

Committee Report
Planning Committee on 6 April, 2011

Case No. 10/3072

RECEIVED: 31 December, 2010

WARD: Kilburn

PLANNING AREA: Kilburn & Kensal Consultative Forum

LOCATION: 103-107, 103A, 109-119 odds, 121-123 Kilburn High Road, 110-118 inc Kilburn Square and all units and stalls at Kilburn Square Market, London, NW6

PROPOSAL: Erection of a single storey front extension, ground and first floor side extension, infill of existing first floor walkway and terraces to create additional commercial floor space, creation of a green roof and associated landscaping to front forecourt area

APPLICANT: Sandpiper Securities Ltd

CONTACT: Michael George Design Ltd

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 Director of Environmental Services 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:-

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
- A contribution due on Material Start and index linked from the date of Committee of £23,348, broken down as:
 - £18,348 towards employment & training in the local area
 - £5,000 towards tree planting and local landscape improvement
- A payment of £112,500 toward community provision in the local area.
- Public access and enhancement of the area marked X on the plans, which adjoining Kilburn High Road and leads to Kilburn Square. (The Highway Authority envisaged that the area to the front of the building would be put forward for adoption).
- Sustainability - submission and compliance with the Sustainability check-list ensuring a minimum of 50% score is achieved and BREEAM "very good", in addition to adhering to the Demolition Protocol, with compensation should it not be delivered.
- Provide at least 20% of the site's carbon emissions through onsite renewable generation, which has no detrimental effect on local Air Quality.

- Join and adhere to the "Considerate Contractors Scheme".
- A framework Travel Plan shall be submitted and approved within three months of the commencement of works and a full Travel Plan shall be submitted and approved prior to first occupation.
- To notify "Brent In2 Work" of all job vacancies, including those during construction and operation of the building, with a target of employing 1:10 local people in construction and 1:100 in the retail.

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 Square is within the Kilburn Town Centre. It is on a corner site with the main frontage facing Kilburn High Road and the side on the return to Brondesbury Road.

Kilburn Square was constructed in the early 1970s on the site of an original London Square. Fronting the High Road the Square consists of eight retail/commercial units with vacant office/storage above. At the rear are nine three-bed maisonettes. These have one entrance and share their circulation area with the retail units. There is an existing market which was refurbished a good number of years ago. The market stalls are occupied and represent the last of this kind of market in the area. This extends onto the footpath but is separated by metal railings restricting access.

The site currently comprises 8 no. smaller retail premises (ranging from 90sqm to 400sqm) and 1 no. larger retail premises (Argos, circa 1,370sqm), and an open-air market area (circa 1000sqm), with 9 no. 3-bed self-contained maisonettes on the upper floors to the rear. The development has an existing two storey underground basement with ramped vehicular access from Victoria Road. This provides 103 car parking spaces and a lorry delivery area. The car park is managed by a private operator and is currently used by shoppers.

There is a public right of way between the market and the Argos retail unit measuring 5m in width. There is a 14.5m wide public footpath in front of the Square with a number of existing trees, as well as other street furniture.

Kilburn High Road is a London Distributor Road and, at this point, forms the boundary between Brent and Camden Councils.

PROPOSAL

See above.

HISTORY

Application 04/3559 proposed the partial demolition and refurbishment of existing building; extensions and alterations to 7 existing retail units; change of use of first floor retail to health club and serviced offices; construction of 69 flats (including 22 affordable units); re siting of existing market and enclosure with permanent stalls; formation of cycle parking bays and ancillary works including new entrance, CCTV cameras and street furniture. It was refused consent in February 2005 and an appeal against this refusal was dismissed on 15 December 2005.

A similar previous proposal (LPA ref: 00/1953) proposing a total of 72 flats on the site was also dismissed at appeal by the Planning Inspectorate in April 2004.

The appeal proposal (04/3559) involved the provision of a centralised market square, with the width of the Kilburn High Road frontage being reduced from 14.5m to 8.5m from the front façade of

the retail units and the edge of the footway, given the proposed 6m forward projection of the retail units.

In the Inspectors' decision letter in April 2004 on 00/1953 he concluded that the appeal proposal was unacceptable for a number of reasons. These included a failure to make the proposed communal amenity area available to all residents; loss of trees; loss of sunlight and daylight to occupants of Kilburn Tower; concerns over the method of disposal of refuse; loss of High Road footway width; and the loss of views through to the trees and retained 'green' area of Kilburn Square.

The second appeal Inspector made a number of key statements in deciding to dismiss the scheme which also need to be taken into account in any future considerations.

1. positive attributes of the scheme included "the provision of mixed uses at an appropriate urban density in an accessible location and the achievement of investment that would aid local regeneration."
2. forward projection of the building by the distance shown completely unacceptable. Would result in overdevelopment leading to a loss of quality in the publicly accessible public realm.
3. less than 50% affordable housing would be acceptable, given case made by the appellant.
4. sustainability of the design and its subsequent construction very important. More discussion would be needed before this could be achieved.
5. Problems with the S106 legal agreement. There had been a failure to agree the contents of the agreement between the parties.

06/3094 proposed the demolition of existing market structures, first-floor office units, second-floor roof structures and bridge over, erection of 3-storey side extension, single-storey front extension with new shopfronts, 3-storey and single-storey side extension with 6 rooflights, formation of 14 self-contained flats at first-floor and second-floor level, provision of waste and recycling store, new lift and new pedestrian access, refurbishment of existing ground-floor retail and provision of replacement market structures, 2-storey side extension to 121-123 Kilburn High Road, new shopfront, hard landscaping with new walkway entrance structure, market sign, lamp standards and tree planting. It was approved subject to a Section 106 legal agreement at Planning Committee in May 2007 and this agreement was eventually signed in May 2008, which was when the formal decision was issued.

09/0410 envisaged re-modelling the existing 9 second and third-floor maisonettes that are located to the rear of the current application site into 18 new self-contained flats. The application included a two-storey front extension with new bridge, walkway and ramps to provide access, third-floor extension on top of stairs at front, new entrance and bin store doors at side with new glass canopy. It was approved subject to a Section 106 legal agreement at the Planning Committee on 4 November 2009, but the agreement has not yet been signed so the consent has not yet been issued.

POLICY CONSIDERATIONS

- STR13 - Environmentally sensitive forms of development will be sought.
- STR14 - New development will be expected to make a positive contribution to improving the quality of the urban environment.
- STR15 - Major development should enhance the public realm, by creating or contributing to attractive and successful outdoor areas.
- BE1 - Outlines the need for a submission of an Urban Design Statement for any sites likely to have a significant impact on the public realm, indicating important features, existing and potential links to the site, important views, relationship with surrounding properties, how the

design relates to and enhances its urban context, and contribution of the design towards sustainability and regeneration.

- BE2 - Proposals should be designed with regard to their local context, making a positive contribution to the area, taking account of existing landform, and the need to improve existing urban spaces and townscape.
- BE3 - Proposals should have regard for the existing urban grain, development patterns and density and should be designed so that spaces between and around buildings should be functional and attractive to their users, layout defined by pedestrian circulation, with particular emphasis on entrance points and creating vistas, it respects the form of the street by building to the established line of the frontage, unless there is a clear urban design justification.
- BE6 - High standard of landscaping required as an integral element of development, including a design which reflects how the area will be used and the character of the locality and surrounding buildings, boundary treatments to complement the development and enhance the streetscene.
- BE7 - A high quality of design and materials will be required for the street environment.
- BE9 - New buildings should be designed to embody a creative and high quality design solution specific to the sites shape, size, location and development opportunity and be of a scale, massing and height appropriate to their setting, civic function and location.
- BE12 - Expects proposals to embody sustainable design principles, commensurate with the scale and type of development, including taking account of sustainable design, sustainable construction and pollution control criteria, etc. Regard will be had to the SPG in assessing the sustainability of schemes.
- BE24 – The special character of buildings on the local list will be protected and enhanced.
- SH6 - Non-retail uses appropriate to primary shopping frontages.
- SH26 – The retention of existing retail markets will be encouraged.
- MOS4 - Site specific policy seeking enhanced retailing, comprehensive approach, improvements to public domain, retention of adequate footway width and trees where possible, replacement trees, no loss of open space, servicing from rear, retain shoppers car park, housing and small business units on upper floors acceptable subject to quality design.

Brent Supplementary Planning Guidance

SPG 17 "Design Guide for New Development" Adopted October 2001

Provides comprehensive and detailed design guidance for new development within the borough. The guidance specifically sets out advice relating to siting, landscaping, parking, design, scale, density and layout.

SPG19 - "Sustainable Development." Adopted April 2003

Seeks to ensure a sustainable environment with the needs of the future, as well as the present, in mind. Sustainability needs to be a part of the design from the start of any development project. Sets out the principles of sustainable development.

Kilburn Square Supplementary Planning Document (SPD).

The Council produced an SPD for this site following the recommendations of the Planning Inspector in dismissing the 2004 appeal on the site.

The purpose of the SPD is:

- To promote the redevelopment of 103 - 123 Kilburn High Road whilst ensuring the highest standards of urban and architectural design;
- To provide a framework for an integrated and comprehensive development of the site and for improvement to the environment;
- To provide clear and usable guidance in the form of a supplementary planning document (SPD) that will be used to assess any planning application(s) for the site.

The SPD was prepared following extensive consultation with local residents and groups during winter 2004/2005 and adopted by the Council in April 2005.

SUSTAINABILITY ASSESSMENT

See "Remarks" section below.

CONSULTATION

A total of 322 consultation letters were sent out on 20 January 2011. In addition, a press notice was published on 27 January 2011 and a site notice was posted on 25 January 2011 advertising the proposal as being of public interest.

A total of 5 letters of objection have been received along with 2 letters of support.

OBJECTIONS

- opposed to any front or side extension. This is the square of the community.
- the building has allowed to be run down and this is the fault of the landowner.
- ugly design, especially at upper floor level.
- want to hold onto the existing shops.
- proposal will affect jobs and livelihoods of local people.
- it will cause a great deal of disruption to businesses.
- concern about people having to use the route through to Kilburn Square and also gates shown at the back of the market area. Landowners have failed to maintain these areas.
- trees should be kept and if they are lost, replaced.
- signage should be erected discouraging feeding the pigeons and also informing that the route through is only for access to the clinic and housing co-op.

SUPPORT

- excellent design.
- community space is good. Don't lose the benches, trees and landscaping.
- fabulous scheme-about time.

In addition, Ward Councillor Arnold and Councillor Crane have indicated that they feel this application could play an important role in regenerating Kilburn Town Centre and support it, in principle.

CAMDEN COUNCIL

Raise no objections to the proposal.

TRANSPORTATION ENGINEER

No objections, subject a Section 106 Agreement securing highway improvements within the vicinity of the site.

LANDSCAPE DESIGNER

Subject to further details of tree protection, tree planting and soft/hard landscaping there are no objections to the application. They have confirmed that the submitted tree survey is accurate and that it is critical that the large plane tree within Kilburn Square and the one adjacent to the Cock public house are unaffected by the development. The specimens would stay in spite of the building hereby proposed.

ENVIRONMENTAL HEALTH OFFICER

Initially requested further information about how the development would relate to the existing residents to the rear. Such details have now been provided and no objections are raised to the application, subject to conditions relating to noise levels and works taking place during demolition and construction.

METROPOLITAN POLICE CRIME PREVENTION OFFICER

Have met the applicants' agent and have made a number of comments on the form of the proposal. Subsequently, the co-chair of the Safer Neighbourhood Kilburn Panel (Belinda Harward) has also expressed the view that they wish the area in front of the new building to be safe and hospitable, used by all.

KILBURN TOWN CENTRE MANAGER (CAMDEN)

No comments received.

REMARKS

INTRODUCTION

Members may be aware that this site has had an extensive planning history, including a number of dismissed appeals, which eventually culminated in the Council's Planning Committee in 2007 agreeing a mixed retail/residential/reconfigured market proposal. This consent has not been implemented and this application seeks a further development on the site, effectively replacing the previously proposed residential accommodation with additional retail floorspace and altering the existing market in a less significant way than previously. Previous proposals on this site have been fairly controversial with a large number of letters of objection to them being received. However, this time around there has been far fewer representations received and these are outlined above.

One of the key issues previously, certainly for residents of Kilburn Square to the rear, was the proposed change to the right of way that exists through the site. In terms of the right of way this is currently provided by way of a 5m wide path adjoining the existing Argos building and this latest submission does not alter this arrangement. The 2007 proposal involved the access being moved and provided between two areas of permanent stalls in the market either side of Kilburn Walk. Although the width would be increased compared to as it is now and the right of way would be protected by way of a S106 agreement, a number of people continued to express fundamental concern about the proposals.

As far as the continued existence of a market on this site is concerned, over time it seems that opinion about its merits have been split. However, from the planning policy point of view, it is the case that both the 2004 UDP (policy SH26) and the adopted SPD for Kilburn Square protect markets and on this basis it is envisaged that the continuation of such a use here is required. The UDP states that "it is an integral part of Kilburn Town Centre, adding to its character and vitality."

POLICY CONSIDERATIONS / LAND USE

This is Kilburn Square on the west side of Kilburn High Road. The Council has produced an SPD specifically for this site in an effort to encourage, and guide, development given the problems experienced in the past of securing an acceptable proposal for this important site. In addition, Policy MOS4 of the adopted UDP designates this site as a 'Major Opportunities Site', seeking enhanced retailing, improvements to the public domain, retention of adequate footway width, no loss of open space, retention of car park, with housing and small business units on the upper floors.

As a result, this submission follows the broad principles of MOS4 by proposing a development with enhanced retail facilities on the upper floors. The scheme also continues to attempt to address issues relating to the public realm and the width of the footway, transportation matters, landscaping and design. However, as with the 2007 scheme that proposed a total of 14 flats at upper floor level, it contemplates a different, less intensive, development of the site than what the Council has considered before (see History section above) and than what was contemplated at the time the SPD was prepared. What this change in approach has meant is that the problems identified previously and the Council's refusals of consent (which were supported on two occasions at appeal) are now either resolved or are not relevant to this application.

For Members information, the 2000 scheme at appeal had failed to provide the desired set back from the Kilburn High Road frontage to the front elevation of the new development which would have resulted in a detrimental impact upon this part of Kilburn, the removal of a number of mature trees, have an adverse impact on the setting of the Cock Tavern building, and would have failed to provide the required level of affordable housing. The applicant had also crucially failed to address the issue of sustainability. In the 2004 appeal the Inspector once again found the forward projection of the built form to be unacceptable, and considered that the applicant again failed to have regard to sustainable development principles.

As with the 2007 mixed-use application, this latest iteration, following on from two dismissed appeals, has had regard to the views expressed on those occasions by Inspectors, as well as the guidance set down in the Council's adopted SPD document. As a result, this is a scheme that can, in principle, be supported by Officers. Having said that, Officers are of the view, as they were in 2007, that this town centre site could be suitable for a more intensive, higher density, scheme than the one before the Council at this time. However, the applicants have decided that the quantum of development proposed within this application is what they wish to pursue and they have decided not to progress the opportunities that might exist here. The application, therefore, falls to be determined on its individual merits.

As explained above, the previously proposed residential units no longer form part of this proposal, meaning that the Council is been asked to effectively consider a retail development. In terms of the merits of the proposal, the additional retail floorspace proposed would enable the existing retail units to be expanded and this could assist in retaining existing tenants, who are currently short of space, and could also provide for larger units which are under-represented within Kilburn Town Centre, particularly scarce on the Brent side of the street. As with other schemes, improvements to the current retail floorspace are welcomed within this Primary Shopping Frontage, and supports the Council's policies and aims for Kilburn High Road.

IMPACT ON THE MARKET

UDP policy SH26 states that the retention of existing retail markets will be encouraged and, where affected by development proposals and where feasible, their replacement in

town centre locations will be sought. The improvement of environmental conditions associated with existing retail markets will also be sought, including storage and preparation space for traders to meet public health requirements. In this case, the application proposes 19 “larger” market stalls compared to the existing 42 stalls. It is noted that there are currently only 18 traders, with three traders expected to cease within the next quarter. In this respect, and considering the lower proportion of market space proposed in approved planning application 06/3094, this is considered acceptable. The removal of the existing railings would be welcomed in terms of the negative impact that they have on the streetscene.

SUSTAINABILITY ISSUES

Officers have considered the submitted Checklist, which is required as this application is classified as a “Major” development. The checklist scores a value of 46%, which is considered “fairly positive” in sustainability terms. Further sustainability measures will need to be awarded to ensure that the proposal meets the 50% checklist requirement. Assessment of the submission does indicate a range of measures that could be taken to allow the required threshold to be reached and in these circumstances it would be appropriate to include this in the proposed Heads of Terms.

In terms of renewable energy proposals, no details have been submitted which show that the PV panels will achieve CO2 reduction of 10%. A basic estimate of the overall energy demand should be provided to show how the 10% target can be met, including the number of PV panels proposed and a manufacturers specification to achieve the 10% reduction. The locations of the panels should be provided on the roof plan, and should make allowances for the green roof and the provision of providing frames to ensure the panels are oriented 35 degrees south. This will be subject of a condition in the event that permission is granted. The application should attempt to achieve BREEAM “very good” and further work would be needed in connection with this as it has not been demonstrated within the terms of the application.

BUILDING DESIGN, SCALE AND MATERIALS

The proposal provides an additional storey of retail floorspace above a level of existing ground floor commercial floorspace to the south of the site. It also includes an extension to the existing Argos building that would be built upon the existing unattractive open bridge that currently is located above the market. This bridge would have been demolished through the 2007 proposal, a move that was welcomed. This new Argos extension would be orientated so as to be parallel to Kilburn High Road. All extensions would be flat roofed, although the first floor retail extension includes a stepped roof feature at its edge. There would be some reorientation of the market area, with the existing front railings that project out into the High Road frontage being removed, and the new area being covered by two tensile material canopies. As with the 2007 approval, there would be a two storey side extension projecting out towards Brondesbury Road by 6.5 metres. It would line up with the front of the new retail units and be a total of 20 metres in length.

There has been some discussion about the materials proposed for this building. The frontages on most elevations would be predominantly glazed, giving both access and light into the retail spaces. Whilst this is considered to be an acceptable approach, some of the other choices of material (eg: timber on ground floor Brondesbury Road elevation and large areas of white cladding) have raised questions with Officers as to whether they are appropriate here. A condition is suggested to be attached to any permission so as to allow further consideration of the proposed materials.

There is a 4 storey Victorian terrace to the south of the site, and across the road in Camden, as well as the 4 storey locally listed Cock Tavern immediately to the north. The general scale of the proposed building is considered to be acceptable, given the simple,

contemporary design approach and its location within the primary frontage of Kilburn High Road. As explained above, providing that the details of materials to be used, along with further information relating to features such as shopfronts, advertisements, etc, are conditioned, it is considered that this proposal would be capable of representing a new building of some design quality, enhancing the appearance of this important part of Kilburn High Road, as well as the wider area.

PUBLIC REALM

On the Kilburn High Road frontage, the space available to the public is currently 14.5 m and comprises 2.5m width of pavement and 3.4 - 12m width of private forecourt. Whereas previously in appeal submissions the pavement width and the forecourt width would have been reduced to a figure of 8.5m to the ground floor retail units, this latest proposal indicates that the relatively small front projections proposed (1.2 metres) would still leave a minimum of 12 metres as required by the adopted Kilburn Square SPD. This continues to be a critical consideration in the determination of this application and is considered to overcome one of the key problems identified by both the Council and appeal Inspectors, given the importance of this uniquely wide forecourt along the High Road and its contribution to the character, vitality and viability of Kilburn Town Centre as a focal shopping and amenity area within this part of the Borough.

Existing trees are currently planted within the forecourt with the proposed scheme resulting in the removal of 1 of the trees, namely an apple tree. As explained, the felling of the mature Plane tree adjacent to the Cock Tavern was a specific reason for refusal in the past and the tree will be unaffected by this application. Replacement planting is proposed for the forecourt and the Council's Tree Protection Officer has confirmed that the specimens proposed are appropriate for this busy High Road location.

IMPACT ON NEIGHBOURS

The scale and location of the proposal means that physical impacts on existing residential or commercial neighbours are limited. There is, however, a block of residential maisonettes to the rear of the application site. This block benefits from an extant consent to convert the 9 units into 18. As a result, it is important to consider the relationship between existing and proposed. Previously, in 2007 the erection of new residential accommodation towards the front of the site inevitably resulted in a fairly tight relationship with the maisonettes. In spite of this, permission was, on balance, granted partly because the constraints on the overall depth of the site meant that some impact was inevitable. This scheme avoids the tightness of 2007 by proposing a frontage building that is no higher than the lowest part of the maisonettes. Therefore, whilst residents will be looking out (and down) across a fairly large flat roofed area it is considered that this would not so unacceptable so as to justify refusing consent. The proposal does include some fairly large pyramidal rooflights at the back of the roof and Officers have sought confirmation from the applicants that these features will not result in disturbance or nuisance to existing residents. In the event that 09/0410 (maisonettes conversion) were to be implemented these outside areas would become balcony areas and, partly because of this, a condition is suggested to be attached to any consent requiring further details of the rooflights, with a possible view to relocate them further away from the rear boundary with the flats or possibly reducing their scale.

Although for the reasons explained above, impact on neighbours is not considered to be a fundamental issue here, for information, back in 2004, appeal scheme 04/3559 was refused partly because of concern about the level of residential amenity likely to be enjoyed. In considering this point, the Inspector concluded that the lower amenity levels likely to be enjoyed by a number of residents would be balanced by the fact that the development would achieve regeneration on this important site.

CAR PARKING/ HIGHWAYS ISSUES

This application seeks to redevelop the retail elements of the site, in order to provide a total of 6 no. retail units, and provide general refurbishment to the existing retail market area. The retail units will be extended forwards by 1.2m from the existing building line, and first-floor extensions added. No alterations to the car parking arrangements have been submitted.

The application site is located to the western side of Kilburn High Road, a London Distributor road. The site lies within CPZ "KB" which operates 08:30 – 18:30 Monday to Friday, and has excellent accessibility with a PTAL rating of level 6. Kilburn Park Station (Bakerloo tube) and Kilburn High Road Station (Overground rail) are both within easy walking distance of the site, and eight bus routes are locally available.

With regard to the existing development on site, under Parking Standards PS6 and PS7 of the UDP-2004 the 8 no. smaller units can each be permitted a maximum of 1 no. car parking space. The Argos unit can be permitted 1 space per 100sqm over the 400sqm threshold, meaning that this unit can be permitted a total of 10 no. car spaces (PS7 again). Lastly the retail market floor area of 1000sqm can be permitted a further 5 no. car spaces. This gives a combined maximum parking standard of 23 car parking spaces. The proposed development will lead to the establishment of 5 new retail premises, identified as units A – E. Their floor areas will be as follows: Unit A = 630sqm, Unit B = 750sqm, Unit C = as existing 250sqm, Unit D = as existing 350sqm, Unit E = 1,440sqm. The impact of the proposed development on the car parking standards will mean an increase from the existing site maximum of 23 car spaces to 38. This is a significant increase in the standard, however as mentioned above there is a large basement car park below the Kilburn Square development, while surrounding residential roads will not be affected due to the operation of a number of CPZs which protect residential parking capacity.

The existing units attract servicing standards set out in PS17 of the UDP-2004, whereby a full sized lorry bay should be provided per 1000sqm. A single 16.5m long bay would suffice for the eight smaller shops. The Argos retail unit also requires its own full sized bay. In addition to these "Transit" sized bays should be provided for every two of the smaller retail units, which gives a requirement of a further 4 no. 6m long bays. This gives a total provision of 2 no. full sized bays and 4 no. "Transit" sized bays.

The six proposed retail units resulting from the development have a combined floorspace of approximately 4,000sqm, and so 4 no. full-sized bays would be an appropriate provision. The application documents specify that the basement car park is currently used and will continue to be used for all deliveries, as well as refuse and recycling storage and collection. The Highway Engineer is confident that the large underground space is capable of meeting the increasing servicing demands, but would wish to see a Delivery & Servicing Plan controlled by way of condition, in line with the advice from TfL. For information, an electric charging point will be provided in the basement area in line with the previous approval.

Twenty new cycle parking spaces are proposed as part of this scheme, which are welcomed. The spaces will be positioned "adjacent to the market area" and although this is acceptable in principle Highway Engineers will require drawings showing the location and type of cycle parking to be provided. The preference is for "Sheffield" type stands.

As before, the proposed footway works and associated street furniture along Kilburn High Road will need to be covered by a joint Section 38/278 Agreement (to be secured through the Section 106 Agreement), allowing the existing 3 metre wide public footway along Kilburn High Road to be increased in width to about 13 metres. These agreements will require the submission and approval of detailed construction drawings for the footway by the Highway Authority (including the provision of suitable street furniture (seats, litter bins, cycle stands etc.) and materials (incl. raised kerbs at the bus stop)). In the meantime, the Highway Engineer has confirmed that the suggested layout of trees, benches and cycle stands is acceptable, in principle. Although there have been some

comments about the importance of selecting the correct street furniture for the area, the matter of the precise details will be conditioned and so can be agreed at a later date. It is considered that these works can be acceptable in lieu of the standard contribution towards non-car access improvements that would normally be sought in all developments of this nature under policy TRN4. For information, the £23,384 mentioned below is 50% of the 25 per m² standard charge normally sought, allowing the remainder to be used to go towards the various transportation works.

SECTION 106 BENEFITS

The application development proposed here has wider implications for the locality that cannot, or are unlikely to, be addressed within the application site. As a result, a Section 106 agreement controlling the benefits and financial contributions that might be required in relation to the proposed development would be required. As these are fundamental issues, the scheme would be rendered unacceptable if they were not adequately dealt with.

- A contribution due on Material Start and index linked from the date of Committee of £23,348, broken down as:
 - £18,348 towards employment & training in the local area
 - £5,000 towards tree planting and local landscape improvement
- A payment of £112,500 toward community provision in the local area.
- Public access and enhancement of the area marked X on the plans, which adjoining Kilburn High Road and leads to Kilburn Square. (The Highway Authority envisaged that the area to the front of the building would be put forward for adoption).
- Sustainability - submission and compliance with the Sustainability check-list ensuring a minimum of 50% score is achieved and BREEAM "very good", in addition to adhering to the Demolition Protocol, with compensation should it not be delivered.
- Provide at least 20% of the site's carbon emissions through onsite renewable generation, which has no detrimental effect on local Air Quality.
- Join and adhere to the "Considerate Contractors Scheme".
- A framework Travel Plan shall be submitted and approved within three months of the commencement of works and a full Travel Plan shall be submitted and approved prior to first occupation.
- To notify "Brent In2 Work" of all job vacancies, including those during construction and operation of the building, with a target of employing 1:10 local people in construction and 1:100 in the retail.

OTHER ISSUES

The need for community accommodation on this site has arisen in the past out of public consultation and has previously been supported, in principle, by local Councillors. The location of the site within the heart of Kilburn High Road has rendered it an ideal location for a community facility and in the past the applicant has considered providing accommodation for community use within the various developments.

However, when the 2007 scheme was considered it transpired that the feeling within the area was that a community facility on site would no longer be welcomed and, on this basis, it has been deleted from the scheme. This omission allowed the applicants to provide additional accommodation and in order to take account of this fact it was, and continues to be, considered that a financial contribution should be sought. The figure of £112,500 referred to above to go towards community provision in the local area is half the value (£225,000) of the 150sqm of community space that is no longer being provided, having taken valuation advice and is considered to be an acceptable and reasonable approach.

REASONS FOR CONDITIONS

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
 - Kilburn Square SPD

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
- Town Centres and Shopping: in terms of the range and accessibility of services and their attractiveness
- Transport: in terms of sustainability, safety and servicing needs
- Community Facilities: in terms of meeting the demand for community services

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):

KHR/10/201, 202, 203, 204, 205, 206, 207, 208A, 209, 210, 211, 212, 213, 214, 215, 216A, 217, 218, 219.

Sustainability Statement, Energy statement, Design & Access Statement, Planning Statement, Arboricultural Impact Assessment Report and Visualisations.

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

- (3) No water tank, air-conditioning plant, lift-motor room or other roof structure shall be erected above the level of any roof hereby approved without the further written consent of the Local Planning Authority.

Reason: To ensure that such further structure(s) do not prejudice the amenity of the neighbouring occupiers or the appearance of the locality.

- (4) The market shall not operate except between 0800 hours and 1730 hours on Mondays to Saturdays and at no time on Sundays or Bank Holidays.

Reason: To ensure that the proposed development does not prejudice the enjoyment by neighbouring residential occupiers of their properties.

- (5) Any tree or shrub required to be retained or planted as part of a landscaping scheme approved either as part of this decision or in relation to a condition imposed by this decision, that is found to be dead, dying, seriously damaged or diseased within five years of completion of the building or within two years of completion of the landscaping scheme (whichever is the later), shall be replaced by a specimen of a similar nature in the next available planting season.

Reason: In the interests of the visual amenity of the area.

- (6) No security grills or shutters shall be provided to the shopfronts, including the market stalls, without the prior written consent of the Local Planning Authority.

Reason: In the interests of the visual amenity of the streetscene.

- (7) No music, public-address system or any other amplified sound shall be audible within any noise-sensitive premises either attached to or in the vicinity of the subject premises.

Reason: To safeguard the amenities of the adjoining occupiers.

- (8) Details of any air-conditioning, ventilation and flue extraction systems, including particulars of the associated noise levels, shall be submitted to and approved in writing by the Local Planning Authority prior to the systems being installed.

Reason: To safeguard the amenities of the adjoining occupiers and in the interests of visual amenity.

- (9) During demolition and construction on site:-

(a) The best practical means available in accordance with British Standard Code of Practice B.S.5228: 1984 shall be employed at all times to minimise the emission of noise from the site.

(b) 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 - 1700 Mondays - Fridays, 0800 - 1300 Saturdays and at no time on Sundays or Bank Holidays.

(c) Vehicular access to adjoining and opposite premises shall not be impeded.

(d) All vehicles, plant and machinery associated with such works shall at all times be stood and operated within the curtilage of the site only.

(e) No waste or other material shall be burnt on the application site.

(f) A barrier shall be constructed around the site, to be erected prior to demolition.

(h) A suitable and sufficient means of suppressing dust must be provided and maintained.

Reason: To limit the detrimental effect of construction works on adjoining residential occupiers by reason of noise and disturbance.

- (10) This consent does not extend to any shopfront or advertisement proposed for the site that would need to be the subject of a separate application for planning or advertisement consent in its own right, and which would need to acknowledge the site's location.

Reason: For the avoidance of doubt and in order to allow the Local Planning Authority to exercise proper control over the development.

- (11) The gates to the rear of the market area shall be locked at all times in order to ensure that the route is not used as thoroughfare from Kilburn High Road to Kilburn Square and the clinic behind.

Reason: In order to minimise opportunities for crime and antisocial behaviour.

- (12) Details of materials for all external work (including windows, terrace/roof details) with samples, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development carried out in accordance with the approved details.

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

- (13) Further details of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development shall be carried out and completed in all respects in accordance with the details so approved before the building(s) are occupied. Such details shall include:-

- (a) the landscaping proposals for the site (including the identification of all trees which are to be retained or removed, proposed new tree and shrub planting and surface treatments);
- (b) the provision of refuse and waste storage and disposal facilities;
- (c) Kilburn Market signage;
- (d) the provision of lighting to ensure safety and convenience on roads, footpaths and accesses to buildings;
- (e) Lighting of public areas and common parts;
- (f) Shopfronts;
- (g) Fixed market-stall designs;
- (h) Bicycle-storage facilities;

NOTE - Other conditions may provide further information concerning details required.

Reason: These details are required to ensure that a satisfactory development is achieved.

- (14) Details of CCTV and 24-hour security arrangements throughout all publicly accessible areas and common parts shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works on site, and shall thereafter be implemented and retained.

Reason: In the interests of security for the occupiers of the scheme and for the general public.

- (15) Further details of the green roof hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of this feature. Once installed, it shall be maintained in a healthy condition and any planting that is part of the approved scheme that, within 5 years of being planted, is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season with other planting of a similar size and species, unless the Local Planning Authority gives written consent otherwise.

Reason: To ensure a high standard of landscape design.

- (16) Notwithstanding the plans hereby approved, a scheme for the landscape works and treatment throughout the proposed development (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 any demolition/construction works on the site. Any approved planting included in such details shall be completed in strict accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed, in writing, with the Local Planning Authority.

Reason: To ensure a satisfactory appearance and setting for the proposed development, to ensure that it enhances the visual amenity of the area and in the interests of future residential occupiers of the scheme.

- (17) Details of a scheme showing those areas to be treated by means of hard landscaping works shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development and shall thereafter be implemented in accordance with the agreed timing. Such details shall include detailed drawings of those areas to be so treated, the public realm, including footway, materials, planting, benches, litter bins, cycle stands, bus shelter, raised kerbs, tree grilles and directional signs, with a schedule of exact materials and samples, if appropriate.

Reason: To ensure a satisfactory standard of development in the interests of local visual amenity.

- (18) Details of car-parking spaces along with details of charging points for electric vehicles, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented prior to occupation of the development hereby approved.

Reason: In order to provide satisfactory facilities for reduced car usage.

- (19) Prior to the commencement of demolition/construction work, the trees to be retained on the site, as well as the London Plane tree within Kilburn Square itself, shall be protected by chestnut paling fences 1.5 metres high, erected to the full extent of their canopies, or such lesser extent as may be approved in writing by the Local Planning Authority. The fencing shall be removed only when the development (including pipelines and other underground works) has been completed. The enclosed areas shall at all times be kept clear of excavated soil, materials, contractors' plant and machinery. The existing soil levels under tree canopies shall not be altered at any time.

Detailed drawings of all underground works and additional precautions to prevent damage to tree roots, if any, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced; such details shall include the location, extent and depth of all excavations for drainage and other services, in relation to the trees to be retained on site, and these works shall be carried out and completed in all respects in accordance with the drawings so approved.

Reason: To ensure that the trees are not damaged during the period of construction, as they represent an important visual amenity which the Local Planning Authority considers should be substantially maintained and kept in good condition.

- (20) A delivery and servicing plan must be submitted to, and approved in writing by, the Local Planning Authority prior to the development hereby approved commencing (save for demolition works).

Reason: In the interests of highway and pedestrian safety.

(21) Further details of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development shall be carried out and completed in all respects in accordance with the details so approved before the building(s) are occupied. Such details shall include:-

(a) additional PV panels;

(b) pyramidal rooflights, (with a view to making them smaller or relocate them);

(c) internal access arrangements off Brondesbury Road, indicating separation of commercial and residential users;

(d) treatment of the proposed roof feature detail, particularly when viewed east along Brondesbury Road and from within Kilburn Square to the rear.

NOTE - Other conditions may provide further information concerning details required.

Reason: These details are required to ensure that a satisfactory development is achieved.

INFORMATIVES:

None Specified

REFERENCE DOCUMENTS:

- Brent UDP 2004
- SPG17 and SPG19
- Kilburn Square SPD

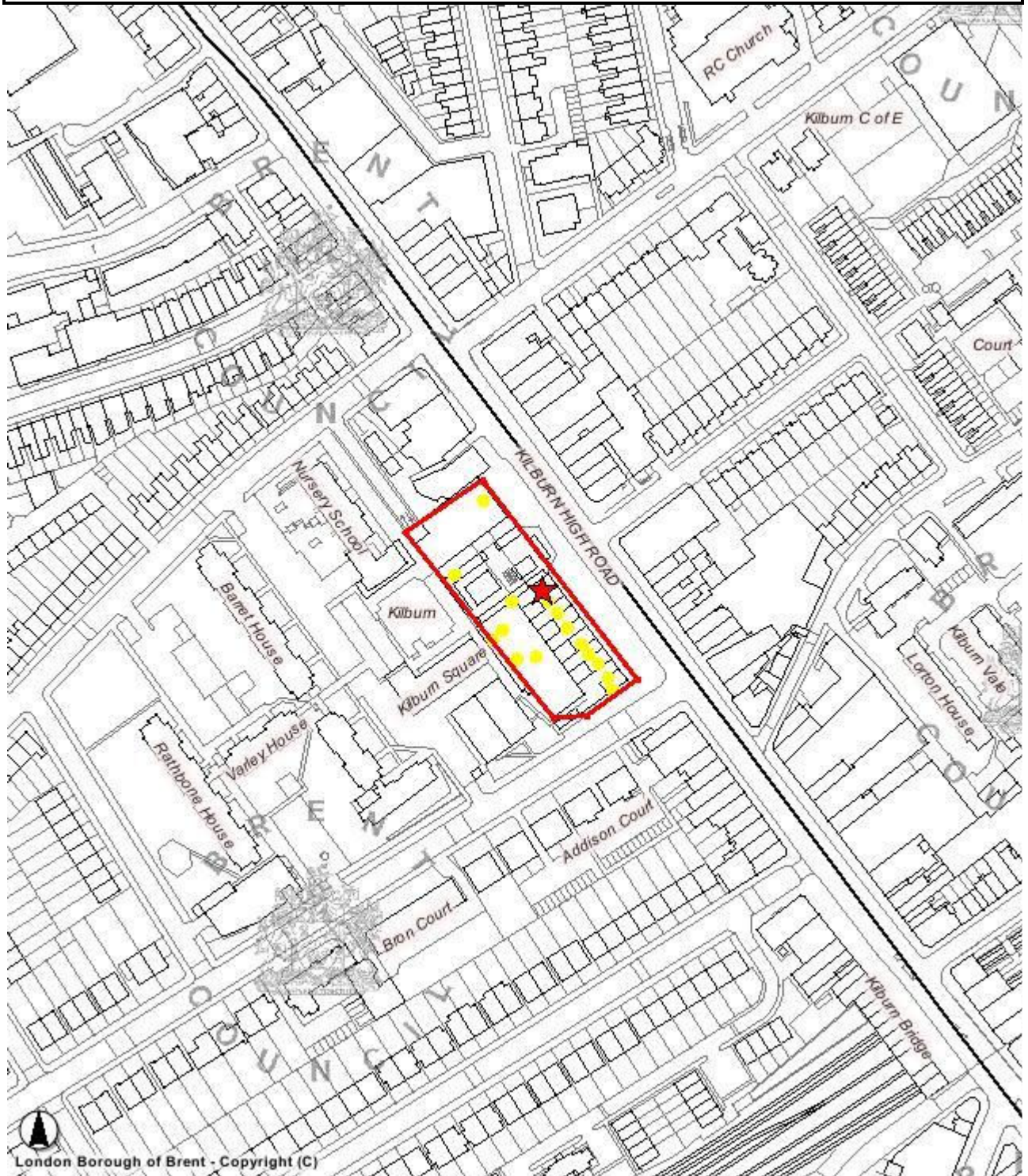
Any person wishing to inspect the above papers should contact Andy Bates, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5228



Planning Committee Map

Site address: 103-107, 103A, 109-119 odds, 121-123 Kilburn High Road, 110-118 inc Kilburn Square and all units and stalls at Kilburn Square Market, London, NW6

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