

**Committee Report
Planning Committee on 2 November, 2010**

**Item No. 9
Case No. 10/2304**

RECEIVED: 3 September, 2010

WARD: Kilburn

PLANNING AREA:

LOCATION: 40A-D INC, St Julians Road, London, NW6 7LB

PROPOSAL: Erection of front and rear mansard roof, with 2 dormer windows at front and 2 at rear, to create 1 two-bedroom flat at third-floor level, with associated refuse-storage area to front of flats

APPLICANT: PCHA

CONTACT: Nicholas Taylor & Associates

PLAN NO'S:
Please 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 Planning to agree the exact terms thereof on advice from the Borough Solicitor

SECTION 106 DETAILS

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

- (a) Payment of the Councils legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance
- (b) A contribution of £12000 due on Material Start and index-linked from the date of committee for Education, Sustainable Transportation, Air Quality and Open Space & Sports in the local area.
- (c) Join and adhere to the Considerate Contractors scheme.
- (d) Car Free Agreement

And, to authorise the Head of 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 is a three storey terraced building, with a basement situated on St Julian's Road. The surrounding uses are predominantly residential with similar type dwellings. The site is not located in a Conservation Area nor is the structure listed.

PROPOSAL

See above

HISTORY

Full planning permission (Ref No: 09/1454) for a front and rear roof with 2 dormer windows to rear

and 2 to front to create 1 self contained flat at roof level was refused in July 2009. This application was refused for the following reasons:

The proposed extensions to the roof would result in a fundamental alteration and a substantial and incongruous addition to the building, and appear visually obtrusive and unsympathetic to the scale, design and appearance of the property, which would be contrary to policies BE2 and BE9 of Brent's Unitary Development Plan 2004 and Supplementary Planning Guidance 5: "Altering and Extending Your Home"

The proposed two-bedroom flat would not provide a satisfactory living environment, in that its size falls below minimum floorspace standards, and in addition to its lack of provision of external amenity space, the proposal would be contrary to policy H18 of Brent's Unitary Development Plan 2004 and Supplementary Planning Guidance 17: "Design Guide for New Development". Furthermore, the development would also reduce the size of the existing two-bedroom, second-floor flat to significantly below the minimum floorspace standards and thus would form substandard living accommodation, contrary to policy H18 of Brent's Unitary Development Plan 2004 and Supplementary Planning Guidance 17: "Design Guide for New Development"

The proposed conversion of the roofspace to accommodate a two-bedroom flat is considered unacceptable as the development would generate additional parking demand, which cannot be controlled by legal agreements, and cannot be accommodated in the locality without prejudicing pedestrian and highway safety, contrary to policies TRN24 and PS14 of Brent's Unitary Development Plan 2004.

In the absence of a legal agreement to control the matter, the development would result in an increased demand for school places within the Borough, without providing any contribution to building new school classrooms or associated facilities; pressure on transport infrastructure, without any contribution to sustainable transport improvements in the area; and increased pressure for the use of existing open space, without contributions to enhance that open space or make other contributions to improve the environment. As a result, the proposal is contrary to policies CF6, TRN10, OS18 and H7 of Brent's Unitary Development Plan 2004

The applicant appealed this refusal and the subsequent appeal was discussed on 13 July 2010. However, the Inspector concluded that it was only, the absence of a 'robust' legal agreement that made the proposal unacceptable on all other grounds he did not support the Council's stance

POLICY CONSIDERATIONS

Brent UDP 2004

BE2- Townscape: Local Context & Character

BE7- Public Realm: Streetscene

BE9 – Architectural Quality

H12 – Residential Quality: Layout Considerations

H18 – The Quality of Flat Conversions

TRN23 – Parking Standards: Residential Developments

SPG

SPG 17 – Design Guide for New Development

CONSULTATION

External

67 Neighbouring properties were consulted on 23 September 2010. To date the Local Authority has received 3 letters of objection. The principle objections were:

- Noise pollution created by building
- No Fire Escape
- Additional strain on parking
- Exasperate Health problems

Internal

Transportation Engineer - Continues to raise concerns about the as the administration and management of a 'Car free' agreement for only part of a building.

REMARKS

Context

The proposed scheme is the subject of a dismissed appeal as such officers assessment must follow that of the Inspectors Decision. In brief the Council refused the application for reasons set out in the site history, whilst the Inspector found the proposal would:

- Respect the character and appearance of the original building and its surroundings (Roof Extensions)
- Provide an appropriate standard of living accommodation for future occupiers
- Endanger Highway and Pedestrian Safety

These will be addressed in turn:

Front and rear roof extension

No 40 is situated towards the Southern end of St Julians Road. Together with Nos 41-43. it forms part of a distinctive group with a different design to the other houses in the terrace. The remainder of the terrace have been largely modified with pitched and slated roofs.

The proposed front and rear roof extensions will project from the ridgeline of the original roofplane by 4.7m and will be 2.9m in height. On the face of the both roof extensions (I.e. front and rear) two dormer windows (each) have been proposed. The proposed dormer windows will project 0.45m from the extended roofplane.

In the refused application the Council found the roof extensions to create an incongruous addition that would appear visually obtrusive and unsympathetic to the scale, design and appearance of the property and its surroundings.

However in paragraphs 7 and 8 of the Inspectors Decision, the Inspector found the proposal to be visually appropriate when compared to similar developments on St Julians Road and went on to find the rear views of the property to be limited by the extant buildings in Priory Park Road, Aldershot Road and Opel Mews. They therefore concluding no harm to the original building or the Character of the area.

Whilst officers obviously disagree with the Inspectors findings, subsequent consideration must be lead by the Inspectors views. As such, officers consider that it would be difficult to object to the roof alterations in principle

Residential quality

The proposal aims to create a new two bedroom unit in the roof and aims to convert the existing second floor two bedroom unit to a one bedroom with 'study'

The new two bedroom (54sqm) flat is marginally smaller than that of requirements set out in SPG 17 (55sqm). This unit will have no external amenity space.

The proposal to convert the existing two bedroom unit to a one bedroom unit with a 'study' does not convince officers that the reduced unit will be converted into a single bedroom unit. As a matter of fact the existing flat has the potential to be used as a two bedroom flat and should be considered on that basis

The application was previously refused as the quality of accommodation for future occupiers was considered to be substandard by reason of lack of internal floorspace and external amenity space. Officers also found the new two bedroom unit would cause the existing second floor two bedroom unit to be substandard by reason of insufficient internal floor area as the new stairs would take away floorspace at second floor level

The Inspector found the shortfall in internal floor space of the new unit to be "insignificant" and found a financial contribution of £12000 to be an appropriate sum to offset the lack of external amenity space.

On the matter of officers being unconvinced about the future of the existing second floor, the existing two bedroom units, the Inspector found that the use as a one bedroom unit only could be secured by condition and consequently this is attached here.

Again whilst officers have reservations with the Inspectors decision, officers must be lead by the Inspectors findings. As such a recommendation to view the quality of accommodation as acceptable subject to a financial contribution of £12000 secured by a legal agreement and condition securing the use of the two bedroom unit as a single bedroom unit only is set forward.

Transportation

The proposed unit, which is located in an area of good public transport accessibility and a CPZ; would create a significant increase of 0.7 parking spaces in accordance with PS14 of the UDP 2004.

In consideration that no off-street parking is available and no further on-street car parking can be allowed since the street is already heavily parked, the development would lead to an unacceptable increase to the detriment to highway and pedestrian safety.

In the life of the refused application, the applicant stated a 'Car Free' agreement will be accepted for the site. However officers objected to this agreement finding a 'Car free' agreement can only be accepted when it applies to every residential unit within a building. Failure to secure all units will result in the administration and management of the agreement to be unfeasible and could not result in units being given parking permits when they were not entitled to them.

The Inspector acknowledged the Councils concerns relating to administration and management, but did not consider this to be a reason for refusal. The Inspector found the covenant proposed to be imprecise and insufficiently robust. Instead the Inspector suggested an effective agreement relating to application of permits would have linkages with tenancy agreements, possible sanctions or penalties, and car ownership or use would be notably absent.

Having considered the Inspectors Decision the applicant proposes the new two bedroom units to be 'car free'

with an undertaking to link car permits to the new tenancy agreement, an undertaking to surrender within 7 days any permit received and accepting failure to do so will result in enforcement.

Whilst officers continue to question the practicality of such an agreement, the Inspectors Decision must be considered. As such officers recommend issues previously raised relating regarding administration and management be removed and the application be approved subject to 'Car free' agreement secured by a Legal Agreement.

Other

Details of refuse and recycling storage have been included in this revised version of the scheme, shown in a front storage area fitted against the existing stepped access to the upper ground floor of the property. This element is acceptable.

S106

For the avoidance of doubt, this particular scheme would attract the following requirements:

- (a) Payment of the Council's legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance
- (b) A contribution of £6000 due on Material Start and index-linked from the date of committee for Education, Sustainable Transportation, Air Quality and Open Space & Sports in the local area.
- (c) Join and adhere to the Considerate Contractors scheme.

These will be secured by a S106 agreement (Legal), if the recommendation to approve is accepted

Response to objections

Objections relating to the parking have been expanded on, in the body of this report.

No emergency exit

The requirement for an emergency exit is not covered by the Town and Country Planning Act and therefore cannot form a reason for refusal. However the development will be required to provide such facilities under Building Regulations. The applicant will be reminded of his responsibilities by way of an informative.

Disturbance caused by building works

Whilst the Council empathises with objectors concerns over health risks, noise pollution and disturbance in general, unfortunately these issues are not covered by the Town and Country Planning Act. The development will be required to join and adhere to the 'Considerate Contractors Scheme'. Officers are satisfied this will overcome matters relating to noise pollution.

Conclusion

Whilst officers still have concerns with the quality of accommodation, impact on the original property, impact on neighbouring properties and Highway and Pedestrian safety, owing to the Inspectors Decision, it is considered that it would be difficult to persist with those concerns in light of the Inspectors comments. As such a recommendation to approve subject to a Legal agreement (£12000 and 'Car Free') and attached conditions is set forward

RECOMMENDATION: Grant Consent subject to Legal agreement

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

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
Housing: in terms of protecting residential amenities and guiding 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 drawings:

PO1	PO2a	PO2b
PO4	PO5	PO6
PO7	PL102	PL103
PL104	PL11	PL12
PL15	P03	

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

- (3) When the extension hereby approved is constructed, the existing second floor two bedroom unit shall be converted to a one bedroom unit with study in accordance with the approved plans and thereafter shall be used only as a one bedroom unit with study.

Reason: In the interest of protecting amenities of future occupiers

- (4) Details to be submitted
Before any building works commence on the site, a scheme providing for the insulation of the proposed building shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall not be occupied until the approved scheme has been fully implemented.

Reason: To ensure that the occupiers are not subjected to excessively high noise levels and to ensure an adequate standard of amenity.

INFORMATIVES:

- (1) The applicant is advised to contact Brent Building Control regarding emergency exits on 020 8937 5499.

Any person wishing to inspect the above papers should contact Tanusha Naidoo, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5245



Planning Committee Map

Site address: 40A-D INC, St Julians Road, London, NW6 7LB

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