

 **Planning Committee Map**
Site address: 1-11 inclusive, Cairnfield Court, Cairnfield Avenue, London, NW2 7PP
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This map is indicative only.

RECEIVED: 13 June, 2011

WARD: Dudden Hill

PLANNING AREA: Willesden Consultative Forum

LOCATION: 1-11 inclusive, Cairnfield Court, Cairnfield Avenue, London, NW2 7PP

PROPOSAL: Erection of second-floor rear and third-floor rooftop extension to existing residential block, forming an additional 4 self-contained flats (1 x 2 bed, 2 x 1 bed, 1 x studio), provision of 3 parking spaces and associated alterations (alterations to flats as built to reduce size of second-floor and third-floor rooftop extension)

APPLICANT: Mr J Feeney

CONTACT: ASHLEA

PLAN NO'S:
See Condition 2

RECOMMENDATION

To:

(a) Resolve to Grant Planning Permission, subject to an appropriate form of Agreement in order to secure the measures set out in the Section 106 Details section of this report, or;

(b) If within a reasonable period the applicant fails to enter into an appropriate agreement in order to meet the policies of the Unitary Development Plan, Core Strategy and Section 106 Planning Obligations Supplementary Planning Document, to delegate authority to the Head of Area Planning, or other duly authorised person, to refuse planning permission

SECTION 106 DETAILS

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

1. Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
2. A contribution of £3,000 per bedroom, (totalling £15,000), index-linked from the date of committee and due on Material Start for Transportation, Air Quality and Open Space in the local area.

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 by 8 August 2011.

EXISTING

Neasden Lane has a built up frontage of mostly three storey properties. Surrounding streets, including Cairnfield Avenue, are predominantly two storey under pitched roofs. The site is located on the north side of Cairnfield Avenue, close to the junction with Neasden Lane. Cairnfield Court is unusual for the road, being a part two-, part three-storey inter-war detached block comprising eleven x two bedroom self-contained flats.

PROPOSAL

The original building is a 'H' shaped block under a flat roof. Whilst the building is principally three storeys, the western corner of the building is only two storeys high. The planning application is for the erection of second-floor rear (to extend the western corner) and third-floor rooftop extension to the existing residential block, forming an additional 4 self-contained flats (1 x 2 bed, 2 x 1 bed, 1 x studio), provision of 3 parking spaces and associated alterations.

Works have recently been carried out to erect second and third floor extensions (creating a 4 storey building). An Enforcement Notice has been served relating to the extensions as built. This is discussed in further detail in the *Planning History and Remarks* section of the report. This planning application proposes alterations to flats as built to reduce the size of second-floor and third-floor rooftop extension and reconfigure the internal layout to replace the tank room with habitable accommodation and associated external alterations.

HISTORY

E/11/0155: Without planning permission, the erection of second-floor rear and third-floor rooftop extension to existing residential block and change of use of the premises from 11 to 15 self-contained flats - Enforcement Notice issued and took effect on 09/05/11

09/0163: Full Planning Permission for erection of second-floor rear and third-floor rooftop extension to existing residential block, forming an additional 4 self-contained flats (3 x 1-bedroom and 1 x 2-bedroom flats) and subject to a Deed of Agreement dated 15th April 2009 under Section 106 of the Town and Country Planning Act 1990, as amended - Granted 15/04/09

08/1020: Full Planning Permission sought for erection of fourth storey, comprising 2 self-contained flats, to existing block of 11 flats, subject to a Deed of Agreement dated 4th September 2008 under Section 106 of the Town and Country Planning Act 1990, as amended - Granted 25/09/2008.

07/2356: Full Planning Permission sought for erection of second floor rear and third floor extension to existing residential block forming an additional 4 self-contained flats - Refused on 15/10/2007 and subsequently dismissed at appeal on 3/12/2008.

05/1753: Full Planning Permission sought for construction of rooftop (4th floor) extension comprising two new flats in addition to the existing block of eleven - Granted 22/09/2005.

04/0698: Full Planning Permission sought for erection of an additional storey to form 2 self-contained flats and provision 2 car parking spaces in the rear garden area - Refused, 30/04/2004. The applicant subsequently appealed, however, this was later withdrawn.

03/2417: Full Planning Permission sought for erection of additional storey to form 3 self-contained flats - Refused, 03/10/2003. Appeal dismissed on 20th August 2004.

POLICY CONSIDERATIONS

Unitary Development Plan (2004)

STR14 New development will be expected to make a positive contribution to improving the quality of the urban environment in Brent by being designed with proper consideration of key urban design principles relating to: townscape (local context and character) urban structure (space and movement), urban clarity and safety, the public realm (landscape and streetscape), architectural quality and sustainability.

STR19 New housing development should be located on sites which reduce the need for travel and preference given to the development of previously used urban land.

BE2 Proposals should be designed with regard to local context, making a positive contribution to

the character of the area, taking account of existing landforms and natural features. Proposals should improve the quality of the existing urban spaces, materials and townscape features that contribute favourably to the area's character and not cause harm to the character and/or appearance of an area or have an unacceptable visual impact on Conservation Areas.

- BE3 Proposal should the regard for the existing urban grain, development pattern and density in the layout of development site.
- BE6 A high standard of landscape design is required as an integral element of development schemes.
- BE7 A high quality of design and materials will be required for the street environment.
- BE9 Creative and high-quality design solutions specific to site's shape, size, location and development opportunities. Scale/massing and height should be appropriate to their setting and/or townscape location, respect, whilst not necessarily replicating, the positive local design characteristics of adjoining development and satisfactorily relate to them, exhibit a consistent and well considered application of principles of a chosen style, have attractive front elevations which address the street at ground level with well proportioned windows and habitable rooms and entrances on the frontage, wherever possible, be laid out to ensure the buildings and spaces are of a scale, design and relationship to promote the amenity of users providing satisfactory sunlight, daylight, privacy and outlook for existing and proposed residents and use high quality and durable materials of compatible or complementary colour/texture to the surrounding area.
- H14 The appropriate density should be determined by achieving an appropriate urban design, make efficient use of land and meet the amenity needs of potential residential, with regards to context and nature of the proposal, constraints and opportunities of the site and type of housing proposed.
- TRN23 Parking standards for residential developments. The level of residential parking permitted will be restricted to no greater than the standards in PS14.

SPG17 Design Guide for New Developments

Sets out the general design standards for development and has regard to the character, design and appearance of developments, the design layout with respect to the preservation of existing building lines, size and scale of buildings and structures, and privacy and light of adjoining occupants. This policy guidance document addresses residential densities, minimum sizes for residential dwellings, external finishing materials, amenity spaces and parking related issues.

CONSULTATION

A total of 33 adjoining owner/occupiers were consulted regarding the application and a site notice displayed adjacent to the site. This includes all owner/occupiers of the existing 11 flats.

9 letters of objection have been received including from Cairnfield Court Residents Association and 5 letters of support.

Objections:

- Significant loss of light, outlook, view and overbearing relationship to existing and proposed flats;
- Extensions out of character;
- Increase number of people in the block – noise, disturbance and increase in people using staircase;

- Refuse area inadequate and blocks fire escape;
- Loss of external amenity space to provide parking;
- Insufficient amenity space for residents;
- Work already carried out;
- Noise and disturbance from new flats;

Officer Comment: The above matters are discussed in the Remarks section of the report.

Other Matters:

- Noise and disturbance from existing tenants;

Officer Comment: The noise and disturbance referred to relates to existing residents- if it represents a noise nuisance this would become a matter for Environmental Health.

- Vehicles block driveways;

Officer Comment: Transportation matters are discussed in the Remarks Section of the report. Parking Enforcement are responsible for enforcing the parking restrictions in Brent.

- Tenants filed claim in the High Court regarding the terms of the leases held by the leaseholders;

Officer Comment: This is a civil matter referred to in the report but does not have a direct bearing on the consideration of this application.

- Leasehold agreement does not allow use of garden as car park;

Officer Comment: The applicants solicitor has confirmed that the applicant has authority to carry out works in the communal area. If works are not able to be carried out, the development would not comply with the planning permission and enforcement action could be taken.

- Impact of structural work on existing building ;

Officer Comment: The structural integrity of the building is a matter for Building Control. Building Control have been reviewing works carried out the building to date.

- Water storage tank remove;

Officer Comment: The owner/developer will be required to build to an appropriate standard. The freeholders responsibilities are likely to be set out in the lease.

Support:

- Improvement in appearance & upgraded building;
- Improved security.

Internal Consultees

Highways -

- The provision of 3 parking spaces on site would accord with standards;
- The cycle storage and refuse storage would be as previously approved and considered acceptable;
- Require financial contribution towards sustainable transportation.

REMARKS

Background

Planning Enforcement

There is a current enforcement notice (E/11/0155) which took effect on 9 May 2011 (giving a period of six months for compliance) relating to the second floor and third floor extensions to the building as they have not been carried out in accordance with an existing planning permission for the following reasons:

- The development has not been carried out in accordance with planning permission 08/1020 dated 29th September 2008 for the erection of third-floor extension comprising 2 self-contained flats, to existing block of 11 flats because the works carried out include an extension to the second floor to provide an additional flat.
- The development has not been carried out in accordance with planning permission 09/0163 dated 15 April 2009 for the erection of a second-floor rear and third-floor rooftop extension to existing residential block, forming an additional 4 self-contained flats (3 x 1-bedroom and 1 x 2-bedroom flats) because no window has been inserted into the flank elevation of the kitchen of Flat 9 Cairnfield Court as detailed on the application drawings. In addition the proposed "Flat-03" (as shown on the application drawings) has been built providing an additional bedroom instead of the proposed tank room and there have been associated external alterations involving the insertion of a second floor window to the new additional bedroom.

The enforcement notice requires one of the following steps to be carried out as the existing development is unauthorised:

- *Remove the second floor rear extension and third floor rooftop extension and cease the use of the premises by more than 11 self-contained flats and restore the land and building back to its original condition before the development took place; or*
- *Remove the second floor rear extension and part of the third floor rooftop extension so that the development is altered to accord with all conditions and plans approved in planning application 08/1020 dated 29 September 2008. Cease the use of the premises as more than 13 self-contained flats; or*
- *Alter the development to accord with all conditions and plans approved in planning application 09/0163 dated 15 April 2009. (For the avoidance of doubt, this includes the conversion of the second bedroom into a tank room in "Flat - 03" and the installation of a window, of a size and design as shown on the plans, in the kitchen of Flat 9).*

This planning application is for alterations to the extension as built. If planning permission is granted for this revised proposal, a reasonable period of time would be agreed for the works to be

carried out, taking into account the need for appropriate urgency. This would not supersede the requirements of the enforcement notice which would remain in force unless works are either carried out to comply with the notice or carried out in accordance with the planning permission.

Procedural Matters – Previous Planning Application

The flats in Cairnfield Court generally have kitchens at the ends of the 'H' with windows which face each other. Due to the western corner being only two storeys, the front second floor flat (Flat 9, Cairnfield Court) had an unobstructed outlook over the lower roof from their kitchen. As built, the two new storeys significantly reduce the level of outlook with the extension being just 4.6m from the kitchen window.

The planning permission in 2009 was granted on the basis that an additional window would be inserted in kitchen of Flat 9 to make the kitchen dual aspect and provide an acceptable level of outlook for the kitchen. This was suggested by the Planning Inspectorate in the appeal for 07/2356 as a possible way to address the impact on the amenity of occupiers of Flat 9. However, correspondence from the applicants solicitor has confirmed that no agreement is likely to be reached with the leasehold owner of Flat 9 to enable the insertion of the additional window and as such it will not be possible to alter the development to accord with all conditions and plans approved in planning application 09/0163 in accordance with the enforcement notice (E/11/0155).

In addition, it recently became apparent that the incorrect ownership certificate was completed on the application form for the planning application 09/0163. The applicants agent signed Certificate A on the application form on behalf of the applicant confirming that no one apart from the applicant had a freehold or leasehold interest with more than seven years to run on the land. However, the 'Schedule of notices of leases' held by land registry confirms that all flats have leasehold agreements with more than seven years to run on the land therefore Certificate B should have been completed confirming that notice had been served on all relevant leaseholders or Certificate C if all owners are not known.

Whilst the incorrect ownership certificate was completed, given that the Council carried out its own consultation in accordance with statutory requirements, the planning permission remains valid. With regard to any legal recourse relating to the incorrect certificate being completed, the Council has carried out interviews under caution with the applicant and applicants agent regarding the completion of the incorrect ownership certificate. These interviews are being reviewed by the Council's Prosecutions Lawyer to consider whether to initiate prosecution proceedings and whether it is in the public interest. It should be noted that this is separate to the consideration of the current planning application and enforcement case. As such, it does not impact on the ability of the Council to determine this planning application or take appropriate enforcement action.

Assessment

This planning application proposes the erection of a second-floor rear and third-floor rooftop extension to the existing residential block, forming an additional 4 self-contained flats. The application proposes to reduce the projection of the second and third floor extensions as built (as approved by the 2009 application) above the original western two storey element of the building to reduce the impact on the outlook from the kitchen of Flat 9 and negate the need for the insertion of an additional window. The flats are proposed to be reconfigured, to provide 1 x 2 bed, 2 x 1 bed, 1 x studio and the tank room previously proposed on the third floor to become habitable accommodation.

Design

The proposed extension above the original western two storey element is proposed to be set back 2.4m from the flank elevation at second and third floor level. In addition, the extension is set back to the front (by 2.4m) and side (by 2.4m at the frontage and 1m to the rear) adjacent to 141

Cairnfield Avenue. The materials at second floor are proposed to be brickwork on the rear elevation with all other elevations at both second and third floor level comprising stained cedar boarding. It is considered that the proposed extension is sufficiently distinct and subservient to retain the character of the original building. The principle of extending the building to create a four storey block has been accepted through previous planning approvals and the design does not significantly differ in appearance from the scheme approved in 2009, other than a reduction in the projection over the western two storey element. As such, it is considered that the proposal complies with Policy BE9 in the UDP which requires extensions to be of a massing and height that is appropriate to their setting and townscape character.

Amenity

Existing Occupiers

As detailed above, the flats generally have kitchens at the ends of the 'H' with windows which face each other however as the western corner is two storeys, the front second floor flat (Flat 9) had an unobstructed outlook over the lower roof. The proposal seeks to reduce the projection of the second and third floor extension which currently obstructs the outlook from the kitchen of Flat 9. The extension is proposed to be set back 2.4m from the flank elevation which will ensure the outlook to the kitchen of Flat 9 is not significantly impacted upon. Outlook will be provided directly opposite the kitchen across the adjacent roof, with the projection of the extension reduced to be in line with the inside edge of the kitchen window. There will be a slight reduction in outlook from the original situation (from 110 degrees to 93 degrees) as the extension will still project 1.9m over the western corner of the 'H' however it is considered that the impact of this will not be significant.

The impact of the larger extension on other flats within the block was previously assessed and considered acceptable. Whilst it is acknowledged that there will be a slight reduction in light and sky view to the lower level flats to the windows at the inward facing ends of the 'H', given the levels of amenity afforded by the original design of the block, it is not considered that the impact of the development will be significant.

In terms of the impact on other properties in the locality, the extension will be visible from nearby properties including those of Chartely Avenue. However given that the extension is set in at the side adjacent to 141 Cairnfield Avenue (the nearest neighbour) and the rear gardens of properties fronting Chartley Avenue, it is not considered that there would be a harmful impact on the amenity of adjoining residents. The relationship with these adjoining properties remains unchanged from the previously approved scheme.

Future Occupiers

In terms of future occupiers, the unit sizes all meet the Council's minimum standards and are of an acceptable layout, providing outlook for all habitable room windows. No private amenity space is provided for the flats however, as with the existing residents, they will share the communal amenity space which is to the side and rear of the block. It is acknowledged that no additional amenity space is to be provided and application proposes 3 parking spaces on part of the rear amenity space which would result in the loss of 35 sq m of amenity space (the requirements for this provision are discussed in the Transportation section). However, taking into account the provision for the new flats, there will be approximately 20 sq. m amenity space provided per flat in accordance with the standards set out in SPG17. It is also important to note that the Planning Inspectorate considered that the space to the front of the block as making a contribution to the amenity space provision in the 2004 appeal although this area has not been included in the above calculation. The amenity space provision and parking located to the rear of the property has been assessed under previous applications (including the 2009 proposal) and considered acceptable. The improvements to the amenity areas through additional planting will also be of benefit to both existing and future residents.

Highways

Residents of the existing 11 flats at Cairnfield Court have no off-street parking. The application proposes the inclusion of 3 car parking spaces to the rear of Cairnfield Court, accessed via a shared access with properties fronting Neasden Lane. The site has good access to public transport however there is no CPZ on the adjoining streets and Cairnfield Avenue is heavily parked at night. The provision of three spaces within the site (where none exist at present) would accord with standards whilst also accommodating the likely additional demand arising from these four additional flats, thereby mitigating any potential increase in pressure for on-street parking space along Cairnfield Avenue.

Refuse & Cycle storage

The refuse storage is proposed to be located in the western inset of the 'H' adjacent to the fire escape. Concerns raised by residents regarding the existing bin storage being at capacity are acknowledged. Taking into account the new standards for the provision of waste and recycling storage for 15 flats, it has been calculated that there is sufficient space to accommodate waste and recycling containers along either side without blocking the fire escape route. Whilst the proximity to residential windows is acknowledged, the bin storage is proposed in the same location as existing and it is not considered that use by 4 additional flats will have a significant impact on the amenities of residents.

In terms of cycle storage, details of a Haldo Cycle store have been submitted which provide covered space for 5 bicycles. The design and location of the cycle storage is considered acceptable.

Other Matters

Concerns have been raised by residents regarding the intensification of use of the existing staircase. Given that the proposal is for 4 additional flats to comprise a development of 15 in total, it is not unusual that this should be served by one internal staircase and would not be a reason to refuse the application.

With regard to noise and disturbance from the new flats, the building works will be required to comply with building regulation requirements in terms of insulation between flats.

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 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 drawing(s) and/or document(s):

Location Plan 01; 1157/AA/101; 1157/AA/102; 1156/MM/001; 1154 Drawing L1; Drawing L2; Drawing L3; Brief Specification for Landscape Works; Haldo Cycle Store - 13/01/2010

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

- (3) The landscape works and planting shown on the approved plans shall be carried out prior to the occupation of any part of the development

Any planting that is part of the approved scheme that within a period of *five* years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season and all planting shall be replaced with others of a similar size and species and in the same position, unless the Local Planning Authority first gives written consent to any variation.

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

- (4) The materials for all external work shall be carried out in accordance with the following details as shown on drawing 1157/AA/102L unless otherwise agreed in writing by the Local Planning Authority:

- Seamed metal roofs;
- Stained cedar boarding;
- Coated metal fascia;
- Brickwork to match existing.

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

- (5) The cycle storage and 3 parking spaces shall be provided in accordance with approved drawings *Haldo Cycle Store - 13/01/2010, 156/MM/01 and Drawing L3* prior to occupation of the development and retained for that use unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that there is an acceptable level of parking and cycle storage for the development.

- (6) Prior to occupation of the development, refuse and recycling containers for all flats (existing and proposed) shall be provided in the area marked 'Waste & Recycling' on *Drawing L3* in accordance with standards set out in the Household Waste Collection Strategy 2010-2014 and thereafter maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance and adequate standards of hygiene and refuse collection.

- (7) No access shall be provided to the roof of the extension by way of window, door or stairway and the roof of the extension hereby approved shall not be used as a balcony or sitting-out area.

Reason: To preserve the amenity and privacy of neighbouring residential occupiers.

INFORMATIVES:

- (1) The applicant is advised to contact the Council's Enforcement Team to agree a reasonable time scale for works to be carried out. This planning permission does not supersede the requirements of the enforcement notice E/11/0155 which remains in force unless works are either carried out to comply with the notice or carried out in accordance with this planning permission.

REFERENCE DOCUMENTS:

Any person wishing to inspect the above papers should contact Rachel McConnell, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5223