

**Committee Report  
Planning Committee on 14 December,  
2011**

Item No.

03

Case No.

11/2414



**Planning Committee Map**

Site address: Garages R/O 129-145, 145A & Land R/O 151-157, Melrose Avenue,  
London, NW2 4LY

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This map is indicative only.

**RECEIVED:** 28 October, 2011

**WARD:** Dudden Hill

**PLANNING AREA:** Willesden Consultative Forum

**LOCATION:** Garages R/O 129-145, 145A & Land R/O 151-157, Melrose Avenue, London, NW2 4LY

**PROPOSAL:** Erection of five x two-storey dwellinghouses with basements comprising two x four-bed semi-detached houses and three x four-bed terraced houses, eight car-parking spaces, provision of bin store and bicycle stands, with associated hard and soft landscaping and means of enclosure (in place of one x three bed and two x four bed dwellinghouses and eight parking spaces which formed part of the previously approved scheme with LPA ref: 06/1117).

**APPLICANT:** Mr Tony Gates

**CONTACT:** Claridge Architects

**PLAN NO'S:**

See condition 2

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## **RECOMMENDATION**

To:

- (a) 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 Councils legal and other professional costs in (i) preparing and completing the agreement and (ii) monitoring and enforcing its performance
2. A contribution of £27,000, index-linked from the date of committee for Education, Sustainable Transportation, Sport and Open space improvements in the local area
3. A clause stating residents of the new properties will not be entitled to the allocation of CPZ parking permits.

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 by 23 December 2011.

## EXISTING

The application site comprises the western part of a backland site surrounded on all sides by the rear gardens of adjoining residential properties on Melrose Avenue, Gay Close, Kenneth Crescent and Riffel Road; access into the site from Melrose Avenue lies between 145 and 147 Melrose Avenue. It is currently a development site with an extant permission for five houses.

Melrose Avenue is defined in the UDP as being heavily-parked, and lies within Controlled Parking Zone "MW", which operates 08.00–18.30 Monday to Saturday. Access via public transport is fairly low with a PTAL rating of level 2. Willesden Green Station (Jubilee tube) is within walking distance of the site, but only one bus route is locally available (i.e. within 640m).

## PROPOSAL

The application is for full planning permission to erect five x two-storey dwellinghouses with basements comprising two x four-bed semi-detached houses and three x four-bed terraced houses in place of the one x three bed and two x four bed dwellinghouses approved in 2006.

Please see *Remarks* section, below, for further discussion on the proposal and how it differs from earlier permissions.

## HISTORY

The site has a recent history of a number of applications related to residential development.

1. The first application (LPA ref: 06/1117) proposed six dwellinghouses and was approved by Members of the Planning Committee on 21 December 2006:

*06/1117 Demolition of 60 garages and a 2 storey dwellinghouse and erection of 6 x 4 bed houses with 12 parking spaces and subject to a Deed of Agreement dated 7th December 2006 under Section 106 of the Town and Country Planning Act 1990, as amended **Granted** 28/12/2006*

A number of details pursuant applications were submitted to discharge the conditions of the 2006 approval:

- **07/1936** Details pursuant to condition no. 15 (boundary treatment) **Granted** 06/09/2007
- **07/2920** Details pursuant to condition 4(a) (external materials) **Granted** 09/11/2007
- **07/2642** Details pursuant to condition 4(f) (external lighting) **Withdrawn** 04/12/2007
- **07/2296** Details pursuant to condition 10 (Details of the surface and foul water drainage) **Withdrawn** 04/12/2007
- **08/0086** Details pursuant to condition 10 (Drainage details + gullies at the highway boundary with Melrose Avenue) **Granted** 07/03/2008
- **08/0088** Details pursuant to condition 4c (Boundary treatment), 4g (Arrangements for temporary storage of dustbins prior to collection), 5b (Proposed walls and fences indicating materials and heights) & 5c (Screen planting along the boundaries) **Withdrawn** 19/03/2008
- **08/0085** Details pursuant to condition 13a (Speed table at site entrance), 13b (Removal of parking bay opposite the site entrance) & 14 **Granted** 07/03/2008
- **08/0076** Details pursuant to condition 8a (Site investigation) **Granted** 07/03/2008
- **08/0074** Details pursuant to condition 4b (Areas of hard landscape works), 4h (Arrangements for the allocation of parking spaces), 5d (Adequate physical separation, such as protective walls and fencing between landscaped and paved areas), 5e (Areas of hard landscape and proposed material) & 9 (Details of access road) **Withdrawn** 19/03/2008

- **08/0072** Details pursuant to condition 6 (Protection of existing trees on site) & 16 (Protection of existing trees in adjoining gardens) **Withdrawn** 19/03/2008
- **08/0070** Details pursuant to condition 4d (Window Details) and 4e (roofing materials) **Granted** 07/03/2008
- **08/0068** Details pursuant to condition 5a (identification and protection of existing trees) **Withdrawn** 19/03/2008
- **08/0081** Details pursuant to condition 4f (All external lighting within the development) **Granted** 07/03/2008
- **08/0082** Details pursuant to condition 17 (details of storage of dustbins within the curtilage of each of the proposed houses) **Granted** 07/03/2008
- **08/0545** Details pursuant to condition 4(e) (roof sample) **Withdrawn** 02/04/2008
- **09/1909** Details pursuant to conditions 4(b) (hard landscape works), (c) (boundary treatment), (g) (temporary storage of dustbins) & (h) (allocation of parking spaces), 5 (landscaping), 6 (tree protection), 8(b) (site investigation), 9 (access road), 12 (residents' garages) and 16 (tree protection) **Withdrawn** 23/09/2009
- **09/2618** Details pursuant to condition 8(b) (site investigation) (as amended by agent's e-mail received 27/01/2010) 1117 **Granted** 27/01/2010
- **10/0425** Details pursuant to condition 4 (b,c,g,h) 5 Details of materials) 6 (landscaping) 9 (management Plan) 12 (Revised access road and parking layout) and 16 (Tree Root Protection) **Granted** 02/03/2010

2. Following commencement of the 2006 scheme, further applications were submitted to increase the number of units on the site by replacing three as-yet unconstructed houses with five houses. The first application, made in 2007, was refused under delegated powers on 21/09/2007:

***07/2277** Erection of 5 two-storey, four-bedroom dwellinghouses with basement level, 10 car-parking spaces, provision of bin store and bicycle stands, with associated landscaping **Refused** 21/09/2007*

The second application, made in 2008, was scheduled to be refused under powers delegated to the Director of Planning but it was called in by Councillors:

***08/0683** Erection of 5 two-storey, three-bedroom dwellinghouses with partial basement level (in place of the development previously approved under ref. 06/1117, for 6 four-bedroom dwellinghouses without basements), 10 car-parking spaces, provision of bin store and bicycle stands, with associated landscaping to site **Appeal Allowed** 14/05/2009*

It was initially presented to the Planning Committee with a recommendation for refusal on 29 April 2008. Members deferred the decision and advised that officers met with the applicants to discuss amendments to the scheme and to give Members an opportunity to make a site visit. Minor changes were made which allowed officers to support the proposal, and it was reported for the second time to the Planning Committee on 13 August 2008 with a recommendation that planning permission be granted subject to the completion of a satisfactory Section 106 legal agreement.

Members however voted to refuse the application on the following grounds:

1. *The increase of dwelling units from 3 to 5 within the same site area would give rise to an overdevelopment of this backland site which is exacerbated by the inherent constraints of the site which include its elongated form, a substandard access, proximity of existing housing and limited opportunities for landscaping and is thus contrary to policies BE2, BE7, BE9 & H12 of Brent's Unitary Development Plan 2004 and the Council's SPG17 'Design Guide for new development'.*

2. *The increase of dwelling units from 3 to 5 within the same footprint of this backland site necessitated the reduction in amenity spaces of the proposed dwellings and in the distances between proposed flank walls and rear garden boundaries of the dwellings surrounding the site which has resulted in cramped form of development and overbearing relationship with the neighbouring rear amenity spaces thus contrary to policies BE2, BE7, BE9, H12 & H15 of Brent's Unitary Development Plan 2004 and the Council's SPG17 'Design Guide for new development'.*

The applicant's appealed the decision to the Planning Inspectorate (PINS ref: APP/T5150/A/08/2091690) and submitted a Unilateral Undertaking to meet the planning obligations. The appeal was allowed on 14 May 2009. The Inspector summarised his decision as follows:

*"I therefore conclude that the proposal would provide acceptable living conditions for its future occupiers and would not significantly harm the living conditions of occupants of neighbouring properties particularly in terms of visual impact. It would comply with policies BE2, BE7, BE9, H12 and H15 of the London Borough of Brent Unitary Development Plan 2004 (UDP) and the SPG. These policies seek to ensure that, amongst other matters, development is designed with regard to the local context; makes a positive contribution to the character of the area; is of a high quality of design and materials; and, for proposals involving backland sites, pays special attention to density, building height, privacy and outlook."* (Inspector's decision letter, APP/T5150/A/08/2091690, 14 May 2009)

A details pursuant application was submitted to discharge the conditions of the 2009 allowed appeal:

**10/0424** Details pursuant to condition 6 (materials) 7 (landscaping) 9 (boundary details)  
**Granted** 02/03/2010

3. Works commenced on the basements of the five new houses in 2011 and these works caused local residents to contact the Council's Planning Enforcement Team with concerns that the development was not being undertaken in accordance with the approved plans. Two enforcement cases have been opened:

**E/11/0703** Breach of conditions (not in accordance with approved plan) of p.p. 08/0683 (temp.desc.) **EBOC** 30/09/2011

**E/11/0560** Breach of conditions 5, 6 (landscaping) of p.p. 06/1117 (temp.desc.) **EBOC** 03/08/2011

This is discussed further in *Remarks* section, below.

## **POLICY CONSIDERATIONS**

### ***Local***

For the purposes of Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the statutory development plan for the area is the Unitary Development Plan (UDP), which was formally adopted in 2004, and the Core Strategy, adopted in 2010.

### ***Brent UDP 2004***

The following are the policies within the UDP relevant to this decision:

### Strategic

STR3 In the interests of achieving sustainable development (including protecting greenfield sites), development of previously developed urban land will be maximised (including from conversions and changes of use).

### Built Environment

- BE2 On townscape: local context & character states that proposals should be designed with regard to their local context, making a positive contribution to the character of the area.
- BE3 Relates to urban structure, space and movement and indicates that proposals should have regard for the existing urban grain, development patterns and density in the layout of development sites.
- BE4 States that developments shall include suitable access for people with disabilities.
- BE5 On urban clarity and safety stipulates that developments should be designed to be understandable to users, free from physical hazards and to reduce opportunities for crime.
- BE6 Discusses landscape design in the public realm and draws particular attention to the need to create designs which will reflect the way in which the area will actually be used and the character of the locality and surrounding buildings. Additionally, this policy highlights the importance of boundary treatments such as fencing and railings which complement the development and enhance the streetscene.
- BE7 Public Realm: Streetscene
- BE9 Seeks to ensure new buildings, alterations and extensions should embody a creative, high quality and appropriate design solution and should be designed to ensure that buildings are of a scale and design that respects the sunlighting, daylighting, privacy and outlook for existing and proposed residents.

### Housing

- H12 States that the layout and urban design of residential development should reinforce or create an attractive and distinctive identity appropriate to the locality, with housing facing streets, and with access and internal layout where cars are subsidiary to cyclists and pedestrians. Dedicated on-street parking should be maximised as opposed to in-curtilage parking, and an amount and quality of open landscaped area is provided appropriate to the character of the area, local availability of open space and needs of prospective residents.
- H13 Notes that the appropriate density for housing development will be determined by achieving an appropriate urban design which makes efficient use of land, particularly on previously used sites. The density should have regard to the context and nature of the proposal, the constraints and opportunities of the site and type of housing proposed.
- H14 The appropriate land density should be achieved through high quality urban design, efficient use of land, meet housing amenity needs in relation to the constraints and opportunities of the site.
- H15 Backland development special regard will be paid to the density and height of the proposal which should be subsidiary to the frontage housing; the privacy and outlook from existing dwellings and in particular gardens
- H29 On accessible housing proposes that new and converted housing should be fully accessible for elderly and disabled residents.

### Transport

- TRN23 On parking standards for residential developments requires that residential developments should provide no more parking than the levels listed in PS14 for that type of housing.
- TRN34 The provision of servicing facilities is required in all development covered by the plan's standards in Appendix TRN2.
- TRN35 On transport access for disabled people and people with mobility difficulties states that development should have sufficient access to parking areas and public transport for disabled people, and that designated parking spaces should be set aside for disabled people in compliance with levels listed in PS15.
- PS14 Residential car parking standards

- PS15 Parking standards for disabled people
- PS16 Cycle parking standards

### *Core Strategy 2010*

**CP17 Protecting and Enhancing the Suburban Character of Brent** - the distinctive suburban character will be protected from inappropriate development and development of garden space and infilling of plots with out-of-scale buildings will not be acceptable.

### *Other Council Policies*

The Council produces a series of Supplementary Planning Guidance Notes that give additional information on a variety of issues and which are intended to be read in conjunction with the adopted UDP. These SPG were subject to widespread public consultations as part of the UDP process before being adopted by the Council and given this widespread public consultation the Planning Authority would suggest that considerable weight be attached to them.

### *Supplementary Planning Guidance No. 17 - Design Guide for New Development*

Adopted by the Council in October 2001, SPG17 aims to encourage high quality design in all new development; protect the character and amenities of existing areas that are worth preserving; create clear and useable guidance for all those involved in the planning and design process; and ensure the effective use of urban land and resources and support sustainable urban regeneration. It is intended to supplement the policies and guidance found in the borough's UDP.

### *Supplementary Planning Document S106 Obligations*

### **Regional**

#### *London Plan 2011*

### **National**

#### *Planning Policy Statement 3 – Housing (3<sup>rd</sup> Edition, 2010)*

This document's objective will be to deliver new homes at the right time in the right place and will reflect the need for flexibility in planning between urban and rural areas, and in areas experiencing high or low demand. The aim is that the planning system is used to its maximum effect to ensure the delivery of decent homes that are well designed, make the best use of land, are energy efficient, make the most of new building technologies and help to deliver sustainable development.

## **CONSULTATION**

Consultation letters were dispatched to local residents on 10 November 2011.

### **Local**

Nine local residents have objected to the proposals on the following grounds:

- Loss of light
- Loss of privacy
- Overbearing impact
- Access arrangements
- Increased pressure on existing parking
- Loss of retained tree

- Quality of proposed landscaping
- Noise and disturbance from additional residents
- Noise, disturbance and vibration arising from works
- Drainage

### ***Internal***

#### ***Transportation***

No objections subject to a Section 106 Legal Agreement confirming payment in the sum of £7,500 towards highway safety improvements, better non-car access and new parking controls and a permit-free clause. A condition is also recommended requiring the proposed cycle stands to be covered.

#### ***Landscape***

No objections subject to a condition requiring a comprehensive landscape scheme, tree protection measures and a landscape maintenance and management schedule.

#### ***Environmental Health***

No objection subject two conditions to secure during construction (1) dust mitigation measures and (2) measure to protect the amenity of neighbours.

## **REMARKS**

### ***1. Introduction***

#### ***1.1 Background to this application***

This application stems from assistance the Council's Building Control officers have given the applicant to ensure the scheme is structurally sound; during the process of submitting an application to amend certain aspects of the scheme other inconsistencies in the approved plans and the works undertaken have come to light and these are addressed within the proposals.

#### ***1.2 Differences between the proposed scheme and the earlier approvals***

The proposed scheme does not differ significantly from that which was allowed at appeal in 2009, however the application is described as to replace the three houses approved in 2006 because it appears the payment required by the Unilateral Undertaking made pursuant to the 2009 application was not made. As such the works that have been undertaken to date have not implemented the 2009 permission.

The key differences are: (1) the increase in the size of the basements to all five houses; and (2) the use of part of each for bedrooms.

The application also clarifies the site levels. In terms of impact on neighbouring residential amenity, it is only the levels which would alter the impact which was considered acceptable by the Inspector in his decision in May 2009.

### ***2. Levels***

#### ***2.1 Original levels***

The original application in 2006 (06/1117) and the 2009 appeal scheme (08/0683) both showed the site as completely level, with the ground level at the mid-point of the site the same as the ground level at the eastern and the western edges. The Inspector for the 2009 appeal did not note any significant difference in ground levels.



The early applications and details submitted pursuant to conditions did, however, show that the western part of the site was known to be higher than the neighbouring Gay Close properties' gardens, by approximately 0.4-0.5m. This change in levels is shown on the section on approved plan 0703-01-103 Rev J *Proposed Site Plan*, submitted as part of the most recent approval (08/0683), and on approved drawing 0703-01-sk05 Rev D *Boundary Fence Detail*, submitted as part of details pursuant application 07/1936 to discharge condition 15 of permission 06/1117.

It is only from this last drawing, 0703-01-sk05 Rev D *Boundary Fence Detail*, that a better understanding of the levels can be gained. The drawing has a small site plan which includes spot levels for the site and the boundary. It shows that the eastern part of the site was 43.133, falling to 42.366 at the western part. These figures are assumed to be metres above ordnance datum, or AOD.

It appears that during the developer of the 2006 permission, who no longer has any interest in the site, used the western part of the site to dump spoil arising from the works to construct the three houses on the eastern part of the site. This would have obscured the true ground level to some extent and may have made an accurate assessment of the original ground level by the new developer, the local planning authority and the Inspector difficult.

The applicant purchased the site after the 2009 appeal and has always worked to the assumption that the completed site should be level as that was what was granted planning permission as evidenced by the long section shown on approved plan 0703-01-103 Rev J *Proposed Site Plan*; any change in levels would therefore be accommodated by raising or lowering the ground to meet the level of the part already constructed.

The applicant commenced works on the western part of the site, removed the debris left by the original developer and excavated only so far as was necessary to ensure the finished ground floor level would match the finished ground floor level of the houses already completed.

## *2.2 Existing and proposed levels*

The matter has been complicated by the fact the developer has completed the basements and back-filled the surrounding excavations with earth to the level of the top of the basements. This has raised the existing ground levels above the original levels, as the original ground level of approximately 42.37 is 0.67m below the intended finished floor level of 43.03. Thus local residents have observed correctly that the gardens have been increased in height and this has raised concerns that their privacy would be harmed.

Your officers have discussed this matter with the applicant and further drawings have been received which show the intended levels for the gardens and provide sections through the boundary to show clearly the relationship between the proposed houses, their gardens and the gardens of neighbouring properties.

This additional information—which shows levels which are consistent with the information on drawing 0703-01-sk05 Rev D *Boundary Fence Detail*—shows the level of the gardens for the three terraced houses to be between 42.32 to 42.38 (south to north). These levels, taken from drawings 09051/DT.01 Rev A and 09051/DT.02, suggest the level of the gardens will be reduced from their existing level and, when completed, will not differ significantly from the original levels of the site. The applicant has confirmed that this is their intention.

The five houses themselves will be higher than their garden, which was not originally expected, but this should be offset by the fact that, as demonstrated on approved plan 0703-01-103 Rev J *Proposed Site Plan*, the finished floor level of the houses was anticipated to be the same across the site. On balance, however, it is likely that officers, at the time of approving the 2006 application, and the Inspector, at the time of allowing the 2009 appeal, thought the buildings would have sat lower within the site than is now proposed.

### 2.3 Summary

The western part of the site was always known to be higher than neighbouring gardens, although extensive measurements were never provided. On balance it appears the Gay Close properties' gardens were between 0.34m-1.1m below the original level of the western part of the site.

The ground levels within the western part of the site have recently been raised approximately 0.6-0.7m above their original level, but some of the earth will be removed and the level will be reduced back to the level which was approved in 2006 and 2009; this is believed to be the original level of the site.

Since the level of the ground around the house will be 42.88, on the balance of the evidence the five houses themselves will be higher than was expected by approximately 0.5m. The houses will have one or two steps from the patios down to the gardens to accommodate this change in ground levels, with the gardens as a similar level to the original site.

### 3. *Impact on neighbouring amenity*

On developments such as this the main impact on amenity arises from (i) overbearing impact of the size and scale of the building(s); (ii) loss of outlook, which is related to overbearing impact; (iii) loss of privacy; and (iv) loss of sunlight. The Council has published supplementary planning guidance which establishes generally acceptable standards relating to these matters, although site specific characteristics will mean these standards could be tightened or relaxed accordingly. Overbearing impact arising from the height of blocks is controlled via 30 degree and 45 degree planes from neighbouring habitable rooms and relevant boundaries; privacy is quoted as distances between directly facing habitable windows and from boundaries. Neither outlook nor light have specific values, although light is generally controlled to BRE standards.

The Inspector, when considering the impact of the appeal scheme on neighbouring residential amenity in 2009, stated:

*“With regard to neighbouring occupiers, the proposed [house type 2] dwelling located towards the northwest corner of the site would be situated close to, and project above, the boundary fence that separates the appeal site from the rear of properties that front Melrose Avenue. As a result, the proposed dwelling would be visible from the rear of these properties, particularly Nos. 155 and 157.*

*However, the modest height of the [house type 2] dwelling, coupled with the absence of any 1st floor windows in the northern elevation, would mean that the proposed building would not appear overbearing or oppressive to neighbouring occupiers of the Melrose Avenue properties nor would it prejudice the privacy and enjoyment of their rear gardens.*

*For similar reasons I reach the same conclusion in terms of the relationship between the proposed [house type 2] and [house type 1] dwellings located towards the southern boundary of the site and the properties along Kenneth Crescent which are set at a slightly higher level than the appeal site. The difference in level would help further reduce the visual impact of the [house type 1] and [house type 2] buildings when viewed from existing properties, by lowering the profile of the proposed dwellings. Equally, there would be no significant harm arising from overbearing impact or loss of privacy as a result of the relationship between the [house type 2] and [house type 3] dwellings and the properties that front Gay Close, given the angle of view and the distance involved between the existing and proposed dwellings.”*

(Inspector's decision letter, APP/T5150/A/08/2091690, 14 May 2009)

In light of that assessment, the only two points to be considered are: (1) whether the end-terrace houses (house type 2) still have an acceptable relationship with Melrose Avenue properties to the north and Kenneth Crescent properties to the south in respect of overbearing impact; and (2) whether the increased height of the first floor rear windows of the terrace houses would result in a greater loss of privacy for residents of Gay Close.

### *3.1 Overbearing impact*

The apparent increase in the level of the base of the houses means the flank elevation of the southern terrace house now breaches the 45 degree line; although the terrace is shown to comply on drawing 09051/DT.03 the 45 degree line should be taken from a point 2m above ground level at the garden edge of the neighbouring site and not from the application site.

It is the southern part of the terrace which breaches the 45 degree line: approximately 0.2-0.3m of the eaves of the house would be above the 45 degree line. In light of the fact that SPG17 is guidance only, the relatively small breach of 45 degree line and the Inspector's comments on the previous scheme, your officers do not consider this to be a reason for refusal.

The semi-detached houses are also higher than their gardens but the houses still fall comfortably within the 45 degree line and your officers do not consider that the change would materially change the impact of the houses on neighbouring residential amenity.

### *3.2 Loss of privacy*

The buildings would not get any closer to the boundaries than the scheme allowed at appeal in 2009; no new windows are proposed either. In this respect the relationship between the scheme and neighbouring residents is unchanged.

The increase in the height of the terrace houses relative to neighbouring properties, however, does change the relationship between the houses and the properties on Gay Close. Officers are of the opinion that any such change will be minimal and measures can be taken to mitigate the impact: for instance, the applicant has undertaken to remove the first floor rear projecting balconies. Plans showing this change will be provided before the committee date and Members will be updated in a Supplementary Report. Further the boundary fence can be returned to the previously approved height (see section 5.2, below) and additional tree planting can be provided (see section 5.1, below). The applicant has undertaken to make these changes also.

## **4. Standard of accommodation**

The change in levels between the houses and the gardens does not have a material effect on the likely standard of accommodation and the living conditions of the occupants. The key issues in respect of standard of accommodation are whether the bedrooms within the basements would offer sufficient sunlight, daylight and outlook for occupants.

Basements were proposed to each of the five houses as part of the approved scheme (08/0683) but did not match the footprint of the ground floor. These have been expanded to match the footprint and as such the amount of internal floor area has increased. In order to maximise the use of the space, the applicant proposes to use part of the basements to the semi-detached houses as a bedroom and most of the basements to the terrace houses as two bedrooms with a bathroom and utility room.

In order to provide an acceptable standard of accommodation for the occupants of those bedrooms the applicant has provided additional lightwells to each of the houses, to the side of the semi-detached houses and to the front of the terraces.

The lightwell to serve the bedroom in the basement of the semi-detached houses would be 3.7sqm in area and the bedroom would have glazed double doors opening onto the space to maximise the amount of light entering the room. The bedroom would be the fourth of four and as such the need to comply fully with policies on standard of accommodation is less pressing than for a primary or secondary bedroom. Although the outlook would be extremely restricted, the lightwells would be sufficient for the bedrooms to be habitable.

The lightwell to serve the front bedroom within the basements of the terrace houses would also have a lightwell of similar size and as with the semi-detached houses this is considered acceptable in light of the fact this bedroom is likely to be the fourth of four in terms of preference for occupation. The lightwell to serve the rear bedroom is large with outlook of between approximately 3.2-4.0m. This significantly larger lightwell befits the bedroom which is larger internally than the front room and therefore more likely to be used consistently.

In reaching the conclusion that the living conditions of the occupants would not be harmed by the restricted outlook and daylight/sunlight offered by some of the small lightwells, significant weight is given to the fact the properties are four bedroom houses with two storeys of habitable accommodation above ground with large private gardens, which significantly reduces the likelihood that occupants will have to rely on the outlook and daylight/sunlight from their bedroom.

## **5. Landscaping, trees & boundaries**

### **5.1 Landscaping & trees**

A comprehensive landscape scheme has been approved in the past (details pursuant application LPA ref: 10/0424) and a condition is required to secure those details once again; the applicant has been advised to provide those details before the committee date to enable Members to make a decision with all the facts before them, particularly since the tree belt is required to mitigate the impact of the increased height of the building and the associated perception of loss of privacy.

The lightwells to the front of the terrace houses will result in the loss of three areas of soft landscaping; this loss should be offset by providing additional soft landscaping elsewhere in the scheme. Furthermore the lightwells to the rear of the houses have increased in size but although this requires a revised landscaping scheme, it is not likely to materially affect the capacity of the gardens to accommodate suitably sized trees.

The works to form the basements and the subsequent addition of a layer of earth on top of the original ground level are likely to have had a significantly negative impact on the retained trees in the western part of the site. A condition will be imposed to secure a replacement semi-mature (minimum 20-25cm girth) trees at a ratio of two new trees to one lost tree (2:1) should any of the retained trees die within the next five years.

A landscape maintenance and management schedule is also required by condition.

### **5.2 Boundaries**

The boundary fence to the site is generally 2.4m high measured from ground level within the site. This is because original 2006 application envisaged a higher than usual boundary fence since the original wall to the site was in places rather high; at the time many residents were concerned that the boundary wall or any proposed replacement should retain that original wall height, which in places was significantly over 3m. Condition 15 of permission 06/1117 required the boundary treatment to be between 2.5m and 3.5m.

When it came to discharge condition 15 (details pursuant application LPA ref: 07/1936) the proposals set out a timber fence which would be 2.1m and 3.1m high; this difference in height was necessary to accommodate the changing levels between the site and neighbouring rear gardens. Some residents objected to the proposals as the fence would not be high enough and some objected because it would be too high; your officers presented a balanced approach to Members for their determination at committee on 5 September 2007 whereby the fencing along the western side would not exceed 2.79m above the ground level of Gay Close properties.

Since this approval the fence along the boundary with Gay Close has been lowered, apparently without authorisation. A number of spot levels and sections have been provided by the applicant and these are shown on drawings 09051/DT.01 Rev A and DT.03. The Gay Close boundary remains the only area of concern, with the works to remove the top section of the fence resulting in a fence which is between 2.3-2.55m above the ground level of neighbouring gardens, substantially lower than the 2.79m maximum approved by the Planning Committee in 2007. This means the altered fence is between 1.50-2.16m above the original ground level of the site (see discussion above, section 2.3). The lower parts, which are between 1.5-2.0m, would not provide an adequate level of privacy for residents of Gay Close or for future occupants and their enjoyment of their gardens.

Your officers support the proposals to raise the height of the fence along the boundary with Gay Close so it is at least 2.0m from the ground level of the site; this means the maximum height of the fence measured from the gardens of Gay Close properties would be 2.8m, not significantly dissimilar to what was granted approval at committee on 5 September 2007. Details of this will be secured by condition.

## **6. *Parking and access***

There are to be five no. four-bed dwellings, all of which will be two-storey plus basement properties. The same number of car spaces (eight) is proposed as was allowed at the 2009 appeal. The access arrangements from Melrose Avenue are also kept as previously negotiated.

For a four-bedroom dwelling in a location with fairly low PTAL ratings, the maximum amount of parking permissible is 2.0 car spaces, as set out in the full standard under PS14 of the UDP-2004.

For the five x four-bedroom dwellinghouse the maximum permissible spaces would be ten spaces; the proposed parking provision is therefore acceptable. The maximum standard for the whole site has risen to 16 car spaces, from the 14 spaces identified for the approved scheme under ref. 08/0683, however the already built dwellings are provided with parking in line with standards (three no. four-bedroom houses with six no. car spaces). This is considered acceptable since the approved scheme proposed large family house and the proposed houses are not significantly dissimilar; overspill parking will be controlled by a clause within a s.106 agreement to prevent residents from applying for parking permits for the Controlled Parking Zone along Melrose Avenue.

Six cycle spaces have been shown close to the proposed properties, plus another eight towards the already built properties. These 14 stands for eight properties is above the minimum provision set out in PS16 of the UDP. This provision is welcomed by the borough transportation officer, although the stands should be covered against the elements and for added security; a suitable condition is proposed.

Refuse and recycling stores are shown on the frontages of the newly proposed properties. This is acceptable provision of refuse storage, within easy reach of the turning area for refuse vehicles.

The increase in the number of bedrooms is not considered to have a significant effect in terms of parking and access and your officers find the proposals acceptable in this respect.

## **7. S.106**

Supplementary Planning Document on s.106 Planning Obligations was adopted in 2007 and updates and expands the relevant policies on infrastructure contributions contained in the UDP 2004. It establishes a clear formula for calculating such contributions where they are needed to mitigate the effects of development on local facilities and services. The SPD has been through public consultation and has been formally adopted and significant weight should be given to it.

The document sets out the types of development for which contributions will be sought and has detailed the justification for changes in particular areas of policy. In particular it notes that while all cases are to be assessed individually, each additional residential unit, including conversions, will normally be subject to such contributions.

The applicant has agreed in principle to a section 106 legal agreement to meet the standard charge, but without such an agreement to secure measures to mitigate the harm caused by the scheme, it would conflict with the aims and objectives of UDP policies TRN3, TRN4, TRN11, OS7, CF6 and EP3 and the provisions of the SPD on s.106 Planning Obligations; accordingly two recommendations are proposed, to allow officers to refuse the scheme should the s.106 agreement not be completed in time.

## **8. Response to objectors**

Residents have objected on a number of grounds, most of which are addressed within the discussion of the proposals above.

Some residents have objected due to the noise, disturbance and vibration arising from the works. This is not a material planning consideration as it is controlled by separate Environmental Health legislation. Recent heavy rainfall resulted in a collapsed fence which has distressed some residents on Kenneth Crescent; this is a civil matter between the land owners and not something which can be taken into consideration when determining the application for planning permission. Your officers understand, however, that the applicant has written to the affected properties and given them his undertaking that the fence will be repaired.

Some residents have objected due to increased noise from the increased number of residents within the houses. The number of bedrooms within the five houses has increased from 15 to 20; there is no evidence to suggest this increase would materially increase the noise generated by the site.

Finally, residents have objected to the change in ground levels due to the problems with drainage and increased pressure on the base of their fences. This scale of drainage is not normally covered by the borough's planning policies but your officers have liaised with the borough's Building Control officer who will require a land drain as part of the measures to ensure the structural soundness of the basements; as a result your officers do not consider this to be a reason to refuse planning permission.

## **9. Conclusion**

The application would provide an acceptable standard of family accommodation and is not expected to materially harm the amenity of neighbouring occupants. The scheme is judged to be in general accordance with the national, regional and local policies and approval is recommended, subject to a s.106 agreement to secure the standard charge.

## **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  
Brent Core Strategy 2010  
The London Plan 2011  
Council's Supplementary Planning Guidance No. 17  
Council's Supplementary Planning Document Section 106 planning obligations

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  
Transport: in terms of sustainability, safety and servicing needs

### **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):

09051/OS; 09051/S.00 Rev A; 09051/S.00; 09051/DT.01 Rev A; 09051/DT.02;  
09051/DT.03; 09051/GA.00 *House Type 2 & 3 Basement FI*; 09051/GA.01 *House Type 2 & 3 Ground FI*; 09051/GA.01 *House Type 2 & 3 Ground FI [sic]*; 09051/GA.03 *House Type 2 & 3 Roof Plan*; 09051/GE.00 *HT 2 & 3 Elevations*; 09051/GE.01 *HT 2 & 3 Elevations*; 09051/GS.00 *HT 2 Section*; 09051/GA.00 *HT 1 Basement & Ground*; 09051/GA.01 *HT 1 First & Roof Plan*; 09051/GE.00 *HT 1 Elevations*; 09051/GE.01 *HT 1 Elevations*; 09051/GS.00 *HT 1 Section AA*;

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

- (3) Notwithstanding the provisions of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouses or their curtilage shall be carried out, unless a formal planning application is first submitted to and approved by the Local Planning Authority.

Reason: In view of the restricted size of the site for the proposed development no further enlargement, increase or alteration beyond the limits set by this permission should be allowed without the matter being first considered by the Local Planning Authority, to prevent an over development of the site and loss of amenity to adjoining occupiers.

- (4) During construction works on site no materials shall be burnt on site and all excavated topsoil shall be stored for reuse in connection with the landscape works scheme.

Reason: In the interests of local amenity.

(5) Details, including samples of materials, proposed for:-

- (a) all external surfaces of the building
- (b) windows
- (c) roofing materials
- (d) all external lighting within the development

shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any work on site, and the development shall not be carried out otherwise than in accordance with any such approval. Wherever possible, recycled construction materials and/or re-used steel joists/girders shall be employed.

Reason: In order for the Local Planning Authority to retain control over the exact materials to be used for the proposed development and to assess the suitability of the samples submitted, in the interests of visual amenity.

(6) All areas shown on the plan(s) and such other areas as may be shown on the approved plan(s) shall be suitably landscaped in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority within three months of the date this permission was issued.

Such landscape works shall be completed in accordance with the approved details prior to the occupation of the buildings.

Details shall include:-

- (i) Identify all retained trees and provide details of appropriate tree protection measures to be kept in place throughout the duration of the works;
- (ii) Existing contours and spot levels and any alteration of the ground levels, such as grading, cut and fill, earth mounding and ground modelling;
- (iii) Hard surfaces including details of materials and finishes. These should have a permeable construction;
- (iv) All planting including location, species, size, density and number;
- (v) Specification of any Nursery Stock trees and shrubs in accordance with BS 3936 (parts 1, 1992, and 4, 1984, Specification for forest trees); BS4043, 1989, Transplanting root-balled trees; and BS4428, 1989, Code of practice for general landscape operations (excluding hard surfaces); and
- (vi) A detailed (min. 5-year) landscape management plan showing requirements for the ongoing maintenance of hard and soft landscaping.

Any retained trees and shrubs or those planted in accordance with the landscaping scheme which, within 5 years of planting, are removed, dying, seriously damaged or become diseased, shall be replaced in similar positions by trees and shrubs of similar species and size to those originally planted unless otherwise agreed in writing with the Local Planning Authority. In the case of the loss of retained trees these shall be replaced at the ratio of 2:1 (two new trees to one lost tree).

Reason: To ensure a satisfactory standard of appearance and setting for the development and to ensure that the proposed development enhances the visual amenity of the locality in the interests of the amenities of the occupants of the development and to provide tree planting in pursuance of section 197 of the Town and Country Planning Act 1990.



- (7) Details of all fencing, walls, gateways and means of enclosure shall be submitted to and approved in writing by the Local Planning Authority within three months of the date this permission was issued.

These works shall be completed in accordance with the approved details prior to the occupation of the development. The fencing, walls, gateways and means of enclosure shall thereafter be retained at the height and position as approved.

Such details shall include:

- (i) Specify type of fence, e.g.; palisade, close-board etc;
- (ii) Specify all dimensions including height, length and thickness and shall be along the western boundary a minimum height of 2.0m measured from the gardens within the site and a maximum of 2.8m measured from the gardens of Gay Close properties; and
- (iii) Details of any alterations, extensions or repairs to existing boundaries.

Reason: In the interests of the privacy and amenity of the occupants of the application site and neighbouring properties and the visual amenity and character of the locality.

- (8) Details of the provision of a secure, covered storage area for a minimum of 14 secure cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority within three months of the date this permission was issued. . Thereafter the development shall not be occupied until the cycle parking spaces have been laid out in accordance with the details as approved and these facilities shall be retained.

Reason: To ensure satisfactory facilities for cyclists.

#### **INFORMATIVES:**

- (1) During demolition and construction works on site:

- The best practicable means as specified in the British Standard Code of Practice BS5228:1997 shall be employed at all times to minimise the emission of noise from the site;
- The operation of the 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 – 1800 Mondays-Fridays, 0800 -1300 Saturdays and at no time on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority;
- Vehicular access to adjoining and opposite premises shall not be impeded;
- All vehicles, plant and machinery associated with such works shall be stood and operated within the curtilage of the site only.

Reason: To ensure that and occupiers of neighbouring premises do not suffer a loss of amenity by reason of nuisance caused by construction and demolition works. Please contact Chris Taylor on 0208 937 5159 should you have any queries relating to the above.

- (2) The applicant is advised that the development is within an Air Quality Management Area and construction works are likely to contribute to background air pollution levels. During construction works the applicant must employ measures to mitigate against the impacts of dust and fine particles generated by the operation, to include

measures to minimise the drop height of materials, damping from skips and spoil tips, sheeting of lorry loads during haulage, and utilising screening on site.

**REFERENCE DOCUMENTS:**

Any person wishing to inspect the above papers should contact Angus Saunders, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5017