


# Committee Report Planning Committee on 15 February, 2012

Item No. 09  
Case No. 11/3039



## Planning Committee Map

Site address: 105-109, Salusbury Road, London, NW6

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This map is indicative only.

**RECEIVED:** 23 November, 2011

**WARD:** Queen's Park

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** 105-109, Salusbury Road, London, NW6

**PROPOSAL:** Extension to time limit of planning permission 07/0863 dated 23/07/2007 for Outline planning permission for erection of an additional fourth-storey and part fifth-storey extension to the existing 3-storey building to form an additional 14 self-contained flats (3 no. 3-bedroom, 9 no. 2-bedroom and 2 no. 1-bedroom), comprising 10 flats at third-floor level and 4 flats at fourth-floor level, with internal alterations, including installation of an internal lift (matters to be determined: means of access, siting and design) and subject to a Deed of Agreement dated 23/07/2007 under Section 106 of the Town and Country Planning Act 1990 (as amended)

**APPLICANT:** Silverhawk Ltd

**CONTACT:** ROH Architects

**PLAN NO'S:**  
See condition 2

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### **RECOMMENDATION**

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning to agree the exact terms thereof on advice from the Borough Solicitor

### **SECTION 106 DETAILS**

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

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
- Join and adhere to the Considerate Contractors scheme.
- Sustainability obligations, including a score of at least 50% on the Sustainability Checklist submitted with the application, Code for Sustainable Homes Level 3 with appropriate compensatory measures should this not be achieved.
- A contribution of £237,000 towards the following local infrastructure provision:
  - £150,000 towards off-site provision of affordable housing.
  - £87,000 towards the provision and/or improvement of education facilities, sustainable transport improvements and local public realm and open space improvements in the Borough.

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 application relates to a 3-storey building on the east side of Salusbury Road. The building is in use as office (B1), a local supermarket (A1) and a gymnasium (D2).

The building is not listed and is not within a conservation area, however the Paddington Cemetery Conservation Area is directly to the rear of the site. Paddington Cemetery is designated as Grade II on the English Heritage Register of Parks and Gardens of Special Historic Interest in England. The chapel buildings in Paddington Cemetery are Grade II Listed.

The Queens Park District Centre is 90m to the south.

## **PROPOSAL**

See above description.

## **HISTORY**

09/1278            Granted

Approval of reserved matters, relating to the residential development's appearance and landscaping, of outline planning permission reference 07/0863, dated 23/07/2007, for erection of an additional fourth-storey and part fifth-storey extension to the existing 3-storey building to form an additional 14 self-contained flats (2 no. 3-bedroom, 10 no. 2-bedroom and 2 no. 1-bedroom), comprising 10 flats at third-floor level and 4 flats at fourth-floor level, with internal alterations, including installation of an internal lift

09/0145            Granted

Details pursuant to condition 3 (acoustic report) of full planning permission reference 08/1744, dated 14/08/2008, for installation of ATM and new shopfront to front elevation, installation of condenser units to rear elevation and minor alterations to windows and doors at side elevation in connection with permitted change of use from restaurant (Use Class A3) to retail store (Use Class A1)

07/0863            Granted

Outline planning permission for erection of an additional fourth-storey and part fifth-storey extension to the existing 3-storey building to form an additional 14 self-contained flats (2 no. 3-bedroom, 10 no. 2-bedroom and 2 no. 1-bedroom), comprising 10 flats at third-floor level and 4 flats at fourth-floor level, with internal alterations, including installation of an internal lift (matters to be determined: means of access, siting and design) and subject to a Deed of Agreement dated 23/07/2007 under Section 106 of the Town and Country Planning Act 1990 (as amended)

99/1631            Granted

Variation of full planning permission ref. 98/0088 dated 01/07/98 for a change to the layout and design of the new 3rd floor comprising 12 self-contained flats: 5 x 1-bedroom, 5 x 2-bedroom and 2 x 3-bedroom flats (part of a mixed-use scheme originally approved under ref. 97/0145 dated 11/09/97)

97/0145            Granted

Change of use of ground floor from retail and general industrial (Use Class A1, B2) to and caf (Use Class A3), first and second floors to offices and health club, and addition to 3rd floor comprising 12 self-contained flats: 5 one-bedroom flats, 5 two-bedroom flats and 2 three-bedroom flats (as revised by plans received 14/08/97).

## **POLICY CONSIDERATIONS**

### **UDP 2004**

BE2 Townscape: Local Context & Character  
BE3 Urban Structure: Space & Movements  
BE5 Urban Clarity & Safety  
BE6 Public Realm: Landscape Design  
BE7 Public Realm: Streetscape  
BE9 Architectural Quality  
H4 Off-site affordable housing  
H12 Residential Quality; Layout Considerations  
H13 Residential Density  
H14 Minimum Residential Density  
TRN11 London Cycle Network  
TRN23 Parking Standards: residential  
TRN34 Servicing in New Development  
TRN35 Transport Access for Disabled People

Not replaced in Site Specific Allocation:

DP3: Lonsdale Road and Salusbury Road, North of Queens Park District Centre

### **Core Strategy 2010**

CP 2: Population and Housing Growth - The borough will aim to achieve the London Plan target that 50% of new homes should be affordable. At least 25% of new homes should be family sized (3 bedrooms or more).  
CP19: Brent Strategic Climate Change Mitigation and Adaptation Measures - In all areas a minimum rating of Code Level 3 should be achieved  
CP 21: A Balanced Housing Stock - An appropriate range and mix of self contained accommodation types and sizes

SPG17: Design Guide for New Development  
SPD: S106

London Plan 2011

PPS5: Planning for the Historic Environment - There should be a presumption in favour of the conservation of designated heritage assets

## **SUSTAINABILITY ASSESSMENT**

The s106 agreement requires compliance with the sustainability checklist ensuring a minimum score of 50% is achieved. Code for Sustainable Homes Level 3 is also required.

## **CONSULTATION**

External

Neighbouring occupiers were consulted on 28<sup>th</sup> December 2011 and a press notice and site notice were both published. No comments have been received.

Internal

Highways engineers – the number of parking spaces should not exceed 10, however the arrangement for 11 spaces is as originally approved. No objection is expressed.

## **REMARKS**

The application is for the extension of the time limit of the original application granted in 2007.

in 2009 the Government recognised the financial difficulties facing the construction/house building industry and introduced legislation to help maintain the delivery of sustainable development in the face of the UK recession. As of October 2009 applications have been able to apply to the Local Planning Authority (LPA) for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development. This has been introduced in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can be more quickly implemented when economic conditions improve.

The process is referred to as an extension but actually results in a new planning permission with a new reference number. This new permission will be subject to a new standard timescale condition and all original conditions and s106 obligations will be retained. There is scope to impose additional conditions and obligations if necessary, to overcome minor policy changes.

The submission is for the renewal of an outline application, the reserved matters of 'appearance' and 'landscaping' were approved under reference 09/1278 in 2009. In the document 'Greater flexibility for planning permissions' the Government states 'if both the local planning authority and the applicant are still content with the reserved matters approvals, they can simply be referred to in the new decision notice'. This is considered below.

### Policy Changes Since July 2009

Below is a summary of the main changes since the permission was granted in 2009. If a policy is now at odds with the scheme this should be balanced with the guidance from the Government, that LPAs take a positive and constructive approach to deciding these applications.

National Policy Changes

PPS5: Planning for the Historic Environment.

Regional Policy Changes

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London Plan adopted July 2011

Local Policy Changes  
Brent Core Strategy 2010

Some minor changes have been required to the scheme to comply with current planning policy and guidance these relate to:

- Unit mix
- Unit size
- Level of detail provided for consideration of relationship of building with Paddington Cemetery

#### Urban Design & Conservation Area

The proposed extensions, in terms of bulk and massing, are identical to those previously approved. The design has been reviewed against the requirements of PPS5 giving consideration to the relationship of the proposed extension with Paddington Cemetery Conservation Area to the rear, a 3D image of the proposed rear of the building has been supplied in addition to the previous detail. The additional storeys are set well back from the existing rear elevations and while overall height would increase it is not considered the building would be overbearing. The proposed design detail could improve the quality and appearance of this building and would not harm the quality of Paddington Cemetery as a Conservation Area, registered park & garden or as the setting of a listed building.

The details design was addressed under the reserved matters application and the approved details remain acceptable.

The positions of some windows has been altered but this is not considered to have any significant effect of the appearance of the building or its impact on the character and appearance of the area and neighbouring conservation area. Detailed design would be addressed through the reserved matters.

The outline proposed drawings propose terraces at 3<sup>rd</sup> and 4<sup>th</sup> floor levels with railings running around the perimeter of much of the building which would be visible from the public realm of Salusbury Road and Paddington Cemetery. The provision of terraces and appearance of the railings were considered to be acceptable but it was noted that the style, horizontal railings, would not comply with building regulations. The railings were revised to glazed balustrades under the reserved matters applications.

#### Residential use and amenity

14 new residential units are proposed, but the commercial uses at ground, 1<sup>st</sup> and 2<sup>nd</sup> floors are unaffected. The principle of new residential flats in this position is welcomed, and is indeed established as lawful by the part-implementation of the 1997 permission which provided for 12 new flats. This proposal is preferable to the 1997 scheme in that additional units are provided and as discussed below they are of a higher quality.

The new accommodation proposed is summarised below:

Flat no.	Beds	Floor area	Complies London Plan	Amenity Area	Aspect
1	2	86m <sup>2</sup>	Y	61m <sup>2</sup>	W
2	2	89.6m <sup>2</sup>	Y	29m <sup>2</sup>	N
3	2	87.6m <sup>2</sup>	Y	21m <sup>2</sup>	E
4	2	67.4m <sup>2</sup>	N	61m <sup>2</sup>	W/N
5	2	69.1m <sup>2</sup>	N	93m <sup>2</sup>	W
6	2	74.6m <sup>2</sup>	Y	20m <sup>2</sup>	S/E
7	1	45.3m <sup>2</sup>	N	22m <sup>2</sup>	S
8	2	67.9m <sup>2</sup>	N	15m <sup>2</sup>	S/W
9	1	46.2m <sup>2</sup>	N	38m <sup>2</sup>	E
10	3	88.4m <sup>2</sup>	Y	19m <sup>2</sup>	E/N
11	2	77.8m <sup>2</sup>	Y	63m <sup>2</sup>	W
12	2	77.8m <sup>2</sup>	Y	63m <sup>2</sup>	E
13	3	116.2m <sup>2</sup>	Y	173m <sup>2</sup>	W

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14	3	109.4m <sup>2</sup>	Y	109m <sup>2</sup>	E
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Since the approval of the original application the London Plan has been adopted, under Policy 3.5 the London Plan provides minimum space standards for new dwellings. While the proposal achieves the space standards set out in SPG17 it narrowly falls short of the London Plan standards in 5 of the 14 units. A 2-bed 4 person flat should be 70sqm, the smallest proposed is 67.4sqm, a 1-bed 2 person flat should be 50sqm while Flat 7 is 45.3sqm and Flat 9 is 46.2sqm. All units have private outdoor amenity space which in many cases significantly exceeds the amount required by SPG17. Across the development, in terms of internal and external space, the floor areas are larger than often achieved in a flatted scheme, and the slight shortfall of some units from the London Plan standards would not result in an unacceptable standard of accommodation. As a renewal of an extant permission this arrangement is considered to be reasonable, in a new development however applicants would be encouraged to meet the London Plan standards in all cases.

Most of the units are single aspect, but all except one have either west, east or south-facing windows. On balance the standard of accommodation in terms of access to light and outlook is considered acceptable.

There are some instances where proposed living areas are located above bedrooms presenting potential stacking issues, but given the development is a new-build then conditions ensuring suitable insulation can be imposed to ensure the potential for noise transmission between floors is eliminated.

The neighbours to the site include the Salusbury Primary School to the south (side), the Paddington Cemetery to the east (rear) and an office building (Class B1) to the north (side). The nearest residential neighbour that could be affected by the proposal is a first floor flat on the opposite side of Salusbury Road 18m away.

The bulk and massing of the proposed extensions are such that no significant effects would be caused to daylight, sunlight or outlook at any neighbour. The proposed terraces have the potential to affect privacy to residential properties but there are no residential properties that are within 20m of the proposed terraces. It is not considered that overlooking to the school or cemetery would be harmful, or that the proposed overlooking would be significantly greater than from existing side-facing windows to the building. Details of screens or other means to prevent overlooking from proposed terraces to other proposed flats were sought via condition under the original application and these were detailed in the reserved matters to show full height frameless sandblasted glass privacy screens.

The commercial neighbours in the existing building present the potential for harm to be caused to the amenity of future occupiers from noise. However as the new dwellings are new-build then conditions can be imposed to ensure that adequate sound insulation is provided.

#### Residential density and affordable housing

Policy CP2 of Brent's Core Strategy, adopted in 2010, requires that 25% of all new dwellings provide family size accommodation (at least 3 beds). In the original application two 3-bed units were approved, this has now been increased to three which results in 21.4% of the 14 units providing family accommodation according to the definition in the Core Strategy. Given the location of the units on upper floors, also without access to ground floor amenity space, the provision of family housing is less important and this proportion is acceptable. The mix of the rest of the development, 64% 2-beds and 14% 1-beds, is acceptable and given the arrangement in the extent permission the proposal is on balance acceptable.

The overall provision of residential floorspace exceeds the minimum London Plan floorspace requirement by almost 100m<sup>2</sup>, which would be sufficient floorspace to provide up to two additional one-bed flats. While not suggesting that only the minimum floorspace be sought in new developments it appears on these grounds alone that the maximum reasonable provision of units is not being achieved.

Further the proposed density of development falls below the density band specified in SPG17 for a development of this type, within 600m of a centre this is 240-450hr/ha. There are no obvious reasons as to why lower density should be allowed on the site. It is a regular shape, is near a centre and has an urban character, it is all above ground and not ideally suited to larger family units, there are no immediately adjoining developments that are specifically sensitive to residential development such as effects of overlooking, or uses that would harm residential amenity within the building, car-free housing would be appropriate, has a good public transport accessibility level being within 400m of an underground and rail station, is on a local distributor road, the site would be mixed use, is created from extensions rather than new-build, and would not require retention of any existing landscape features. All of these factors suggest density in the higher end of the SPG17 range would be appropriate.

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Policy 3.4 Optimising Housing Potential of the London Plan also seeks to ensure development proposals achieve their maximum density. At the time of the original application the UDP 2004 policy on affordable housing sought its on-site provision in all residential developments of 15 units or more. The provision of further housing on the site would have results in this threshold for affordable housing provision of (now superseded) policy H2 being exceeded, and therefore that affordable housing would need to be provided on site. Provision of affordable housing at the site would be welcomed.

The applicant recognised that further housing could be provided on site within the proposed envelope but also provided a considered assessment of the potential for the site to provide further housing above the affordable housing threshold, including an assessment of the costs of an affordable housing development on the site. In particular the applicant noted that the costs associated with providing affordable housing on site would make the development financially unviable, and noted that if on-site provision were insisted upon the applicant would be likely revert to the extant 1997 permission for 12 units. This would be unfortunate as the number of units and the standard of accommodation proposed here is better than the 1997 scheme.

The applicant instead agreed to pay £150,000 toward off-site provision of affordable housing as is provided for under policy H4 in exceptional circumstances.

Policy CP 2 of Brent's Core Strategy seeks for 50% of all new development to be affordable and this is applied to developments providing at least 10 units. This is still subject to the viability of the scheme and the Council's Affordable Housing officer has advised that in the circumstances particular to the site detailed by the applicant, the payment in-lieu of off-site provision remains acceptable.

### Landscaping

No soft landscaping exists on site and there is none proposed, nor is there any obvious opportunity for improvement of the ground floor landscaping as the entire ground floor space is used as vehicle servicing and parking space. While the level of amenity space provided in the form of terraces is acceptable, and there is good access to Public Open Space (Queen's Park Public Open Space is 220m from the site). The standard contribution will assist with improvement of the public realm in the area to accommodate the new residents.

Landscaping of the terraces was an issue covered in the reserved matters application, planters were proposed on the terrace both in the interest of the future occupiers and the design quality of the building. Sedum is also proposed to parts of the roof. A condition was attached for details of the planting to be submitted and approved.

### Parking and transport

Salisbury Road is a Local Distributor Road, is within a CPZ and has a PTAL of 4. The Queen's Park underground and Overground station is 325m to the south and there are several local bus services.

The proposed development would attract a car parking provision of 11.3 spaces, recognising it is within a CPZ and has a good PTAL rating. 11 spaces, including one disabled space have been proposed. This provision is consistent with what was approved under the approved scheme and is acceptable. The proposed development makes adequate provision for the storage of refuse and bicycles.

### Reserved Matters

Subject to the minor revised details and Heads of Terms officers remain of the opinion that the proposal and the details agreed under the reserved matters application 09/1278 are acceptable.

### Conclusion

The development involves extensions to the existing commercial building to create new residential units, which is welcomed in principle. The applicant previously demonstrated that on-site affordable housing provision would not be financially viable, and that a payment for off-site provision would enable a better development of the site while still making some contribution toward affordable housing. While the threshold for affordable housing provision has changed since this decision was made the contribution toward off-site provision of affordable housing remains appropriate. Therefore the development is considered to comply with relevant policy in the Brent Unitary Development Plan 2004 and should be approved.

**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):

S[1-]01 Rev. B: Location plan and Site plan, E-100 Rev. A, E-101 Rev. A, E-102 Rev. A, E-200 Rev. A, E-201 Rev. A, E-202 Rev. A, E-300 Rev. A, E-301 Rev. A, E-302 Rev. A, E-303 Rev. A, L-100 Rev. B, L-101 Rev. A, L-102 Rev. A, L-103 Rev. I, L-104 Rev. B, L-200 Rev. B, L-201 Rev. B, L-202 Rev. A, L-203 Rev. B, L-300 Rev. A, L-301 Rev. B, L-302 Rev. B, L-303 Rev. B

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

- (3) The development shall be carried out and completed in all respects in accordance with the reserved matters details submitted and approved under application number 09/1278 before the development is occupied.

NOTE - Other conditions may provide further information concerning details required.  
Reason: To ensure that a satisfactory development is achieved.

- (4) The area(s) so designated within the site shall be landscaped in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before any works commence on site, the landscape work to be completed during the first available planting season following completion of the development hereby approved. 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 in the same positions with others of a similar size and species, unless the Local Planning Authority first gives written consent to any variation.

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.

- (5) Adequate noise insulation shall be provided to walls and/or floors between units in separate occupation in accordance with the Local Planning Authority's preferred design standards, or to such other alternative specifications as may be submitted to and approved in writing by the Local Planning Authority, and the insulation shall be installed prior to occupation of the units hereby approved.



Reason: In the interests of neighbouring occupiers.

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

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

**INFORMATIVES:**

None Specified

Any person wishing to inspect the above papers should contact Liz Sullivan, The Planning Service, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ, Tel. No. 020 8937 5377