

**Committee Report
Planning Committee on 14 April, 2010**

**Item No. 15
Case No. 09/2542**

RECEIVED: 4 December, 2009

WARD: Tokyngton

PLANNING AREA: Wembley Consultative Forum

LOCATION: 17 Dennis Avenue, Wembley, HA9 8AZ

PROPOSAL: Retrospective application for the change of use and conversion of the premises to a house in multiple occupation (HMO) and 9 self-contained studio flats

APPLICANT: Mr Sunil Badiani

CONTACT: Robson Walsh

PLAN NO'S:

-5487/10 - Ordnance Survey Map Showing the Site Location
-5487/11 - Ordnance Survey Map Showing the Site Location
-5487/17 - Proposed Forecourt Showing Car Parking Spaces
-5487/22 - Existing Ground, First and Second Floor Plan
-5487/23 - Front, Sides and Rear Elevation

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 Muhammed Butt

Date and Reason for Request

8th January 2010

Approached by the applicant.

Details of any representations received

Has made no representations

Name of Councillor

Councillor Zaffar Van Kalwala

Date and Reason for Request

8th January 2010

Approached by the applicant.

Details of any representations received

Has made no representations

RECOMMENDATION

Refusal

EXISTING

The proposal relates to a large two-storey detached dwellinghouse located on the west side of Dennis Avenue at the junction with Linden Avenue. The property has been substantially extended. The area surrounding the site is entirely residential in character comprising terraced and semi-detached houses. The property is unusual in that it is detached and occupies a larger plot than surrounding properties.

The front garden of the property is entirely brick paved and provides 7 off-street car parking spaces served with 2 vehicular accesses from Dennis Avenue. Dennis Avenue due to its proximity to Wembley Stadium is subject to parking restrictions with a bay provided for permit holders.

The established use of the premises is a dwellinghouse although an appeal was allowed in 1988 for its change of use to a care home, however this was never implemented. The property since 2006 has been in unauthorised use as House in Multiple Occupation (HMO) comprising 9 self-contained flats and 12 non-self-contained flats. Enforcement Action against this unauthorised use is currently being pursued. prosecution proceedings and trial date has been set for June 2010.

PROPOSAL

The proposal is for the retention of the existing use of the premises as a House in Multiple Occupation comprising 13 en-suite bedrooms (sharing a large living/dinning room on the ground floor and 2 separate kitchen on the ground and first floor) and 8 studio flats with provision for 7 off-street car parking spaces in the frontage of the property.

HISTORY

The following planning history is relevant to the proposal:

- 28/1/2009 Application submitted for conversion from unauthorised HMO (House in Multiple Occupation) and 9 studio flats to 17 flats (7 one-bedroom and 10 studio flats) with associated replacement of front garage with a new front window and replacement of 2 rear doors with 2 new ground-floor rear windows - To be considered (ref: 09/3261)
- 11/02/2010 Application for the conversion from unauthorised HMO (House in Multiple Occupation) to 8 self-contained flats with associated installation of 2 front rooflight, 2 rear rooflight and replacement of 2 rear doors with 2 new ground-floor rear windows - Application Withdrawn (Ref: 09/3258)
- 05/12/2008 Retention of and reduction in height of existing boundary wall and pillars at front of property - Approved (ref: 08/2408)
- 15/11/2006 Enforcement Notice served against the unauthorised change of use and conversion of the premises into a HMO and 9 self-contained flats and the erection of a side boundary fence and front boundary walls and pillars to premises - (ref: E/06/1584)
- 06/06/1990 Outline application for demolition of existing and erection of 3 storey elderly persons home - Refused (Ref: 88/2202)
- 15/02/1989 Application for the erection of a two-storey side and rear extensions and conversion to 8 self-contained flats - Withdrawn (Ref: 87/2853)
- 23/01/1987 Erection of two-storey side extension, single storey rear extension, installation of front, side and rear dormers to provide room in roof space and change of use to

elderly person's home and provision of parking spaces - Appeal Allowed (Ref: 87/0230)

12/02/1976 Erection of single detached house with integral garage and a domestic garage - Approved (Ref: H1333 892)

POLICY CONSIDERATIONS

Adopted Unitary Development Plan 2004 Policies

BE2 Townscape: local Context & Character
BE7 Public Realm Streetscape
BE9 Architectural Quality
H8 Resisting Loss of Housing
H10 Containment of Dwellings
H17 Flat Conversions
H18 Quality of Flat Conversion
TRN23 Parking Standards for Residential Development

Supplementary Planning Guidance 17 relating to "Design Guide for New Development"

SUSTAINABILITY ASSESSMENT

Not Applicable

CONSULTATION

The following have been consulted on the proposal:

- Nos. 9 to 18 Dennis Avenue
- Nos. 1 to 4 and 21 to 24 Linden Lawns
- Ward Councillors

In total 5 letters (1 from 17 and 3 from No. 18 Dennis Avenue and 1 from 1 Linden Lawns) have been received raising objections to the proposal on the grounds that occupiers of the application premises are not allowed to park in the forecourt of the premises and therefore they are using up most of the parking available in the street thus causing parking problems in Dennis Avenue and Linden Lawns. The proposal would worsen the parking situation in the street, increased traffic, noise, pollution and pedestrian safety. The property is currently let to a number of people some of whom act in an un-neighbourly way.

Transportation - object to the proposal on the grounds that no cycle parking is proposed, inadequate vehicular access to the site and insufficient off-street parking is being provided.

REMARKS

Background

The proposal relates to a large two-storey detached dwellinghouse located on the west side of Dennis Avenue at the junction with Linden Avenue. The property has been substantially extended. The area surrounding the site is entirely residential in character comprising terraced and semi-detached houses. The property is unusual in that it is detached and occupies a larger plot than surrounding properties.

The front garden of the property is entirely brick paved and provides 7 off-street car parking spaces served with 2 vehicular accesses from Dennis Avenue. Dennis Avenue due to its proximity to Wembley Stadium is subject to parking restrictions with a bay provided for permit holders.

The established use of the premises is a dwellinghouse although an appeal was allowed in 1988 for its change of use to a care home, however this was never implemented. The property since 2006 has been in unauthorised use as House in Multiple Occupation (HMO) comprising 9 self-contained flats and 12 non-self-contained flats. Enforcement Action against this unauthorised use is currently being pursued. prosecution proceedings and trial date has been set for June 2010.

This application is one of the three planning applications that have recently been submitted. One of the planning applications (ref: 09/3258) for the conversion of the dwellinghouse to 8 self-contained flats has now been withdrawn. Both this and the other remaining planning application (ref: 09/2542) for the retention of the premises as an (HMO) and 9 self contained flats is reported to the Planning Committee at the request of both Councillor Muhammed Butt and Councillor Zaffar Van Kalwala.

The Proposal

The application proposes to retain the existing unauthorised use of the premises as a House in Multiple Occupation (HMO) (Sui-Generis) comprising 13 bedrooms with en-suite shower and toilet, and to also retain a further 8 (also unauthorised) self-contained studio flats.

The non-self contained units share 2 kitchens (one is located on the ground and one on the first floor) and a communal living/dinning room on the ground floor. There is no indication of the number of bedspaces to be provided within the premises. However, the proposal is capable of providing a minimum of 21 bed spaces with opportunity to accommodate more bedspaces in the larger units.

The proposed ground floor plan provides an entrance into the property, office, store room, plant room, communal kitchen and living/dinning room, 5 en-suite bedrooms and 2 self contained studio flats. There is also a provision for 7 car parking spaces and provision for 1 bin area in the front garden.

The proposed first floor plan would provide 2 self-contained studio flats, 8 en-suite bedrooms, communal kitchen and 2 small store rooms.

The proposed second floor plan would provide 4 self-contained studio flats.

The proposal is assessed against the Council's policy as follows:

The main issues

Policy H10 "Containment of Dwellings" relevant H10 to the proposal states "*new residential accommodation should be self-contained unless it is designed to meet the known needs of a named institution and suitable management arrangements are secured as part of the planning application. Such accommodation should be provided to the same standards as self-contained units, and will only be acceptable where the site is not suitable for family accommodation, and does not result in the loss of existing self-contained accommodation. Non self-contained accommodation should be located within an area with good or very good public transport accessibility*"

The proposal fails to comply with the Council's policy H10 in that not all the units created within the premises are self-contained. Also there is no indication that it is designed to meet the known needs of a named institution and that suitable management arrangements are secured as part of this planning application. The scheme proposes 8 self-contained studio flats. However, these accommodation provided is not to the same standards as self-contained units as set out in Supplementary Planning Guidance (SPG) 17 relating to "Design Guide for New Development".

The 8 self-contained studio flats being provided within the premises have internal floor areas ranging from 17 sqm to 31.9 sqm. According to the Council's "Minimum Unit Size" standards set out in the SPG 17, the studio flat needs to have a minimum internal floor area of 33 sqm. In this

instance, all the 8 studio flats within the premises would fall well below the minimum requirement of 33m². And therefore are considered sub-standard resulting in sub-standard form of accommodation.

The application is proposing 21 units and therefore in accordance with the Council's "Amenity Space" standards set out in the SPG 17 is required to provide a minimum of 441sqm of communal amenity space based on 20 sqm of amenity space requirements per unit created. The property has a rear garden of ~255 sqm. The rear garden is designed to have part levelled area which is hardsurfaced and part raised area in a form of large planters. The plans accompanied with the application do not give any information relating to the rear garden of the premises and whether it would be used as a communal amenity area. In any case, it should be noted that the rear garden is not large enough and would fall well below the Council's minimum amenity space required for the proposed 21 units within the premises. During the site visit to the premises door to the rear garden was locked and therefore current occupiers of the premises had no access to the rear garden. The proposal therefore fails to meet the Council's minimum amenity space standards would result in a sub-standard form of accommodation for its occupants.

The units proposed within the premises do not stack well between floors and there is no information to confirm that adequate measures are or would be taken to minimise noise impact between units in different floors. The proposal due to lack of noise insulation information between units is considered to result in transmission of noise and vibration between units and units in different floors to the detriment of the occupants of the premises.

The established lawful use of the premises is a dwellinghouse (although in 1988 a change of use of the premises to elderly person's home was allowed on appeal. However, it was never implemented) a form of permanent residential accommodation. The proposed use would result in the loss of permanent residential accommodation and would result in an over-intensive use (by virtue of sub-standard unit sizes and inadequate amenity space) and harm to residential amenity (amenity of the occupants of the premises would be harmed by noise and vibration between units and inadequate units sizes and amenity space).

It should be noted that according to the Council policy H10 there is a general presumption against the use of residential accommodation for the purpose of creating more HMO as there is no identified need for such accommodation in the borough.

Over-intensity of Use and Harm to Neighbouring Residential Amenity

The unauthorised use of the premises as a HMO has over the number of years given rise to a number of complaints from nearby residential properties. The complaints and objections to the proposal relates to residents of the premises using up most of the available parking spaces in the street, causing increased traffic to the detriment of pedestrian safety, noise and pollution.

It is considered that the proposed use of the premises as a HMO providing a minimum of 21 bedspaces with opportunity to accommodate further more in the larger units would be harmful to residential amenity. The kind of accommodation that is provided attracts younger and physically more active people. The concentration of this number of younger, physically more active people is likely to have a much more pronounced impact on the amenity of neighbours than the authorised use as a dwellinghouse or permanent family accommodation that would have much lesser number of people. The proposed HMO for these reasons is considered to be unacceptable contrary to the Council's policy H10.

Transportation

The proposed front garden layout of the premises show that whole of the front garden is brick paved and it would be used to provide 7 off-street car parking spaces and a small area for bin storage. The front garden also provides 3.5m wide vehicular access and 2m wide vehicular access.

The parking allowance for HMO (Classified within Use Class C2) is given in standard PS13 of the adopted Unitary Development Plan (UDP) 2004. The parking allowance for dwelling units is given in standard PS14. Cycle parking allowances are given in standard PS16. Policy BE7 is also applicable which allows a maximum of 50% of the front garden to be used for car parking with the remaining 50% to be soft landscaped.

Car Parking

The parking allowance for the HMO use is in order of 1 space per 16 bedrooms. There are 13 bedrooms in the HMO so the parking allowance is allowance is 1.3 spaces.

The parking allowance for the 8 studio flats is 0.7 spaces per unit. The parking requirement for the combined HMO and 8 studios is therefore 6.9 spaces.

Therefore the off-street parking provision which includes 7 spaces is considered sufficient. However, the use of the whole of the front garden as a hardstanding area to be used as a car park with no soft landscaped area would fail to comply with the Council's policy BE7 and SPG 17 relating to "Design Guide for New Development" in that the proposal fails to provide adequate soft landscaping. In this respect the proposal is therefore considered to be unacceptable.

Cycle Parking

According to the Council's Cycle Parking standards set out in the adopted Unitary Development Plan 2004, the proposal need to provide one cycle space per unit created. The application proposes 21 units and therefore 21 cycle spaces should be provided and this should normally be in a form of "Sheffield" type stands (each of which provides two spaces) or wall mounted stands of similar utility. Therefore 11 such stands should be provided. The cycle parking should be within a cycle store with lock and key to prevent theft. The store should be safe and easily accessible to provide good utility at all times.

Access

The present access is 3.7m wide. It should be widened to 4.5m to assist vehicles to pass each other when leaving the parking area.

Emergency and Refuse Access

Fire Appliances need to gain access to a point that is within 45m of a suitable entrance to any given dwelling. The new dwellings will meet this requirement.

Access points for refuse vehicles should not normally be further away than 10m from Eurobins enclosures in flats. The bin store is located close to the pedestrian access and will meet this requirement.

The front garden layout indicates that 2m wide by 1.2m deep area of the front garden would be used for a bin storage area. However, it is unlikely that the designated area for storage of refuse bins would be adequate for both the refuse and recycling bins required for the proposed 21 units. The proposed therefore is not considered to have made adequate provision for refuse and recycling bins storage area for the proposed development and this would be to the detriment of the occupants of the premises.

In view of the above consideration, transportation can not support the application on the grounds of inadequate vehicular access and no cycle parking to be provided in accordance with the Council's Cycle Parking standards set out in the adopted UDP 2004.

RECOMMENDATION: Refuse Consent

CONDITIONS/REASONS:

- (1) The proposed change of use would result in the loss of permanent residential accommodation and provide inadequate non-self-contained and self-contained units that do not meet the Council's minimum floor-area, amenity space and refuse/recycling storage standards, resulting in substandard accommodation which is not designed to meet the known needs of a named institution with secured suitable management arrangements. The proposal is therefore contrary to policies H10, H17 and H18 of the London Borough of Brent Unitary Development Plan 2004 and Supplementary Planning Guidance 17: "Design Guide for New Development"
- (2) The proposed change of use to a House in Multiple Occupation and 8 self contained flats would constitute an over-intensive use of the site, which would be likely to result in unacceptable levels of nuisance and disturbance to neighbouring occupiers. As a result, the proposal is contrary to policies H10, H17 and H18 of Brent's Unitary Development Plan 2004 and Supplementary Planning Guidance 17: "Design Guide for New Development".
- (3) The proposal due to whole of the front garden being hardsurfaced and used for off-street car parking and failure to provide adequate soft landscaping to the frontage, would be detrimental to the appearance of the original property and the visual amenity of the streetscene, contrary to the Council's policies BE2, BE6 and BE7 in the adopted Unitary Development Plan 2004 and standards for "Front Garden & Boundaries" set out in Supplementary Planning Guidance 17 relating to "Design Guide for New Development"
- (4) The proposal fails to demonstrate an adequate storage area for refuse and recycling bins or secure bicycle storage. As such it is contrary to policies TRN11 and TRN34 of the Unitary Development Plan 2004.
- (5) In the absence of a legal agreement to control the matter, the development would result 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 or make other contributions to improve the environment or toward measures to monitor or improve air quality and would not result in the adequate provision of affordable housing. As a result, the proposal is contrary to policies TRN3, TRN4, TRN10, TRN11, CF6, EP3, and BE7 of Brent's adopted Unitary Development Plan 2004.

INFORMATIVES:

None Specified

REFERENCE DOCUMENTS:

1. Adopted Unitary Development Plan 2004
2. Supplementary Planning Guidance 17 relating to "Design Guide for New Development"
3. Letters of objections from 18 Dennis Avenue.

Any person wishing to inspect the above papers should contact Mumtaz Patel, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5244



Planning Committee Map

Site address: 17 Dennis Avenue, Wembley, HA9 8AZ

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