

Committee Report
Planning Committee on 21 August,
2013

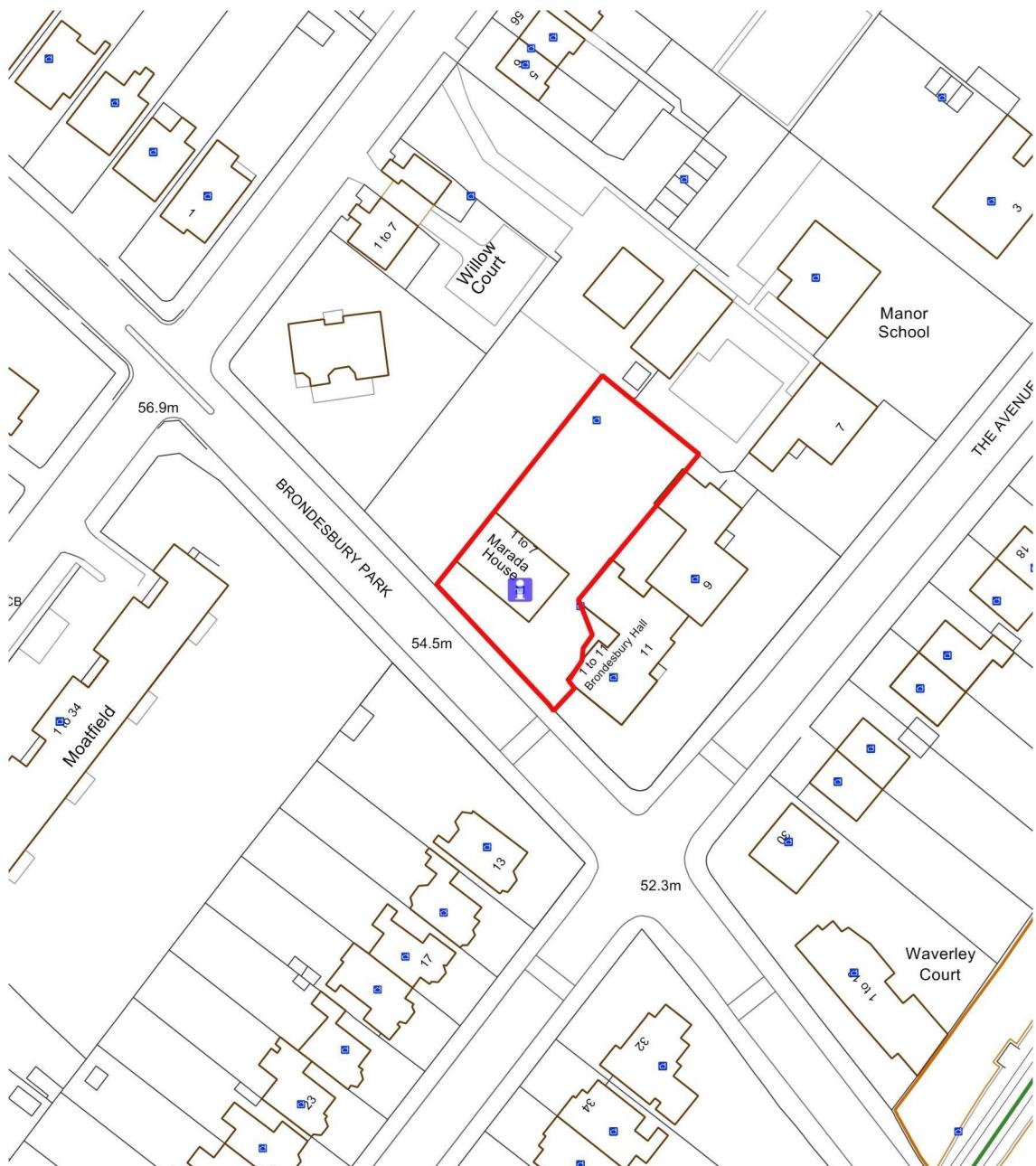
Item No. 06
Case No. 13/1065



Planning Committee Map

Site address: Marada House, Brondesbury Park, Kilburn, London

© Crown copyright and database rights 2011 Ordnance Survey 100025260



This map is indicative only.

RECEIVED: 10 May, 2013

WARD: Brondesbury Park

PLANNING AREA:

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

APPLICANT: AHK International

CONTACT: ROH Architects

PLAN NO'S:

E-100RevP1

E-101RevP1

MEMBERS CALL-IN PROCEDURE

In accordance with Part 5 of the Constitution and Section 10 of the Planning Code of Practice, the following information has been disclosed in relation to requests made by Councillors for applications to be considered by the Planning Committee rather than under Delegated Powers

Name of Councillor

Councillor Tayo Oladapo

Date and Reason for Request

05/07/2013. The reasons for refusal and intended enforcement action have and can be mitigated by the applicant.

Details of any representations received

Haleem Kherallah (The applicant)

Name of Councillor

Councillor Mary Arnold

Date and Reason for Request

05/07/2013. To give councillors the opportunity to hear the applicants explanation as well as the officer's views.

Details of any representations received

No direct representations

Name of Councillor

Councillor James Denselow

Date and Reason for Request

05/07/2013. The reasons for refusal and intended enforcement action have and can be mitigated by the applicant.

Details of any representations received

No representations received.

Name of Councillor

Councillor Lesley Jones

Date and Reason for Request

05/07/2013. The reasons for refusal and intended enforcement action have and can be mitigated by the applicant.

Details of any representations received

Yes from Councillor Oladapo

RECOMMENDATION

Refusal

EXISTING

The subject site is a single storey building to the rear of a six storey block of flats. It is not a listed building nor is it within a Conservation Area.

PROPOSAL

See description above.

HISTORY

E/11/0860. Enforcement Investigation for, without planning permission, the erection of a single storey detached dwellinghouse and store to the rear of the premises. Enforcement Notice Issued on 05/06/2013 and served on 16/06/2013. For the information of Members the reasons for action, and the proposed steps to comply with the Enforcement Notice, are set down in full below:

"Reasons for action

The unauthorised development has poor access arrangements, outlook and external appearance, fails to provide outdoor amenity space or soft landscaping, and fails to provide bin storage or cycle parking, and negatively affects the setting and outlook of the pre-existing residential building. Additionally, it results in an overly intensive use of the property, and has resulted in the provision of sub-standard accommodation contrary to National Planning Policy Framework 2012, Policy 3.5 of the London Plan 2011, Policies BE3, BE5, BE9, H12 and H18 of the Brent Unitary Development Plan 2004 and Supplementary Planning Guidance 17- 'The Design Guide for New Development.

The unauthorised development reduces the number of essential parking spaces on site, contrary to policy TRN27 of the Brent Unitary Development Plan 2004.

In the absence of a legal agreement to control the matter, the development results in additional pressure on transport infrastructure and education, without any contribution towards sustainable transport improvements or school and nursery places; and increased pressure for the use of existing open space, without contributions to enhance open space, sports or make other contributions to improve the environment. As a result, the development is contrary to policies TRN3, TRN10, CF6 and BE7 of Brent's adopted Unitary Development Plan 2004 and the adopted S106 Planning Obligations Supplementary Planning Document".

Proposed Steps

"Cease the use of the additional residential unit in the outbuilding at the rear of the site.

Demolish the building and remove all resulting waste and debris from the land.

Reinstate the car park and landscaping as per the plans approved by planning permission reference 08/1587 dated 19 June 2009".

Period for compliance

Three months

In addition there are two planning decisions that are considered to be relevant to this application:

08/1587. Change of use of the existing ground floor from Use Class B1 (offices) to Use Class C3 (residential), erection of a 5-storey rear extension and erection of 5th floor level to provide an additional 8 x 2 bed self contained flats to the existing 7 self contained flats, erection of single storey building to rear to provide 14 car parking spaces, installation of refuse store to front and cycle store to rear of site and subject to a Deed of Agreement dated 19th June 2009 under Section 106 of the Town and Country Planning Act 1990, as amended. Granted 24/06/2009.

06/0207. Change of use of the existing ground floor from Use Class B1 (offices) to Use Class C3 (residential), erection of a 5-storey rear extension and erection of 5th floor level to provide an additional 8 x 2 bed self contained flats to the existing 7 self contained flats, erection of single storey building to rear to provide 14 car parking spaces, installation of refuse store to front and cycle store to rear of site and subject to a Deed of Agreement dated 19th June 2009 under Section 106 of the Town and Country Planning Act 1990, as amended. Granted 18/07/2008.

POLICY CONSIDERATIONS

London Plan 2011

3.5 Quality and Design of Housing Developments

Core Strategy 2010

CP2	Housing Growth
CP15	Infrastructure to Support Development
CP17	Protecting and Enhancing the Suburban Character of Brent
CP21	A Balanced Housing Stock

UDP 2004

BE2	Townscape : Local Context & Character
BE6	Public Realm: Landscape Design
BET	Public Realm: Streetscape
BE9	Architectural Quality
H12	Residential Quality – Layout Considerations
TRN11	The London Cycle Network
TRN23	Parking Standards – Residential Developments
PS14	Residential Developments

SPG17: 'Design Guide for New Development'

CONSULTATION

All neighbouring residents were consulted by letter on 14 May 2013. One objection has been received on the following grounds:

- Concern that the building will be used for commercial operations as this has occurred regularly since the building has been built. Loss of Parking
- Provision as the building has been constructed over a previously approved car park.

TRANSPORTATION ENGINEER

The Council's Highways Officer has objected to the proposals on the following grounds:

The loss of the six car spaces will lead to an increase in unsafe and/or illegal car parking within the public highway to the detriment of highway and pedestrian safety.

REMARKS

Principle of Development

1. The main considerations when considering whether the proposed development is acceptable or not are:

- Consideration of the Enforcement Background to the site (see details above).
- Whether the proposed demolition of the garages would have a detrimental impact on local highway conditions.
- Whether the proposed demolition of the garages and erection of new building would be in keeping with the character of the area.
- Whether the proposed development would have an acceptable impact on the amenity of neighbouring residents.
- Whether the proposed development provides an acceptable quality of residential accommodation.

Amendments

2. The applicants have submitted an amended plan showing a revised layout for the existing flat and a revised parking layout. This has not been considered as the revised parking layout would require re-consultation to notify neighbouring residents of the proposed parking spaces close to habitable room windows. A site visit by the case officer has confirmed that some of the proposed alterations to the unauthorised outbuilding have already been made this includes:

- Removing an internal wall to make the property a one-bedroom dwelling (the original submission was for a two-bed unit)
- Installation rooflights
- Installation of green roof
- Creation of a small private garden area.
- Increase in the size of the residential unit from 55sqm to 60sqm
- submission of Transport Statement.

3. Revised plans have been submitted to show the alterations that have been made to the property.

Enforcement Background

4. This outbuilding was constructed without the benefit of planning permission from November 2011 to February 2012 and is considered to be unauthorised. Enforcement Officers first visited the site in February 2012 and following that sent the owner a letter confirming that a breach of planning had occurred. A planning application was submitted for the retention of the outbuilding (our ref 12/1200). This application was withdrawn by the applicant after they were informed that the application was likely to be refused. The enforcement case was re-opened this year following a follow up from the complainant and an absence of steps being taken to resolve the matter. The Council's Enforcement Officer visited the premises following this and met one of the two tenants on-site who were renting the outbuilding.

The Enforcement Notice also makes reference to the lack of a legal agreement to secure a contribution towards transport infrastructure and education, sustainable transport improvements or school and nursery places; and increased pressure for the use of existing open space, without contributions to enhance open space, sports or make other contributions to improve the environment. This is not now included within this report as Members will be aware that the matter is now covered by Brent's Community Infrastructure Levy (CIL) which was adopted in July 2013. Following the introduction of CIL the Council are no longer able to require 'tariff' style contributions (eg: £3000 per bedroom) towards the general provision of infrastructure. The applicants have submitted a CIL liability form with the application submission details.

Loss of Existing Parking

5. The new building is located to the rear of the apartment block at Marada House, which contains 15 self-contained flats. The extension to Marada House was approved with a parking plan showing the provision of 14 spaces (including 2 disabled parking spaces) and the provision of a secure cycle parking area (ref 08/1587). The applicants have submitted a revised parking layout (ref P-100RevP3) and a Transport Statement in support of their proposals.
6. The Council's Highways Officer has reviewed the information within the Transport Statement and the proposed parking layout shown on drawing P-100Rev P3 and has objected on the grounds that the retention of the proposed development would lead to an increase in unsafe and/or illegal parking within the public highway to the detriment of highway and pedestrian safety.
7. The existing building occupies land that had previously been allocated for parking and would result in a

reduction of parking spaces from 14 spaces to 8 spaces. The existing apartment building at Marada House, according to the approved plans, contains 13 x 2-bed and 2 x 3-bed flats. The parking standard for 2-bed flats is 1.2 spaces while the 3-bed flats would have a parking standard of 1.6 spaces, resulting in a parking standard requirement of 18.8 spaces. The one bedroom flat the subject of this application would increase this to 19.8 spaces.

8. The Transport Statement states that a parking standard of 0.5 spaces per unit should apply however this is not the case as the site is not within an area with good public transport accessibility. The area has a Public Transport Accessibility Level (PTAL) of 3, which is classified as 'moderate'. The Council apply minimum standards to parking provision and would accept a minimum provision of 75% of the maximum standard in this location. For this development this would equate to the need to provide 14 spaces.
9. The Transport Statement states that car ownership statistics for the area are in the order of 0.88 per household. The Council Highways Officer believe this reinforces evidence that for the 15 flats and the unauthorised residential unit a provision of 14.96 spaces would be needed to meet demand for parking on the site.
10. With new developments in areas with a PTAL rating of 3 or less car free agreements will not be permitted and proposed development will need to provide a minimum of 75% of the maximum standard. This would require the development to provide a minimum of 15 parking spaces. The neighbouring Brondesbury Park is a Distributor Road and as such it is not suitable for additional on-street parking.
11. In responding to the revised layout and statement the Council's Highways Officer states that they would continue to object to this scheme on the grounds that the loss of on-site car parking will lead to an increase in unsafe and/or illegal parking which cannot be accommodated on site or on-street in the locality, nor can it be acceptably mitigated through legal agreement. Within the site, pedestrians and vehicles share access at a number of points and it is considered that the loss of these spaces would be likely to result in parking in locations where this would result in unsafe conditions for pedestrians. The numbers of parking spaces required for a development of this size cannot be accommodated within the site if the parking area has been removed, as has happened here.
12. The retention of the existing building results in the permanent loss of 6 existing parking spaces required for the provision of acceptable level of parking for the existing residential flats at Marada House, to the detriment of local highway conditions contrary to planning policies TRN3, TRN23 and PS14 of Brent's UDP 2004.

Quality of Residential Accommodation

13. The residential accommodation is provided in the rear of the single storey outbuilding. The flat has an area of approximately 60sqm. This is above the minimum floor area required by London Plan policy 3.5 which sets the minimum floor area for a 1-bed flat as 50sqm.
14. The residential accommodation is positioned to the rear of the building as there is a non-residential storage space with an area of 9.2sqm to the front of the property. This storage space is unrelated to the residential use. The main living room window faces towards the main apartment building approximately 6m away. There is a secondary window facing north west which is positioned 85cm from the north boundary of the site with neighbouring school. The proposed kitchen has three habitable room windows. Two of these face north west and are positioned within 50cm of the north boundary while the secondary window faces north east and is situated 1m from the boundary with the neighbouring school site. The proposed bedroom is positioned in the rear most part of the building and has two habitable room windows facing north east situated approximately 70cm from the boundary with the school (both of these windows are obscure glazed). There is also a proposed window in the south east elevation which faces towards the car park. This level of outlook is considered to be unacceptable for a residential unit particularly as they are located so close to land outside of the control of the applicants and are sited below the height of the existing boundary fence.
15. The amenity of residents of the unit is also detrimentally affected by privacy in terms of the proximity of neighbouring habitable room windows and the balconies that have been implemented on the rear wall of the existing unit. This would allow views directly into the amenity space and the habitable room window of the residential unit, which is situated only 6m from the rear elevation of Marada House. The amended plans show that some 40sqm of private amenity space is provided although this is in excess of SPG17 would be situated very close to the rear boundary of Marada House and would have limited privacy for prospective residents. The relationship between the unauthorised structure and the approved Marada House is considered to be a poor one.

16. The proposed development makes no provision for waste or cycle storage for prospective residents.
17. The proposed residential accommodation, by reason of the proximity of habitable room windows to the site boundaries and parking area provides insufficient levels of outlook and privacy for prospective residents, the lack of adequate quality amenity space, lack of cycle parking and refuge storage and result in an unacceptable quality of accommodation contrary to planning policies BE3, BE5, BE9, H12 and H18 of Brent's UDP and SPG 17:'Design Guide for New Development.'

Character and appearance of the building

18. Although the building is small in scale and not visible from the streetscene it is situated approximately 6m from the rear wall of the extended Marada House at its closest point and 7.5m from the recessed part of the building which contains the storage facilities. The proximity of the building to the rear wall detrimentally affects the setting of Marada House contrary to planning policy BE9 of Brent's UDP which seeks to ensure that buildings are of a scale appropriate to their setting.
19. The building is single storey with a shallow pitch roof with small gable ends facing north east and south west. The ridge line has a maximum height of 3.2m and an eaves level of 2.2m. The land was previously allocated for parking provision as set out above. It is finished with a painted white render with a green roof. The windows are upvc windows. These materials are not in themselves of the highest quality, but are not considered to be of such a poor quality so as to warrant a reason for refusal.
20. Soft landscaping has been installed around the building and additional soft landscaping is proposed between the parking area and the south east wall of the building. The proposed landscaping in conjunction with the green roof will soften the appearance of the building, but will not overcome the significant problems set out above.

Impact on Amenity of Neighbouring Residents

21. The north east and north west walls face towards the boundary with the neighbouring school. As such there will be no detrimental impact on these aspects. To the south east is Marada House and this has facing habitable room windows within 6m of the building. This relationship is considered to be a poor one, as explained above, even taking account of the low height of the structure the habitable room windows would be within 6m of each other. This would be contrary to SPG 17 which requires that facing habitable room windows should be positioned over 20m from each other. As such the retention of the outbuilding will have an unacceptable impact on the amenity of residents of Marada House in terms of privacy.
22. To the south east of the building is the remaining area of car parking and beyond this is the development of No 9 The Avenue. Planning permission was granted for 9 self contained flats in 2011. The nearest rear windows of this development, currently under construction, are over 12m from the wall of the subject building. The existing residential use has no windows facing towards the new flats at 9 The Avenue. As such there is no detrimental impact on the residents of this property.
23. The proposed retention of the outbuilding by reason of the proximity of facing habitable room windows will have a detrimental impact on the amenity of neighbouring residents of Marada House in terms of loss of privacy contrary to planning policy BE9 of Brent's UDP 2004 and the guidelines set out in SPG 17: Design Guide for New Development.

Consultation

Objection	Officer Comment
The building will be used for commercial operations as this has occurred regularly since the building has been built.	It is clear that the building has been used for storage purposes since it was constructed. The proposed development would remove most of the storage use however this does not outweigh the Council's concerns in relation to the loss of parking and the poor quality of accommodation proposed.
Loss of parking provision as result of the loss of the car park	This has been raised as concern by the Council's Highways Officer and is discussed in paragraphs 4-9 above.

Conclusion

24. The retention of the single storey outbuilding and its use as a residential building results in a loss of

existing parking required for the residents of Marada House to the detriment of local highway conditions while the residential accommodation is not considered to be of an acceptable quality for existing and prospective and will have an unacceptable impact on the amenity of neighbouring residents at Marada House. Accordingly the application is recommended for refusal for the reasons set out in this report.

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) The retention of the existing unauthorised building results in the permanent loss of 6 car parking spaces, as well as bicycle parking, that area required for the provision of an acceptable level of parking, and the availability of access to non-car means of travel, required to meet the needs of the existing residential flats at Marada House. The loss would be likely to result in an increase in examples of unsafe parking within the site that would lead to conditions prejudicial to pedestrian and highway safety, as well as overspill parking onto local roads. As a result, the proposal would be to the detriment of local highway conditions, contrary to planning policies TRN3, TRN23 and PS14 of Brent's UDP 2004, as well as the Council's adopted SPG17 "Design Guide for New Development".
- (2) The residential accommodation, by reason of the significantly constrained outlook from windows, proximity of habitable room windows to the site boundaries and relationship with car parking area would provide for an unacceptable quality of environment for residents. Furthermore, the development would fail to provide an adequate quantity and quality of external amenity space that would intensify the concerns about the poor internal accommodation proposed. As a result, the proposal is contrary to policy BE9 of Brent's UDP and SPG 17:'Design Guide for New Development.'
- (3) The proposed retention of the outbuilding, by reason of the relationship between habitable room windows and the existing Marada House, would result in a detrimental impact on the amenity of residents of both buildings, in terms of loss of privacy and outlook, contrary to policy BE9 of Brent's UDP 2004 and the guidelines set out in SPG 17: Design Guide for New Development.

INFORMATIVES:

None Specified

Any person wishing to inspect the above papers should contact Robin Sedgwick, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5229