

Delegated Report		Analysis sheet		Expiry Date:	11/10/2010
		N/A / attached		Consultation Expiry Date:	16/9/2010
Officer			Application Number(s)		
Hugh Miller			2010/4094/P		
Application Address			Drawing Numbers		
20 Busby Place London NW5 2SR			See draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Erection of boundary wall with railings and electric gate to existing residential dwelling (Class C3), in association with retained forecourt parking.					
Recommendation(s):		Refuse planning permission			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	27	No. of responses No. electronic	03 00	No. of objections	03
Summary of consultation responses:	<p>The objection (A) below is made on behalf on no.18 and (B) on behalf of No.7 Busby Place. The objections are summarised below:</p> <p><u>Objection (A)</u></p> <p>4.1 On 9 July 2009 the Inspector dismissed appeals against the Council's enforcement notices concerning (inter alia) "the removal of the front boundary wall and railings and formation of new access to the highway to create two off-street parking spaces." (EN08/0242).</p> <p>4.2 The Inspector dealt with this matter in paras 47-54 of her decision (attached). She found that the parking contravened the Council's Parking Standard (para 50) relating to a maximum of one space per dwelling and was also critical of the size of hardstanding (para 51) and its character (para 52).</p> <p>4.3 Overall the Inspector concluded (para 54): "I find that the laying of the hardstanding to the front of the new dwelling and its use for car parking is contrary to the Council's parking policies for the area, it has harmed on-street parking conditions, pedestrian and highway safety and the setting of 20 Busby Place, contrary to Unitary Development Plan Policies T8 and T9."</p> <p>The proposed parking space at No 20 Busby Place has been the subject of successful enforcement action by the LPA just over a year ago. As a result the appellant has now removed the large side extension and remodelled this to accord (so it appears) with the planning permission previously granted by Camden.</p> <p>5.2 The proposed car parking space should be refused permission because:</p> <ul style="list-style-type: none"> • It is contrary to Camden's UDP policy on one parking space per dwelling. • The hardstanding has a detrimental effect on the overall townscape of Busby Place. • The railings proposed are uncharacteristic of this side of Busby Place. • There is insufficient manoeuvring space to allow cars to park at right angles to the building and thus there will be danger to pedestrians and highway users as a result. • The loss of two on-street parking spaces. <p>5.3 It would appear that the applicant's intention is to replace the lawful parking space which accompanied the dwelling following its completion. The applicant chose to sell this space to another resident and thus lose the benefit of this. He then created additional parking on the forecourt which, as stated above, contravenes planning policies and creates danger to pedestrians and highway users.</p> <p>5.4 The applicant should not be allowed to further benefit from the sale of his lawful parking space. If permission were to be granted then up to three new parking spaces could be created and together with his lawful space would give him in theory four parking spaces. This is clearly unacceptable in policy terms.</p>					

5.5 Local residents have long suffered at the hands of the applicant and wish to see this matter brought to a swift conclusion. Thus they urge the LPA to refuse the application for a hardstanding/parking at No 20 Busby Place for legitimate planning reasons as set out above.

Objection (B) We, the residents of 7, Busby Place, object to this planning application strongly:

1. Following a Formal Appeal Decision from July 9th, 2010 by Lucy Drake, the Inspector appointed by the Secretary of State for Communities and Local Government, the applicant has currently had to comply with enforcement notices requiring him to demolish completely the extension he built to no. 20 Busby Place. She ruled that (as built) 'No planning permission exists for it, or any part of it.' (see notes 1)
2. Furthermore, and of crucial importance with regard to this planning application, the Government Inspector condemned the applicant's provision on, and use of, his forecourt for private parking (see notes 2):

In par 51, she referred to 'The space available on the hardstanding created to the front of the property (for which no express grant of planning permission would seem to exist)..'. and concluded in par 54 : 'Overall I find that the laying of a hardstanding to the front of the new dwelling and its use for car parking is contrary to the Council's parking policies for the area, it has harmed on-street parking conditions, pedestrian and highway safety and the setting of 20 Busby Place, contrary to Unitary Development Plan Policies T8 and T9 (p.14).and in par 55 ...and the creation and use of the off-street parking area would have a harmful effect upon on-street parking provision, highway and pedestrian safety, and the visual appearance of the area, contrary to policies T8and T9. For all of these reasons I conclude that the appeal should be dismissed.'(p.15).

3. As the Government Inspector ruled that Mr Zone has currently no permission to use his forecourt for parking, there is no requirement nor merit in granting him permission to install an electric gate that facilitates cars passing through.
4. Should Mr Zone wish to use his forecourt for private parking, there must be a public consultation and the matter would have to be decided in the formal way.
Currently On-street parking in Busby Place cannot meet demand.
The Community Centre opposite is also expanding this autumn and will create further demand to On-street parking.
5. The fact that the applicant is aware that his use of his forecourt for parking is in breach of the Government Inspector's ruling, suggests, that by applying for permission to install an electric gate he hopes to achieve the Council's acceptance of his breach of the Government Inspector's ruling and to escape the need to apply for planning permission (which is unlikely to be granted – see UDP, policy T8).
6. Once this application is refused Mr Zone must re-instate the original boundary wall with railings anyway – with Mr Zone's track record of ignoring planning law, it is hoped that the Council will enforce this.

Councillor Paul Braithwaite / Cantelowes Ward

I write to oppose consent to this application.

Mr Zone has consistently flouted planning and enforcement and ridden roughshod over all planning procedures.

I urge you to read the attached Inspector's report (PDF 2677547) 9 July 2009

	<p>In particular, I refer you to see paras: 20, 21, 23, 24, 25 and 26</p> <p>But the crucial paras are these three:</p> <p>33. With regard to the second enforcement notice, concerning the alterations to the roof and the projecting steelwork at 20 Busby Place, I conclude that requirements of the notice are not excessive and the appeals on grounds (f) and (g) do not succeed. Subject only to a minor correction to the enforcement notice to change the word 'consent' to 'permission' in the requirements I shall uphold the enforcement notice and dismiss the appeal.</p> <p>44. The infilling of all of the space to the side of the house, the erection of the tall side flank wall (probably about a metre higher than what was there before), the removal of the original front wall and railings and the laying out of a rough concrete hardstanding to the front to create a parking area have had a harmful effect upon the high quality landscaping and boundary treatments seen elsewhere in Busby Place and in the former School site development. The development as a whole has reduced the attractiveness of this part of Busby Place and the land to the rear, and harmed its appearance and amenity. Therefore on several counts it conflicts with the requirements of Unitary Development Plan Policy B1.</p> <p>52. While the appellant has suggested the use of a gate and retractable railings to both restrict its use for only one vehicle and restore the boundary feature, the gap in the railings would have to be wide enough to allow a vehicle to manoeuvre in and out. Any requirement that the railings be pulled across at all other times to restore the frontage to something like its original condition seems to me to be impractical and unenforceable. The concrete hardstanding as constructed is an unattractive feature in the street scene and is not a matter addressed by the enforcement notice.</p> <p>So, the Inspector has already considered this proposal and pointed out it does not conform with the intended integrity of the development.</p> <p>The neighbours point out that the crossover is also a hazard to pedestrians.</p> <p>As a longstanding member of DC Planning committee I oppose granting approval of this application as it would detract from the intended design of the terrace. I agree with the Inspector's enforcement confirmation that the original railings, to conform with the rest of the terrace should be reinstated, with no electrified gate.</p> <p>I have been local ward Councillor for more than four years (and local resident for thirty years) and I have observed month after month that Mr Zone and his family regularly have up to three cars parked on the hard-standing. It is my opinion that this greatly detracts to the look and continuity of the terrace.</p> <p>If officers decide that they wish to grant consent, I trust that it would be referred to DC, where I would speak against approval.</p>
CAAC/Local groups* comments: <small>*Please Specify</small>	Not in C.A.

Site Description

The 4-storey end of terraced property is situated on the south side of Busby Place, west of the junction with Oseney Crescent and east of Torriano Avenue. Number 20 Busby Place is in use as a single dwelling house. Due to a drop in ground level the properties along this terrace all have lower ground floor levels with front and rear gardens at lower ground floor level. The front boundary treatment for the whole terrace is a dwarf wall with railings and brick piers for the entrance gates.

The application property forms part of the recent redevelopment of the former Jews Free School site, which is bounded by Camden Road to the south, Torriano Avenue, Cantelowes Gardens and Park, west and Busby Place north. The planning permission for the redevelopment, which was granted in January 2003, includes a condition that removes permitted development rights. The site is not in a conservation area and the building is not listed but all the properties are of very similar design and form an aseptically homogeneous whole.

The application site is not in a C.A.

Relevant History

PEX0200214/R3: 15/1/2003 permission was granted for the demolition of Jews Free School buildings & redevelopment of the site for residential purposes (Camden Road, Torriano Avenue and Busby Place). Additional condition 5 of this planning permission removed permitted development rights within Part 1 (Classes A-H) and Part 2 (Classes A-C) of the Town & Country Planning (General Permitted Development Order) 1995 or any Order revoking and re-acting that order, from the residential properties.

2005/1901/P: pp granted July 2005 for the erection of a 2-storey side extension.

2005/3708/P: October 2005- pp was **granted** for erection of extension at the basement floor level, alterations to side and rear elevations, installation of dormers at the front and rear roof slope of the dwelling house (Class C3).

2005/4420/P: Dec 2005 - **withdrawn application** for the erection of a 4-storey side extension to the basement ground and first floor levels and installation of dormers to the dwelling house (Class C3).

2006/0278/P: April 2006 - **withdrawn application** for erection of a 3-storey side extension and dormer extension to front and rear of a single-family dwelling house (Class C3).

2006/4782/P: PP granted 22/12/2006 for the installation of front and rear dormers to single family dwelling house (Class C3).

2007/0928/P: August 2007 - **withdrawn application** –erection of a 3-storey side extension and dormer extension to front and rear of a single-family dwelling house (Class C3).

2007/5002/P: 12.2.08- pp was **refused** for the erection of a new 4-storey plus basement single family dwelling house on site adjoining no.20 with dormer windows at front and rear main roof.

March 2008, planning appeal lodged against the Council's refusal. In July 2008 the planning appeal was withdrawn.

Enforcement notices have been served in September and October 2008 against unauthorised erection of new house on this site and new dormers at no.20 itself; appeals against these will be heard at public inquiry in May/June 2009.

2008/4769/P: PP Refused 27/01/2009 (appeal lodged) for the retention of new building to provide a 4 storey plus basement and sub-basement dwelling house (Class C3) with front and rear dormers on land adjoining 20 Busby Place. Reasons for refusal (similar to below):

2008/4868/P: PP Refused 11/6/2008 for retention of a 4 storey plus basement and sub-basement building to provide additional accommodation to an existing dwellinghouse and retention of dormer windows to 20 Busby Place (Class C3). Reasons for refusal:

1. The retention of the erected building, by reason of its height, bulk, scale, proportions and detailed design (in terms of front facade and front and rear dormers), is an unduly dominant and incongruous building which detracts from the appearance of the host building and the terrace of which it forms a group; it also has a harmful impact on the established streetscape pattern and grain by a further reduction in size of the visual gap between buildings. This is contrary to policies B1 (General design principles), B2 (Design and layout of developments large enough to change their context) and B3 (Alterations and extensions) of the London Borough of Camden Replacement Unitary Development Plan 2006 and supporting advice contained within the Camden Planning Guidance 2006.

2. The retention of the erected building, by reason of its size and location, has resulted in loss of outlook to the neighbouring property at number 26 Busby Place to the detriment of the neighbours' residential amenities contrary to policy SD6 (Amenities for occupiers and neighbours) of the London Borough of Camden Replacement Unitary Development Plan 2006 and supporting advice contained within the Camden Planning Guidance 2006.
3. The forecourt parking, by reason of its size and shape, is substandard and detrimental to highway and pedestrian safety, as well as encouraging more parking at this property than the maximum parking standards allow. The proposal would therefore be likely to contribute unacceptably to traffic and parking congestion in the surrounding area and be detrimental to highway and pedestrian safety, contrary to policies T7 (Off-street parking), T8 (Car-free development) and T9 (Impact of parking) of the London Borough of Camden Replacement Unitary Development Plan 2006 and supporting advice contained within the Camden Planning Guidance 2006.
4. The rear planter at ground floor level, by reason of its design and its position, is an incongruous addition to the facade which disrupts the uniformity of the terrace and if used as a platform would result in an increased level of overlooking and loss of privacy to neighbouring gardens contrary to policies B1 (General design principles), B3 (Alterations and extensions) and SD6 (Amenity of occupiers and neighbours) of the London Borough of Camden Replacement Unitary Development Plan 2006 and supporting advice contained within the Camden Planning Guidance 2006.

Enforcement History

On the 17th July 2008, following the refusal of planning application 2007/5002/P the Development Control Committee agreed a recommendation to serve an enforcement notice against the construction of the new four storeys plus attic building/extension, flank wall, removal of the front boundary treatment, and creation of a new access on site adjoining this property. An appeal against this enforcement notice was submitted (APP/X5210/C/08/2086730).

28th August 2008 the Development Control Committee agreed a recommendation to serve an enforcement notice against the erection of new roof extension and reinstatement of the roof or implementation of approved scheme for dormer windows, and removal of protruding steel beam at ground floor level. An appeal against this enforcement notice was also submitted. This appeal was combined with that above and following the refusal of application 2008/4769/P this too was added to the above appeal to be heard at public enquiry on the 26/06/2009.

July 2009: Planning & Enforcement Appeal Dismissed

A) S.174 Enforcement Appeal Ref: APP/X5210/C/08/2086730

1. Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out in the Formal Decision.

B) S.174 Enforcement Appeal Ref: APP/X5210/C/08/2089293

2. Summary of Decision: The appeal is dismissed and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

C) S.78 Planning Appeal Ref: APP/X5210/A/09/2094255

3. Summary of Decision: The appeal is dismissed.

Relevant policies

Replacement Unitary Development Plan 2006

B1- General design principles
B3B-Alterations & extensions
T3- Pedestrian and cycling
T7 –Off-street parking
T9 –Impact of parking
T12 - Works affecting highways

CPG 2006:

LDF Core Strategy

CS11- Off-street parking, city car clubs and city bike schemes
CS14 – Promoting high quality places and conserving our heritage

Development Policies

DP18 – Parking standards
DP19 – Managing the impact of parking
DP21 – Development connecting to the highway network
DP24 – Securing high quality design

The Inspector's Report into the Camden Local Development Framework Core Strategy and Development Policies Development Plan documents ("DPD"s) was published on 13th September and found the policies in the DPDs to be sound.

This means "considerable weight" can now be given to these LDF policies even though at this stage they have yet to be formally adopted by the Council. Where there is a conflict between UDP policies and these LDF policies the Planning Inspectorate would consider it reasonable to follow the latter.

However prior to formal adoption UDP policies should still be taken into account as the Council's adopted Development Plan

Assessment

Background

In January 2003, the application site formed part of the wider redevelopment of the former Jew Free School site for residential purposes, which includes the nine terraced houses that fronts Busby Place. More recently, in July and October 2005, planning permission was granted for the erection of a 2-storey side extension, plus extension at the basement level and the installation of dormers to the main rear roof slope of the dwelling house. These permissions are valid for 5 years from the dates of decision (until 2010). Building works commenced on site some time ago.

Three further planning applications for the erection of a larger side extension plus dormer windows to the main dwelling house have been withdrawn by the applicant. They were withdrawn following discussions with officers about the massing and bulk of the side extension, design and overly bulky dormer windows.

A planning application for erection of a new 4 storey house to match the size and height of the adjoining no.20 Busby Place (2007/5002/P) was refused in February 2008. This also included a basement. Notwithstanding the refusal, building works continued and the house was completed in summer 2008. Enforcement notice was duly served against the unauthorised structure- see history above.

In July 2009, the Planning & Enforcement Appeal was dismissed by the Planning Inspectorate, the decision is summarised below as follows:

A) S.174 Enforcement Appeal Ref: APP/X5210/C/08/2086730

(i) The four storey plus attic extension shall be permanently removed; OR replaced with the extension

granted planning consent dated 8th July 2005 (Ref No. 2005/1901/P) or the extension granted planning consent dated 21 Oct 2005 (Ref No. 2005/3708/P).

(ii) The new flank wall shall be removed.

(iii) The front boundary wall and railings shall be reinstated.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out in the Formal Decision.

B) S.174 Enforcement Appeal Ref: APP/X5210/C/08/2089293

The breach of planning control as alleged in the notice is the unauthorised erection of a roof extension and the erection of steelwork protruding from the rear elevation at ground floor level.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld as corrected in the terms set out in the Formal Decision.

C) S.78 Planning Appeal Ref: APP/X5210/A/09/2094255

The development proposed is the retention of new building to provide a 4 storeys plus basement and sub-basement dwellinghouse (Class A3) with front and rear dormers on land adjoining 20 Busby Place.

Summary of Decision: The appeal is dismissed

Since the dismissal of the planning and enforcement appeal, the substantive ameliorative works have been implemented. The exception being the reinstatement of the front boundary wall and railings, which is the subject of this planning application.

Proposal

- ❖ Erection of boundary wall with railings and electric gate to existing residential dwelling (Class C3).

Design

Proposed front boundary wall / railings electronic gate

The proposed reinstatement of railings, dwarf walls and gate piers is considered acceptable in principle in design terms- the height, design and materials used replicates the adjoining boundary treatment and is considered acceptable in terms of reinstating the streetscene here. However one set of railings would form a sliding gate to access the retained concrete forecourt here and thus to allow continuation of carparking here, potentially up to 2 cars.

The Inspector, in her assessment of the previous applications and in particular issues related to the off-street parking and the impact on the streetscene, made observations as set out in the paragraphs below as follows:

Paragraph 21 "The Council was clearly unhappy about the proposed use of this part of the site for parking. Condition 3 attached to the October 2005 planning permission expressly says that 'Notwithstanding what is shown on drawing 82/574/06/Rev A [although drawing 06 was the formally approved one], nothing shall give consent for the new crossover as indicated on the drawing.' Thus in my view no planning permission existed for the laying out of the hardstanding so it cannot be relied upon as an indicator of the implementation of one of the approved extensions".

Paragraph 50. "I note that the Council's Parking Standard for residential development is a maximum of one space per dwelling, but this is not the same as requiring or expecting any new dwelling to provide one to one off-street space and the Standard has to be read in the context of the Council's parking strategy and policies as a whole. These include direct management of on-street parking and reducing the supply of off-street parking through planning decisions (Unitary Development Plan paragraph 5.40) and encouraging development to meet travel demands by means other than the

private car and minimise the impact of motor vehicles (paragraph 5.42)".

Paragraph 51. "The space available on the hardstanding created to the front of the property (for which no express grant of planning permission would seem to exist) is large enough only to accommodate a single vehicle parked at an angle, or parallel to, the pavement. It does not comply with the Council's minimum size standards for front garden parking of 5.0m wide and 6.0m deep in its Planning Guidance (paragraph 49.10) or the expectation that such spaces should be provided so that vehicles can access them easily from the road. Sightlines when manoeuvring out of the parking area are poor, especially to the east, and create a danger for pedestrians and other road users".

Paragraph 52. The Inspector continued, "While the appellant has suggested the use of a gate and retractable railings to both restrict its use for only one vehicle and restore the boundary feature, the gap in the railings would have to be wide enough to allow a vehicle to manoeuvre in and out. Any requirement that the railings be pulled across at all other times to restore the frontage to something like its original condition seems to me to be impractical and unenforceable. The concrete hardstanding as constructed is an unattractive feature in the street scene and is not a matter addressed by the enforcement notice".

Paragraph 54; "Overall I find that the laying of a hardstanding to the front of the new dwelling and its use for car parking is contrary to the Council's parking policies for the area, it has harmed on-street parking conditions, pedestrian and highway safety and the setting of 20 Busby Place, contrary to Unitary Development Plan Policies T8 and T9".

In para. 55 the Inspector conclude inter alia "... the creation and use of the off-street parking area would have a harmful effect upon on-street parking provision, highway and pedestrian safety, and the visual appearance of the area, contrary to Policies T8 and T9".

Clearly, the issues and concerns raised in the above paragraphs by the Planning Inspector have not changed. The proposed forecourt area would not be in compliance with the Council's minimum size standards for front garden parking as the shallow depth forecourt space would be inadequate for the parking of cars. The forecourt has been measured on site to be approx 3.6m length which is clearly insufficient to accommodate the standard parking space length of 4.8m, let alone the required forecourt depth of 6m. This would result in cars overhanging the footway, contrary to Council policy. Alternative parking at an angle over the whole forecourt would be difficult and result in tortuous manoeuvring and highway safety issues. The proposed off-street parking is unacceptable in transport terms because of its inappropriate size and shape, being detrimental to highway and public safety.

Conclusion

The proposed brick wall and railings would, in terms of design, scale and proportions, be in keeping with front boundary treatment of the adjoining terrace of properties and would in principle be acceptable; however it is considered that, for the reasons raised above relating to the associated forecourt parking, the proposal is unacceptable.

Recommendation:

Refuse planning permission.