plan)

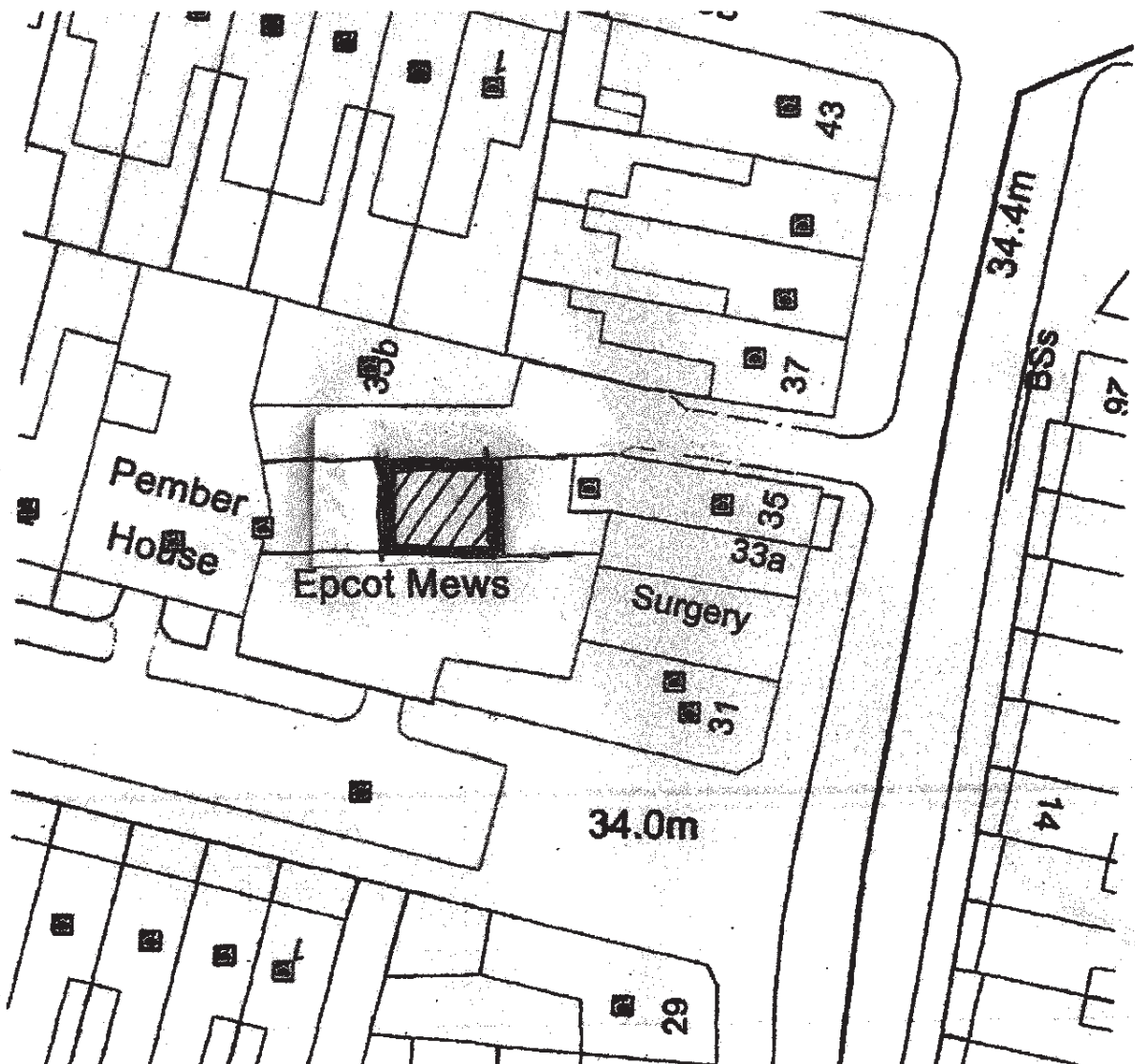
This is the plan referred to in the Lawful Development Certificate dated: 09.10.2013

by **C A Thompson DipArch DipTP Reg Arch RIBA MRTPI IHBC**

Land at: **2 Epcot Mews, Pember Road, LONDON, NW10 5LL**

Reference: **APP/T5150/X/13/2195266 and C/13/2195278**

Scale: NTS





Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 21/11/2012 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The breach of condition 5, of the 87/0135 planning permission, has subsisted for more than 10 years

Signed

Colin A Thompson

Date 09.10.2013

Reference: APP/T5150/X/13/2195266

First Schedule

The use of the roof as a garden terrace

Second Schedule

Land at 2 Epcot Mews, Pember Road, LONDON, NW10 5LL

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Appeal Decision

Site visit made on 16 September 2013

by **Chris Couper BA (Hons) DIP TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 October 2013

Appeal Ref: APP/T5150/A/13/2198678
146A High Street, Harlesden NW10 4SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Misbah Rahman against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/2701, dated 3 October 2012, was refused by notice dated 17 December 2012.
 - The development proposed is change of use from self-contained flat to house in multiple occupation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from self-contained flat to house in multiple occupation at 146A High Street, Harlesden NW10 4SP in accordance with the terms of the application, Ref 12/2701, dated 3 October 2012.

Procedural matter

2. I note from the appellant's statement and from my site visit that the property is already in use as a House in Multiple Occupation ('HMO') and that the proposal is therefore retrospective. I have determined the appeal on this basis.

Main Issues

3. The main issues are: i) the effect of the proposal upon the supply of suitable family accommodation in the area; ii) whether occupiers of the accommodation would experience satisfactory living conditions; and iii) the effect of the proposal on the living conditions of neighbours with particular regard to noise and disturbance.

Reasons

The supply of family accommodation

4. The Council contends that the proposal results in the loss of a self-contained residential property that is suitable for family accommodation. It states that the Borough has a high and increasing average household size, that the average number of rooms per unit is one of the lowest in London and that the existing
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housing stock is therefore overcrowded and inadequate to accommodate existing needs. Furthermore, family accommodation has been lost over the years as part of development schemes and most new housing, including that in the 'pipeline', is for 1-2 bedroom units which does not address the need for family-sized accommodation. The existing housing stock is inadequate to satisfactorily accommodate the Borough's disproportionately larger households. In addition it states that in accordance with policy, non-self-contained accommodation should meet the identified needs of a named institution and that suitable management arrangements should be provided as part of the proposal.

5. In my view, whilst the premises are of a suitable size, the location above a restaurant on a busy thoroughfare with access directly off the pavement, together with the lack of any outdoor amenity space, is such that the property does not lend itself to use as family accommodation. My conclusion on this matter is supported by the letter from St John Chartered Surveyors dated 3 October 2012 indicating that the use of the premises as family accommodation ceased due to changes to the character of the area and a lack of demand as the premises was unattractive for family use.
6. The appellant states that the occupants of the HMO are currently employees of the catering establishment beneath and that the proposal accords with guidance in the National Planning Policy Framework ('the Framework') which requires at paragraph 50 that local planning authorities should plan for a mix of housing to address the needs of different groups in the community. The appellant also states that due to changes to Social Welfare provision there is a growing demand for smaller units for 1 or 2 persons for use by key workers or those with short term needs. Enquiries made to Housing Associations who have housing stock in Brent indicate that the demand for HMO accommodation in the area outstrips the supply and the appellant therefore maintains that the proposal contributes to addressing those needs in a highly sustainable location in accordance with guidance in the Framework.
7. Whilst I accept from the evidence before me that there is a high demand for family-sized units, there appears to also be a high demand for HMO accommodation. I consider it reasonable that HMO accommodation should be provided in suitable premises to meet those needs in accordance with the guidance in the Framework which seeks to deliver housing for all sectors of the community. I also accept that the site is highly accessible and sustainably located with very good access to public transport and service provision.
8. Whilst the scheme does not provide any family-sized units as part of the conversion, given the overall size of the premises and my conclusions that the property does not lend itself to use as family accommodation, I do not consider that it is a reasonable or necessary requirement in this case.
9. I have assessed the proposal against policy CP21 of the Brent Core Strategy 2010 ('the Core Strategy') which seeks, in broad terms, to maintain and provide a balanced housing stock by protecting accommodation that meets known needs, and to ensure that new housing contributes to the Borough's household needs. This includes, but is not limited to, family-sized accommodation. The policy also states a requirement to provide non-self-contained accommodation (including HMOs) to meet identified needs and requires that family-sized

accommodation should be provided as part of house conversion schemes, although this may not be necessary where a satisfactory environment for young children cannot be provided. For the reasons set out above I consider that the proposal does not conflict with this policy.

10. I have also considered the scheme against the relevant parts of policy H17 of the Brent Unitary Development Plan 2004 ('the UDP') which, together with the supporting text, states that the conversion of dwelling houses to flats will be permitted unless it results in the loss of a small (less than 110sqm) purpose-built family dwelling which meets a specific need. However, I consider the policy to be of limited relevance to this proposal as it addresses schemes to convert dwelling houses into flats rather than HMOs. In addition, I note that the Council states that the existing unit has a floor area of approximately 110sqm and it is therefore unclear from the evidence before me whether it falls within the threshold set out in the policy.
11. Policy H10 of the UDP is referred to in the decision notice. The policy required that new residential development should be self-contained unless designed to meet the known needs of a named institution and that suitable management arrangements be secured as part of the planning application. However, the Council has indicated in its Statement that the policy has been superseded by policy CP21 in the Core Strategy and I have therefore had no regard to it in my decision.

Living conditions within the accommodation

12. The scheme includes 4 bedrooms, each with a shower/toilet room, and each for use by 1-2 persons. All the bedrooms have a window or windows facing either towards High Street or to the rear. The bedroom sizes range from approximately 11sqm to 21sqm and the occupiers also have access to a communal kitchen/dining area of approximately 22sqm. The appellant maintains that these areas exceed the space standards set out for HMO Licensing.
13. Whilst the space provided for the occupants is limited, I am satisfied that the amount and quality of the space within each of the bedrooms, together with the communal space in the kitchen/dining area is sufficient to provide occupiers with areas to cook, relax and sleep. In addition, I observed on my visit that each bedroom is lit by one or more windows which are of a reasonable size and in my view provide sufficient natural light. Whilst the property has no garden or external space, this would also be the case if the premises was occupied as a single family-sized unit of accommodation, and I am not persuaded that the need for external space is any greater for an HMO.
14. I have assessed the proposal against policies H17 and H18 of the UDP which support schemes for the conversion of houses to flats providing that the configuration of the property is appropriate, and which state in broad terms that proposals should provide an acceptable standard of accommodation for future residents with regard to factors such as room size and layout, and should not be over-intensive in terms of the number and size of units proposed. In addition I have considered the adopted Supplementary Planning Guidance 17: Design Guide for New Development ('the SPG') which states that, as a guide, one bedroom flats serving two people should have a minimum unit size of 45sqm.

The Council also refers to a requirement for 50sqm for one bedroom flats serving 2 people set out in the Mayor's London Plan 2011.

15. However, in my view, the standards referred to in the SPG and the policies are intended to address proposals for self-contained flats rather than HMOs. I therefore consider them to be of limited relevance to the appeal proposal. In any event, for the reasons set out above, I consider that occupiers of the accommodation would experience satisfactory living conditions in accordance with the guidance in paragraph 17 of the Framework which requires proposals to provide a good standard of amenity for all existing and future occupants of land and buildings.

The effect on the living conditions of neighbouring occupiers

16. Given the presence of a restaurant in the ground floor of 146a High Street, and other restaurants and commercial uses and the high traffic volume in High Street, I consider that background noise levels and disturbance in the vicinity of the appeal site are generally high.
17. Whilst I have limited information before me, it appeared from my site visit that neighbouring uses in the adjoining terraced properties are residential above ground floor. However, whilst I accept that HMOs may generally have higher occupancy rates than self-contained accommodation and may attract a greater number of comings and goings, I have no clear evidence to indicate that such occupancy gives rise to significantly greater noise and disturbance. Indeed in this case, I note that despite the retrospective nature of the proposal, no objections were received from any adjoining occupiers, and I have not been made aware of any complaints regarding noise or disturbance.
18. I have considered the proposal against policies H17 and H18 of the UDP which require, amongst other matters, that the configuration of the property should be suitable for conversion to flats and that the proposal should provide acceptable standards of accommodation for future residents. I have also considered the requirements of the SPG. However, whilst the SPG does refer in general terms to the need to provide suitable standards of privacy, I have not been directed to any specific requirements relevant to the scheme before me. The policies which relate to flat conversion schemes and the SPG are therefore of limited relevance to the proposal. Nevertheless, I have considered the scheme against the guidance in paragraph 17 of the Framework and I conclude that the proposal ensures that acceptable standards of amenity and living conditions for neighbouring occupiers would be maintained.

Conclusion and conditions

19. For the above reasons and having regard to all other matters raised I will allow the appeal. I have considered the Council's suggested conditions against the tests in Circular 11/95. However, I have noted that the proposal is retrospective and I have therefore not found it necessary to impose either the suggested time limit condition or the condition requiring that the development be carried out in accordance with the approved drawings.

Chris Couper

INSPECTOR

Appeal Decision

Site visit made on 23 September 2013

by **R Curnow BSc(Hons) MA(TCP) CMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 October 2013

Appeal Ref: APP/T5150/D/13/2201953

11 Highfield Avenue, Wembley, Middlesex, HA9 8LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ponnambalam Ananthan against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/0945, dated 10 April 2013, was refused by notice dated 5 June 2013.
 - The development proposed is retention of canopy at the rear of property.
-

Procedural matter

1. The description of the development on the application form reads 'Retention of canopy at rear of property'. As retention is not a form of development, I have amended the description in my decision, to better reflect what has been applied for.

Decision

2. The appeal is allowed and planning permission granted for canopy at the rear of property at 11 Highfield Road, Wembley, Middlesex, HA9 8LE, subject to the following condition:

1) The development hereby permitted shall be carried out in accordance with the following approved plans: KD/PP/58/11/H134.1, KD/PP/58/11/H134.2, KD/PP/58/11/H134.3 and KD/PP/58/11/H134.4.

Main issues

3. The main issues in this appeal are the effects of the development on the character of the host dwellinghouse and others nearby, and whether it would have an overbearing impact on the occupants of neighbouring properties.

Reasons

4. The canopy is a simple open fronted addition to the rear of this semi-detached dwelling, comprising a plastic roof supported by boundary walls and timber columns. Where it projects above the boundary walls, there are infill panels of the same plastic material. The canopy, which appeared to be nearing completion at the time of my visit, projects from an earlier single storey extension, giving an overall depth of 6.1 metres from the original dwelling.
5. Policy BE2 of the London Borough of Brent Unitary Development Plan 2004 (UDP) states that developments should make a positive contribution to the

character of an area – an aim reflected in Policy CP17 of the London Borough of Brent Core Strategy 2010 (Core Strategy). UDP Policy BE9 requires extensions to be complementary and harmonious, stating, amongst other things, that local design should be respected, though not necessarily replicated, with the use of compatible or complementary materials.

6. The Council's adopted Supplementary Planning Guidance 5, 'Altering and Extending Your Home' 2002 (SPG) states, with respect to single storey extensions to semi-detached dwellings, that the maximum permitted depth permitted is 3 metres, though this might be reduced where neighbouring dwellings are at a lower level or a different rear building line.
7. Notwithstanding that the SPG seems to place a greater degree of restriction on the depth of rear extensions than may otherwise be permitted under the terms of the Town and Country Planning (General Permitted Development) Order 1995, as amended, I find that the canopy is acceptable in its own right. Its simplicity of design respects the character of the existing dwelling, as well as others nearby, and is therefore compliant with this UDP Policy BE9. As it is not seen from public vantage points, it has no impact on the wider townscape and I find that it is compliant with the aims of UDP Policy BE2 and Core Strategy Policy CP17.
8. Whilst the canopy's materials differ from those in the main house, their quality is acceptable and they would complement it. Therefore, I see no necessity for the materials in the canopy to match those of the existing house.
9. At my visit, I saw that the canopy abuts a conservatory on the rear of 9 Highfield Avenue, itself deeper than the 3 metres set out in the SPG, extending a little beyond it. On the other side, it runs along the common boundary with 17 Highfield Avenue, which has a line of Cypress trees growing on its side of the boundary.
10. The Council's reason for refusal states that there would be an overbearing relationship with the neighbouring properties; however, its officer's report states that the "residential amenity" of number 9 will not be detrimentally affected and it is not considered to be "overly-dominant" to number 17.
11. The canopy does not have an overbearing impact on number 9, due to its limited height, the properties are at the same level and it mostly runs alongside the extension to number 9. I viewed the site from the rear garden of 17, which is at a slightly lower level adjacent to the canopy. Again, it is not overbearing; nor would it be, even were the trees to be removed.
12. My conclusions are that the design of the canopy is appropriate to the dwelling and the area, and that there would be no significant adverse impact on the living conditions of the occupants of neighbouring properties. The development would, therefore, accord with the terms of the relevant development plan policies, for my reasoning above. I therefore allow the appeal. The Council has not suggested any conditions to be applied. As the development has been commenced, I have attached a single condition, requiring compliance with the submitted plans.

R Curnow

INSPECTOR



Appeal Decision

Site visit made on 23 September 2013

by **D Lamont**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2013

Appeal Ref: APP/T5150/D/13/2203918
154 Salmon Street, LONDON, NW9 8NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Faiz Dalili against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/1402 was refused by notice dated 19 July 2013.
 - The development proposed is the retention of boundary wall.
-

Decision

1. The appeal is allowed and planning permission is granted for the boundary wall at 154 Salmon Street, London NW9 8NU, in accordance with the terms of application, Ref 13/1402, dated 24 May 2013, and the plan submitted with it, numbered KD/PP/Boundary/83/12/S130.

Procedural Matter

2. The development has been completed and I deal with the appeal on that basis.

Main issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site lies within an established suburban area. It is on the east side of Salmon Street, where the properties are predominantly early 20th century two-storey, red brick, detached and semi-detached family homes. Their curtilages are set back behind generous broad green verges, with narrow roads behind, serving the driveways. On the west side, and to the south of the site on the east side, these properties are substantially screened by landscaping.
5. I have had regard to two appeal decisions in respect of boundary enclosures at Nos. 284 and 19 Salmon Street (ref. APP/T5150/A/08/2079240 and APP/T5150/D/12/2185713). The street is particularly long and its character and appearance varies locally and between each side of the street. Both sites are distant from the current appeal site. Consistent with the previous Inspectors' approach, this appeal is determined within its local context and the particular site and development circumstances.
6. The site lies at the southern end of an eastern stretch along which the houses are prominent from Salmon Street, due to the absence of meaningful

landscaped screening. Within this open row of housing, the grass verge also narrows to the point where the proximity of front gardens (or parking areas) to the Street is reflective of a more typical suburban street. This 'harder', more urban, edge is further emphasised by wide asphalt vehicular cross-overs and expansive front garden parking areas. The impact is particularly evident at the street's junction with Mallard Way. Here, there are wide views across the combined open hard parking areas of two houses to the north, to the walls and railings of the opposite corner house and no. 178.

7. No. 158's walls are the only substantial front boundary enclosures between No. 178 and the appeal site; and are lower than the subject development. However, No. 158's walls are particularly prominent as a result of its corner position, double-fronted aspect and walls, total length of walls, and the reduced green foreground between the property boundary and Salmon Street. However, the walls reduce the hardstanding's visual impact on the streetscene.
8. The subject enclosure maintains the existing green space between the building and Salmon Street. The front garden does not have a soft green character garden because it has been covered with paving for vehicle parking. The walls and railings extend higher than similar features found along this part of the street. However, within the context of the local streetscene, their set-back from road junction corners and Salmon Street has the effect of a consistency of character and appearance with the lower, longer and more prominently positioned examples of similar walls along this side of Salmon Street.
9. In addition, the development has been completed in red brick which is sympathetic, in appearance and scale, to the host and adjacent houses. The wall is read against the red brick background of the substantially higher host building and its neighbours. As such, it is less pronounced than established walls and railings which are positioned closer to local principal roads and on corner plots. The enclosure also mitigates the urban impact of its hardstanding and parked cars on the character and appearance of the streetscene. The transparency of the wall-mounted railings and gates also reduce the solidity of the enclosure's height and continuum of wall.
10. The development's low height and width, within the context of the existing space between the exposed house gable wall and the neighbouring house, will also maintain the sense of space between the two buildings.
11. For these reasons, and having had regard to all other matters raised, I conclude that the development is sympathetic to, and maintains, the established open character of the streetscene; and makes a positive contribution to the distinctive residential character and appearance of the area. This is consistent with the London Borough of Brent Unitary Development Plan 2004 Policies BE2, BE6 and BE7 and BE29, on urban design of public realm, town and streetscapes and protecting spaces between buildings in Areas of Distinctive Residential Character; and the Council's Supplementary Planning Guidance 5 Altering and Extending Your Home. Accordingly, the appeal is allowed and there is no requirement for any conditions, given the development has been completed.

D Lamont

INSPECTOR



Appeal Decision

Site visit made on Monday 2 September 2013

by Alan Langton DipTP CEng MRTPI MICE MCIHT

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 October 2013

Appeal ref: APP/T5150/C/13/2197467

1 Mentmore Close, Harrow HA3 0EA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the Council of the London Borough of Brent.
- The appeal is made by Dr S Rahman.
- The Council's reference is E/12/0321.
- The notice was issued on 22 March 2013.
- The breach of planning control as alleged in the notice is: Without planning permission, the partial removal of a front boundary wall and formation of hard surface to the front garden, and the installation of replacement of uPVC windows to the front elevation of the premises. ("The unauthorised development").
- The requirements of the notice are:
 - Step 1 Remove the unauthorised uPVC windows from the front elevation of the premises.
 - Step 2 Remove the unauthorised hard surface from the premises as shown hatched on the attached Plan B to the notice. Deposit top soil where the hard surface formerly stood and then turf over that area.
 - Step 3 Plan a privet hedge at intervals of between 400 mm and 600 mm in the location as shown marked red on the attached Plan B to the notice.
 - Step 4 Plan shrubbery in the location as shown black on the attached Plan B to the notice.
 - Step 5 Reinstate the front boundary wall of similar height and design as shown on the attached photograph [to the notice] and in the cross hatched location as shown on the attached Plan B to the notice.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the development is exempt from the payment of fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary Decision: The appeal is allowed in part and dismissed in part, in the terms set out below in the Formal Decision.

Preliminary matters

1. At the outset there are corrections that I need to make to the enforcement notice. In the allegation, as quoted above, aside from the repeated word "of", not all the windows in question are replacements, those on the house extension were installed as they are from the outset. I shall correct this by deleting the reference to replacements, which I can do without injustice since the intentions of the notice are clear and have been responded to accordingly by the appellant. The requirements in Steps 3 and 4 quoted above to "Plan" a privet hedge and "Plan" shrubbery are plainly intended to mean "Plant" in each case. Again, these

- are corrections that I can make without injustice, since the notice has in these regards also has been understood and responded to accordingly.
2. Mentmore Close is within the Northwick Circle Conservation Area, subject to a Direction made in 2005 under Article 4(2) of The Town and Country Planning (General Permitted Development) Order 1995 as amended (GPDO). Amongst other things, and in brief, this removes permitted development rights at dwellinghouses otherwise conferred by Article 3 of the GPDO with regard to hard surfaces and both the erection and demolition of gates, walls and fences.
 3. At the end of 2011 the Council granted planning permission for "Demolition of existing attached side garage, [and erection of] two storey side and single storey rear extension to dwellinghouse" at 1 Mentmore Close (ref 11/2383 12 December 2011). The permission was subject to conditions including:
 - 3) The front garden (in particular the proportion of soft landscaping) shall be retained as existing following construction works on site. ...¹
 - 4) Details of materials for all external work, including samples, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The work shall be carried out in accordance with the approved details.
 - 5) Notwithstanding the submitted plans otherwise approved, further details of the windows to the front elevation of the side extension shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing on site and the works shall be carried out in accordance with the approved details. Such details shall include:
 - a) Elevation of proposed window at a scale of 1:10
 - b) Cross-section at a scale of 1:5 through the transom showing the relationship of opening and fixed lights, with full-sized details of externally mounted glazing bars.
 4. This development was implemented though not in full accord with the permission. The Council subsequently refused retrospective approval of details pursuant to Conditions 4 and 5 (ref 12/2009, 15 November 2012). An appeal against this refusal was allowed with regard to details subject to Condition 4 but refused with regard to Condition 5 (APP/T5150/D/12/2189298, 21 February 2013).
 5. A local written objection to this current appeal relates to the pebble dash finish on the extension, however that is not subject to the enforcement notice or before me for consideration.

The appeal on ground (c)

6. To succeed on ground (c) it is necessary for the appellant to demonstrate, on a balance of probabilities, that the matters alleged in the notice do not amount to a breach of planning control. The changes that have taken place to the entrance and driveway were not authorised by the 2011 permission, but rather they are contrary to its Condition 3. The front windows now across the whole of the extended house, that is to say the original house and the extension, are quite different from those in photographs of the house prior to the works. Those there now were not authorised by the 2011 permission, quite the reverse, the

¹ The condition then sets out detailed requirements regarding the replacement of plants that fail within 5 years.

approved drawings stated that the then existing windows would be retained on the house while those to be installed on the extension were to be subject to the further approval required by Condition 5.

7. The Article 4(2) Direction means that neither the alterations to the front wall and driveway nor the new and replacement windows on the front elevation were permitted by the GPDO. The works to the front wall and driveway, and installing the windows, were acts of development, which require planning permission, but which were carried out without either specific permissions or under the provisions of the GPDO. Accordingly, the matters alleged in the enforcement notice are breaches of planning control and the appeal fails on ground (c).

The appeal on ground (a) and the deemed planning application

8. The main issues concern the effects that the front garden layout and the windows have on the street scene and thereby on the appearance and character of the Conservation Area.
9. The works to the front wall and hardstanding widened the previous opening and parking area, and there is little by way of planting in the remaining garden, where previously on (albeit rather indistinct) photographic evidence there was hedging. I do not condone these variations from the requirements of the 2011 permission Condition 3, but the paved area has been neatly laid out, is not excessively wide, and a little more than half the front garden remains unsurfaced. In these regards it broadly complies with the guidance at Section 4.0 of the Council's Supplementary Planning Guidance (SPG5) *Altering and Extending Your Home* adopted in September 2002. The main detracting feature is the condition of the pavement vehicle crossing, but that lies outside the appellant's property and enforcement notice site. The proportion of retained garden compares favourably with most houses in the Close and in that sense at least preserves the appearance and character of the Conservation Area.
10. There are hedges in the road and wider locality but they are by no means a dominant characteristic. In my view, prescribing that the appellant's front garden must feature a privet hedge gives an unwarranted degree of control over his home. Ultimately, the attractiveness or otherwise of individual front gardens in the locality, and their contribution to the Conservation Area, hinges more on the care, ability and interest of individual households than by specifying a particular plant species. The present layout safeguards a choice of options for the front garden. A privet hedge planted simply to meet the requirements of the enforcement notice might well in practice lead to a less satisfactory outcome in the longer term.
11. In all, the appearance and character of the Conservation Area would be better served by allowing the appellant to retain the now existing parking area and to cultivate his front garden through choice. On balance, this outcome would I believe sufficiently meet the aims of urban design principles in the Council's Unitary Development Plan Policies BE2 and BE7 and their more particular application in conservation areas in Policies BE25 and BE26. The appeal on ground (a) succeeds with regard to the works to the front wall, hardstanding and garden. The appeal on ground (f) does not need to be considered in these regards.
12. The appellant does not dispute the need to replace the now existing windows but questions the need to do so fully matching those previously on the house.

The enforcement notice does not, however, specify any particular requirements for replacements, only that those there now must be removed. It is not open to me to specify the details of their replacements. There can be no dispute that the now existing windows lack the attractive and locally characteristic details of the house's former windows. Even aside from the choice of material, uPVC rather than timber, the windows lack level sight lines, satisfactory frames and proportions, stained glass, and a dentil moulded drip-rail. Taken together, the outcome harms, and certainly does not enhance or preserve, the distinctive appearance and character of the Northwick Circle Conservation Area, contrary to urban design principles in the Council's Unitary Development Plan. The appeal on ground (a) fails with respect to the windows, which remain subject to the appeal on ground (f).

The appeal on ground (f)

13. The enforcement notice is limited to requiring that the existing windows be removed. This does not go further than is necessary to remedy the breach of planning control that occurred when these were installed. It would be open to the appellant to install replacements on the main house matching those there previously, and to install replacements on the extension in accordance with the requirements of the 2011 permission. Any variation would need to be submitted to and approved by the Council. That, however, lies outside the scope of the appeal before me since the enforcement notice does not seek to specify replacement details. For the avoidance of doubt, my criticisms of the currently existing windows are just that; they are not intended to fetter consideration of replacement proposals. Subject to these points, the notice does not go further than necessary and the appeal fails on ground (f).

Formal Decision

14. The enforcement notice is corrected by in its Schedule 2, The Alleged Breach of Planning Control, deleting the words "of replacement" in front of the words "of uPVC" so that the phrase reads "the installation of uPVC windows"; and in its Schedule 4 deleting the word "Plan" in Steps 3 and 4 and replacing it with the word "Plant".
15. The appeal is allowed in part insofar as it relates to the partial removal of a front boundary wall and formation of hard surface to the front garden, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the said development already carried out, namely the partial removal of a front boundary wall and formation of hard surface to the front garden on land at 1 Mentmore Close, Harrow HA3 0EA referred to in the notice.
16. The appeal is dismissed and the enforcement notice is upheld as corrected for the installation of replacement uPVC windows to the front elevation of the premises and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the said development already carried out, namely the installation of uPVC windows to the front elevation of the premises at 1 Mentmore Close, Harrow HA3 0EA referred to in the notice.

Alan Langton

Inspector



Appeal Decision

Site Inspection on 9 September 2013

John Whalley

Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2013

Appeal Reference: APP/T5150/C/13/2195299

Site at: 15 Beverley Gardens Wembley Middlesex HA9 9RD

- The appeal is made by Mrs Yasmin Akhatr under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the London Borough of Brent Council.
- The Council's reference is E/12/0453.
- The notice was dated 11 February 2013.
- The breach of planning control alleged in the notice is, without planning permission, the erection of a timber and plastic roof canopy extension to the rear of the premises.
- The requirement of the notice is: Demolish the timber and plastic roof canopy extension to the rear and remove all associated debris and materials arising from this demolition from the premises.
The period for compliance is one month after the notice takes effect.
- The appeal was made on grounds (c) and (f) as set out in Section 174(2) of the 1990 Act.

Summary of Decision: The enforcement notice is quashed

The appeal structure

1. The appeal concerns a roughly built timber and plastic sheet canopy immediately adjoining the end wall of the single storey rear extension to the semi-detached house at No. 15 Beverley Gardens. It measures 2.4m high, 4.7m wide and is 5m deep. Gaps between parts of the appeal structure and the house extension wall were no more than about 50mm. The canopy's roof was overhung by, but not touching, the extension's roof eaves. I saw no indication that the appeal structure had, at any time, been attached to the house extension. There were, for example, no filled in bolt holes or similar indications of previous fixings.

The implied ground (d) appeal

2. The original appeal was made on ground (c); that planning permission was not required to erect the canopy at the rear of No. 15 Beverley Gardens. Later, ground (f) was added. The Council's statement noted

that it had been claimed that the structure had been there for more than 4 years.

3. Mrs Akhatr said in her statement that the canopy was about 6 years old. Recent work had been to repair its dilapidated state. Her final submissions of 10 June 2013 emphasised that the canopy had merely been repaired recently, not newly built. The Planning Inspectorate sent an e-mail to Mrs Akhatr on 11 June 2013 asking if she wished to add a ground (d) appeal and submit any supporting evidence. The e-mail requested a reply by 26 June 2013. No reply was received.
4. Whilst the assertions about repairs were repeated throughout Mrs Akhatr's statement, no factual evidence was put in as to what, for instance, those repairs consisted of. No photographs of before and after works were shown; no bills or receipts were submitted. On the basis of what I have before me, I consider that an appeal on ground (d) would have failed.

The appeal on ground (c)

5. The decision on the ground (c) appeal turns on whether the canopy was, when built, permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended.
6. Mrs Akhatr said the appeal canopy was not attached to the rear extension of No. 15. It was a free standing structure which should therefore benefit from the concessions in Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 as amended. That allows the provision, amongst others, of buildings within the curtilage of a dwellinghouse, subject to compliance with the conditions set out at E.1.
7. The Council said the canopy, as constructed, had been built onto the end wall of the rear extension of the house and should therefore be dealt with by condition A.1(e)(i) of Class A. It was not a Class E development. Class A limited a single storey rear extension of this semi-detached house to extend beyond the rear wall of the original dwellinghouse by no more than 3 metres. As the rear extension which was built following an August 2000 planning permission had a depth of 3m from the main rear wall, the appeal canopy was not development permitted by Class A to the Order.
8. I agree that if the Council were correct to allege that the canopy had been built attached to the house extension, permitted development rights could not apply, *Fayrewood Fish Farms v SSE [1984] JPL 287*. Nor could such a development become permitted development by making changes to it.
9. I note that the original 1995 Order at Class E.1 to Schedule 2, Part 1, required that where the building to be constructed or provided would have a cubic content greater than 10 cubic metres, any part of it would have to be more than 5 metres from of any part of the dwellinghouse. That limitation was removed by the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008. So

a Class E building could be built immediately to the rear of the main house, provided it met the other conditions in Class E.1.

10. The Council's case that the appeal canopy had been attached to the rear extension of No. 15 when built is unclear. As I said above, I saw no evidence on site that showed it was built attached to the house. Had there been any fixings, I would have expected to see them on the Council's photographs. Their photographs showed proximity to the rear extension, but no attachments.
11. In an appeal on a legal ground, the burden of proof lies with an appellant, (*Nelsovil v MHLG [1962] 1 WLR 404*). However, Mrs Akhatr's claim that the canopy had been built separate from the main house was not persuasively refuted by the Council. My conclusion, therefore, favours the Appellant's version of events, and that the appeal canopy benefits from planning permission by virtue of Class E of the Order. The appeal on ground (c) succeeds. I do not need to go on to deal with the appeal on ground (f).
12. It seems to me that even if the Council had succeeded on the ground (c) appeal, the enforcement notice would have served little purpose. If the unauthorised canopy was to be removed as the notice required, it could have been re-built immediately in the same position, maintaining the small gap between it and the house, the new canopy thus complying with the provisions of Class E to the Order. The enforcement procedure is intended to be remedial rather than punitive. Requiring removal of the appeal canopy may have achieved nothing and could have been seen to be excessive, (*Tapecrow Ltd v FSS & Anr [2006] EWCA Civ 1744*).

FORMAL DECISION

13. The enforcement notice is quashed.

John Whalley

Inspector



Appeal Decision

Site Inspection on 9 September 2013

by **John Whalley**

Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2013

Appeal reference: APP/T5150/C/13/2195757

Site at: 20 Berens Road London NW10 5DT

- The appeal is made by Mr Adrian Farrell under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the London Borough of Brent Council.
- The Council's reference is E/12/0477.
- The notice was dated 25 February 2013.
- The breach of planning control alleged in the notice is, without planning permission, the formation of a rear roof terrace on top of the existing two storey rear projection including the installation of timber decking and timber railings.
- The requirements of the notice are:
 - i) Remove the timber decking and timber railings on top of the two storey rear projection and remove all items, debris and all materials associated with the unauthorised development from the premises.
 - ii) Block up any openings that allow access onto the two storey rear projection so that the flat roof cannot be accessed.
- The period for compliance is 3 months from the date the notice takes effect.
- The appeal was made on grounds (a), (c) and (f) as set out in Section 174(2) of the 1990 Act.

Summary of Decision: The enforcement notice is quashed

The appeal on ground (c)

1. For the Appellant, Adrian Farrell, it was pointed out that the Council had issued a Certificate of Lawfulness or Lawful Development Certificate, (LDC), on 2 November 2007, (Application No. 07/2640), for work at No. 20 Berens Road. That was for a mansard roof extension, a front roof light and a roof extension to the rear projection of the house.
2. What the Council now attack with the appeal enforcement notice is described as the formation of a rear roof terrace on top of the existing 2 storey rear projection including the installation of timber decking and timber railings. There is, rightly in my view, no mention of use of the roof terrace. That is because use of a flat roof of a single family dwelling for sitting out is usually incidental to the enjoyment of the dwelling as such, and may not require planning permission by virtue of s.55(2)(d) of the Town and Country Planning Act 1990. Enforcement notices dealing with the formation of roof terraces are normally directed at operations, for example, French doors, parapet walls and railings. The LDC

approved plans showed full door height glazing with what looks like an opening panel or door which could provide access from the second floor onto the roof of the 2 storey rear projection. Revised plan, drawing no. 0702/201 rev. B at 03/201, shows what looks like a door opening. That, together with revised plan, drawing no. 0702/202 rev. A at 02/202, which shows full door height glazing, also has the appearance of a door.

3. The Council said they had relied on the LDC application drawings' description of the glazing above the second floor roof as a window. They said it was untypical of doors shown elsewhere on the LDC application. Had it been shown as a door, they would not have considered it permitted development. The LDC would have been refused.
4. The extension works have, I understand, been built in accordance with the LDC. Even though the LDC drawings describe the access glazing panel as a window, it has afforded access onto the second floor projection roof. In doing so, it has not facilitated an unlawful use. Neither does the opening glazing as installed look materially different to that shown on the LDC plans. It is a lawful installation. It is not right for this enforcement notice to require it to be blocked up.
5. The other works the notice seeks to have removed is the decking and the timber railings. The question to be answered here is whether they were development permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended.
6. I consider that the appeal timber railings are to be regarded as additions or alterations to the roof, rather than coming within Class A. They come within Classes B or C to the Order. The case of *Richmond-upon-Thames LBC v SSSE and J A P Neale [1991] JPL 948* dealt with parapet walls erected on a flat roofed extension to a dwellinghouse. In that instance, the walls were seen to have enlarged the house and so came within Class B. However, in *R (oao Barry Cousins) V LB Camden [2002] EWHC 324*, Sullivan J, dealing with railings, said that *Richmond* set out the correct test, namely does the house appear larger to those outside looking at it? He concluded that the railings in the matter before him did not enlarge the external appearance of the dwelling and therefore fell within Class C. I come to the same view on the appeal railings. The post and spindle railings, with the insubstantial rush screening, do not have the same sense of solidity that walls would have. The decking has not enlarged the dwelling and also comes within Class C.
7. I conclude that the railings around the roof of the 2 storey projection and the decking upon it were permitted by Class C of the Order. The window, or door, which provides access onto the roof terrace, was also lawful development as shown by the LDC. The appeal on ground (c) therefore succeeds.
8. I do not need to go on to deal with the appeal on grounds (a) or (f).

Formal Decision

9. The appeal succeeds. The enforcement notice is quashed.

John Whalley

Inspector



Appeal Decisions

Site visit made on 1 October 2013

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 October 2013

Appeal A: APP/T5150/C/13/2196661

Appeal B: APP/T5150/C/13/2196866

22 Pebworth Road, Harrow, HA1 3UD.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr G M McCarron (Appeal A) and Mrs P McCarron (Appeal B) against an enforcement notice issued by the Council of the London Borough of Brent.
 - The Council's reference is E/12/0718.
 - The notice was issued on 11 March 2013.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a two storey side and rear extension and rear and side dormer windows to the premises.
 - The requirements of the notice are Demolish the two storey side and rear extension and rear and side dormer windows to the premises and all other associated unauthorised works and remove all debris and materials resulting from this demolition from the premises, and restore the premises back to its original condition before the unauthorised development took place.
 - The period for compliance with the requirements is 6 months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
 - Appeal B is proceeding on the grounds set out in section 174(2)(b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.
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Decisions

1. The enforcement notice is corrected: by the deletion of the words "two storey side and rear extension" and the substitution of the words "first floor side extension, a part single storey and part two storey rear extension," in the description of the alleged breach of planning control at Schedule 2; and by the deletion, in their entirety, of the second and sixth paragraphs of Schedule 3 - Reasons for Issuing the Notice.
2. The appeal is allowed in part and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for part of the development already carried out, namely the erection of a first floor side extension and a single storey rear extension, at 22 Pebworth Road, Harrow, HA1 3UD.
3. Subject to the corrections above, the enforcement notice is upheld. Insofar as it relates to the first floor element of the rear extension, and the rear and side

dormer windows, the appeals are dismissed, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters and ground (b)

4. The appeal property is a two storey detached house on the northern side of Pebworth Road, within an area designated as an Area of Distinctive Character. Planning permission was granted in February 2012 (Ref. 11/3352) for the erection of a first floor side extension, single storey rear extension, erection of a rear dormer window and installation of rooflights to front and side roofslopes. Setting aside for now the matter of the side dormer referred to in the alleged breach of planning control, it is clear that there have been significant departures from the scheme approved in 2012, both externally and internally. Part of the appellants' case is that parts of the development are not materially different from that approved, and that they benefit from the 2012 planning permission. However, the Courts have held that if a building operation is not carried out, both internally and externally, fully in accordance with the relevant planning permission, the whole operation was unlawful¹. What was built in this case differs materially from the plans approved under the February 2012 permission. It follows that no part of the extensions and alterations can be considered to benefit from that permission.
5. It is also submitted that there are a number of flaws in the notice which render it wholly inaccurate and defunct, such that the notice should be quashed. The first of these referred to is, in the reasons given for issuing the notice, the harm due to the inadequate setback of the side extension. The Council's statement records the setback as 1.5m, noting that it is therefore contrary to its Supplementary Planning Guidance No. 5 *Altering and extending your Home* (SPG5), which requires a set back of 2.5m. On the basis of measurements I took on my site visit, with reference to the 2012 approved plans, I estimate that the setback is about 2.2m. The Council's error in terms of the dimension apparently results from inaccurate plans submitted with a subsequent application to retain the works (Ref. 12/1644). However, the setback, by my estimation, is still less than that required by SPG5, and I do not consider the notice invalid on that basis.
6. The second alleged flaw is the sixth reason, which refers to the loss of a side garage and soft landscaping in the front garden. These are not referred to in the Schedule 2 allegation and hence should not be amongst the reasons for issuing the notice. It does not make the notice invalid, however, as it can be corrected by deleting this reason without prejudice to either party.
7. It is further submitted that the side dormer is permitted development, that the change to the rear bay window can be remedied by the imposition of conditions, and that the rear bay roof is hipped and not gable. None of these are flaws in the notice itself, and I deal with them below as they arise.
8. Two matters are raised under ground (b), the front garden and the first floor side extension. Since the front garden is not part of the alleged breach, it is not a matter I need to address. In relation to the first floor side extension, it is submitted that no breach of planning control has occurred. This is only relevant to ground (c), and I return to this below.

¹ Sage v SSETR and Others [2003] UKHL 22

9. There is one problem with the notice that must be corrected. The first part of the alleged breach is the erection of a two storey side and rear extension. At the side, a first floor extension has been erected above the existing side garage, which in turn has been altered and converted to a habitable room. As it stands, the requirement of the notice, if upheld, would include the demolition of the garage, which would be questionable, to say the least. Further, in all of the documents submitted, there is no substantive reference to a two storey side extension. The description appears to have come from the unsuccessful application to retain the works. From the evidence submitted I consider that a more accurate description of the alleged breach of planning control is "Without planning permission, the erection of a first floor side extension, a part single storey and part two storey rear extension, and rear and side dormer windows". I consider that correcting the notice by substituting this description for that set out in the notice as issued does not prejudice either of the parties, and I shall determine the appeal on that basis.

Both appeals - ground (c)

10. This ground of appeal is that the matters alleged do not constitute a breach of planning control. A breach of planning control comprises the carrying out of development without the required planning permission.
11. Dealing first with the first floor side extension, it is submitted that the set back from the front elevation is consistent with the dimensions shown on the approved plans for planning permission Ref. 11/3352. However, although the works were purportedly carried out under that permission, it is not disputed that what was built as a single operation is materially different to what was approved. I find therefore, as a matter of fact, that none of the works, including the first floor side extension, benefit from the permission, and the ground (c) appeal in this respect cannot succeed.
12. The other aspect of the alleged breach challenged under ground (c) is the side dormer. The appellants, acting on advice from their architect, sought to take advantage of permitted development rights before implementing the planning permission. The dormer was inserted in the side roof slope by Robert Carlton, the appellants' roofing contractor. He was instructed to erect and complete the side dormer before commencing works on the permitted extensions. He claims to have completed the dormer, including its full external cladding, that is walls, cheeks and roof, before moving on to start work on the works corresponding to planning permission Ref. 11/3352. He says he started work on the side dormer on 20 February 2012 and on the extensions after 27 February 2012. The Council visited the site on 23 and 29 May 2012. By this stage the works were well advanced. The rear dormer was built, clad and glazed, as was the first floor bay, the first floor element of the part single and part two storey rear extension. The side dormer glazing was not in place however, and internally, the structure did not appear to have been completed. The explanation given for this is that the window, a stained glass casement window, purchased and delivered to the site in February 2012, was removed from the window to prevent damage when work to insert a staircase in the dormer void commenced. It is said that this version of events is supported by the statements of Mr Carlton and the Building Control Inspector, Mr Bullen. However, neither of these statements make any reference to the window.

13. Aside from the window, which I very much doubt was installed and then removed, I can accept that the outer fabric of the side dormer was put in place before works on the rest of the roof began. However, I do not accept that the construction of the dormer did no more than create additional space in the roof void which was available and useable as part of the original roof void. The access to the room in the roofspace, currently a bedroom, is via a staircase in the space provided by the side dormer, the staircase having been constructed some time after the Council's May 2012 visits as part of the loft conversion. As it stands, the side dormer and the rear dormer bedroom are not physically and functionally severable, and I consider that, in all likelihood, the side dormer was built solely to accommodate the staircase to the loft conversion. No other explanation for the construction of the side dormer has been put to me. I consider, on the balance of probabilities, that the side dormer was not substantially completed before the other works commenced because it was an integral part of the loft conversion and it was built as part of a single operation.
14. Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (GPDO) sets out the limitations on permitted development where the enlargement of a dwellinghouse consists of an addition or alteration to its roof. Development is not permitted by Class B1(c)(ii) if, in the case of a detached house, the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 m³. The Council's estimate of the roof volume increase including the side dormer is 80m³, and this is not disputed. As such it exceeds the Class B1(c)(ii) limitation and is not therefore development permitted by the GPDO. Since it is development that requires planning permission, and it does not benefit from an express permission, the ground (c) appeals must fail.

Appeal A - ground (a) and the deemed planning application

15. This ground is that planning permission should be granted for what is alleged in the notice. As noted above, the setback of the first floor side extension was an issue raised by the Council, but there is little between the SPG5 advice and the setback I measured. More importantly, I consider that the side extension has no harmful impact on the character of the existing building or on the street scene.
16. The remaining objections relate to the rear and side dormers and the rear first floor bay extension. The rear dormer is significantly wider than that permitted under permission Ref. 11/3352. As a consequence it dominates the rear roofslope and gives the building a top-heavy, incongruous appearance. It constitutes poor design which is harmful to the character and appearance of the building and the surrounding area.
17. The side dormer is a bulky and discordant projection that is prominent in views from the public highway. In my view it is out of keeping with the character and appearance of the building and harmful to the street scene. Side dormers do not generally feature in the area, but some are currently being constructed further along Pebworth Road. I do not know the details, but in any case they have no impact on the character and appearance of the immediate neighbourhood of the appeal property.
18. The rear first floor bay extension has large side windows which give views into the neighbouring rear gardens close to the backs of the respective dwellings,

places where privacy is usually highly valued. In the case of the neighbouring property to the east, No. 20, the bay windows are particularly close and look directly onto a patio outside the back door. That the side bay windows adversely affect the privacy of the neighbours is not disputed, but it is proposed that it could be remedied by the insertion of obscure glazed windows in the side panels. I disagree. In the case of No. 20, the intrusion is likely to be so great, due to the size and close proximity of the bay, that there would remain an impression of being seriously overlooked, and hence the perception of a lack of privacy which would seriously diminish the living conditions of the occupants. I appreciate that there are personal reasons for the extent of glazing in this extension, but that does not justify the long term harm that would result from its retention.

19. These aspects of the extensions and alterations cause unacceptable harm and conflict with the advice in SPG5 and with saved Policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan (UDP). The roof dormers also conflict with UDP Policy BE29 and Brent Core Strategy Policy CP17. However, since they are physically and functionally severable from the first floor side and single storey rear extensions, I consider it appropriate to make a split decision, granting planning permission for those parts of the development, but dismissing the ground (a) appeal and refusing planning permission for the two dormers and the rear first floor bay extension.
20. The only condition proposed by the Council relates to the maintenance of planting in the front garden. However, I do not consider such a condition to be necessary in the circumstances.
21. I should explain that the appropriate way to deal with the notice in a case such as this is to grant planning permission for the part of the development deemed acceptable, but not to vary the requirements of the notice, which could otherwise give rise to two inconsistent permissions, the one being granted and one deemed to have been granted under section 173(11) of the 1990 Act as a result of relaxing the requirements. Section 180 of the 1990 Act mitigates the effect of the notice so far as it is inconsistent with the permission. For clarity, I shall modify the notice by deleting from Schedule 3 the reason relating to the first floor side extension.

Both appeals - ground (f)

22. Section 173 of the 1990 Act sets out what the contents and effect of an Enforcement Notice should be. Sub-section 4(a) explains what purposes the steps specified in an Enforcement Notice should achieve. In this case the steps specified seek to achieve the purpose of restoring the building to its condition before the breach took place. Subject to what I have said under ground (a), I consider that the requirements of the Enforcement Notice are appropriate to achieve the objective of remedying the breach of planning control as a matter of fact, and there are no lesser steps that could be taken to achieve that objective.
23. In coming to this view I do not ignore the still extant planning permission, but the elements which I have not granted planning permission were not a part of, or did not comply with, that permission, and I have gone as far as I can to enable those parts which accord with the extant permission to be retained. In respect of the first floor bay window extension, other than the suggestion of obscure glazing, which would not satisfactorily remedy the harm, I have not

been provided with an alternative, and it is not my role to devise one. As to the suggestion that the removal of all other parts of the roof alterations would leave the side dormer as permitted development, rights under the GPDO cannot be claimed retrospectively.

24. There is no success on ground (f).

Both appeals - ground (g)

25. A period of 12 months is sought, partly due to complications foreseen in having to separate different elements, assuming some degree of success. Reference is also made to the possible need for complex structural changes or the need to apply for further planning permissions. None of these are matters that should take longer than 6 months, and if there are unforeseen difficulties the Council has the power in any case to extend the compliance period. In view of this I consider that the ground (g) appeals should fail.

Paul Dignan

INSPECTOR

Appeal Decision

Site visit made on Monday 2 September 2013

by **Alan Langton DipTP CEng MRTPI MICE MCIHT**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 October 2013

Appeal ref: APP/T5150/C/13/2196722
34 Dartmouth Road, London NW2 4EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the Council of the London Borough of Brent.
- The appeal is made by Mr Paul McKenna.
- The Council's reference is E/12/0834.
- The notice was issued on 21 March 2013.
- The breach of planning control as alleged in the notice is: Without planning permission, the installation of gates to the front of the premises. ("The unauthorised development").
- The requirements of the notice are: Remove the gates from the premises and remove all items, material and debris arising from the removal of the gates from the premises.
- The period for compliance with the requirement is 3 months.
- The appeal is proceeding on the ground set out in section 174(2) (a), of the Town and Country Planning Act 1990 as amended. Since the development is exempt from the payment of fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the installation of gates to the front of the premises at 34 Dartmouth Road, London NW2 4EX referred to in the notice.

Preliminary matters

1. 34 Dartmouth Road is within the Mapesbury Conservation Area, subject to a Direction made in 1987 under Article 4 of The Town and Country Planning General Development Order 1977. This removes permitted development rights at dwellinghouses otherwise conferred by Article 3 of that Order (and the subsequent 1995 Order as amended) with regard, amongst other matters, to gates, walls and fences.

The appeal on ground (a) and the deemed planning application

2. Dartmouth Road, in common with the wider locality, is fronted mainly by fine villas dating by appearance from the late Victorian or Edwardian period. Along this lengthy road I could find no more than one or two wooden, pedestrian gates that appeared to be originals and these were in a poor state of repair. Most of the gardens now have front garden parking where I found no examples of timber gates. Of the gates I did see, those providing pedestrian access were mainly metal and hinged, as were a few across the vehicular hardstandings. One of the hardstandings featured a chain across it, the great majority were simply open to the road and I saw several substantial, fairly ornate steel gates

in the road and locality. At least one other I saw evidently opened by sliding rather than hinging.

3. The pedestrian and vehicular gates at 34 Dartmouth Road were probably the best I saw. They are sturdily and attractively fabricated but not unduly ornate so as to intrude visually, and at just under 1.4 m they are not exceptionally high. Sliding rather than hinged opening, for the vehicular gate, remains a minority feature locally but gives practical benefits: it is more likely to be kept shut whereas gates hinging inwards might well have to be left open once a car is parked while hinging outwards presents obvious hazards and conflicts with highways legislation.
4. Moreover, both gates coordinate well with the front wall, railings and pillars, and are part of a scheme of exemplary hard and soft landscaping that achieves a good balance between the recessed area given over to parking, visually filtered by the vehicular gate, and the more dominant planting and associated landscaping. In comparison, the open fronted parking areas, some occupying the whole front garden, are to a very variable standard, but these now define this aspect of the road's character and appearance. Against this established backcloth, the gates at No 34 enhance rather than detract from the appearance and character of this part of the Conservation Area as it now exists. There is no doubting the importance of the Built Environment Policies in the Council's Unitary Development Plan, both generally and particularly with regard to Conservation Areas, but in my view their aims are supported rather than undermined by the works in front of 34 Dartmouth Road. The security aspects referred to by the appellant would not warrant unsightly gates, but do reinforce my conclusion that the appeal succeeds on its merits.

Alan Langton
Inspector