

Address:	246A-248 Kilburn High Road London NW6 2BS		
Application Number:	2007/3467/P	Officer: Bethany Arbery	
Ward:	Kilburn		
Date Received:	13/07/2007		
Proposal: Erection of building fronting Kilburn High Road comprising ground floor retail unit (Class A1) and 4 upper floors to provide 4 x 2-bedroom residential units, plus erection of a building to the rear comprising basement and ground floor (Class B1) business use and 3 upper floors to provide 3 x 3-bedroom flats and 3 x 2-bedroom flats with balconies and terraces.			
Drawing Numbers: Site location plan; P01C; P02C; P03C; P04C; P05C; P06C; P07C; P08C; P09C; P10C; P11C; P12C; P13C; P14C; P15C; P16C; P167C; P18C; P19C; P20C; P21C; P22C; P23C; P24C; P25C; P26C; P27; P28; P29; P30; P31; P32; P33; P34; P35; P36; P37; P38; P39C; P40C; P41; P42; P43; P44; P45; Design Statement by Brill & Owen; Design & Access Statement by Brill & Owen; Schedule of Areas by Brill & Own; Energy Assessment by Brill & Owen; EcoHomes Pre-Assessment by Julian Brooks Associates; BREEAM Offices 2006 Pre-Assessment by Julian Brooks Associates; Sunlight & Daylight Impact Study by JW Associates; and Acoustic Assessment by Applied Acoustic Design.			
RECOMMENDATION SUMMARY: Grant conditional permission subject to a Section 106 Agreement			
Applicant:		Agent:	
Monument Properties Ltd Mr Tufan Hashemi 823 Finchley Road London NW11 8AJ		Brill & Owen Architects Grove House 2b Lichfield Grove LONDON N3 2JP	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	<i>Class B1</i>	<i>Business</i>	<i>890m²</i>
Proposed	<i>Class B1</i> <i>Class C3</i> <i>Class A1</i>	<i>Business</i> <i>Residential</i> <i>Retail</i>	<i>681m²</i> <i>929m²</i> <i>68m²</i>

Residential Use Details:										
	Residential Type	No. of Habitable Rooms per Unit								
		1	2	3	4	5	6	7	8	9+
Existing	Flat									
Proposed	Flat			7	3					

Parking Details:		
	Parking Spaces (General)	Parking Spaces (Disabled)
Existing	0	0
Proposed	0	0

OFFICERS' REPORT

Reason for Referral to Committee: The proposal constitutes a Major Development as it involves the creation of 10 residential units [Clause 3(iii)]. Furthermore, it will involve the making of a planning obligation under Section 106 of the Town and Country Planning Act 1990 [Clause 3(vi)] in relation to matters for which the Director does not have delegated authority.

The application is a Major Development and the 13-week period for a decision to be issued expires on 12th October 2007 – it must therefore be determined at this meeting.

1.0 SITE

- 1.1 The site is located on the north-east side of Kilburn High Road. No. 248 is a single-storey rendered building fronting onto Kilburn High Road; to the rear is No. 246A a 2-storey brick building which abuts No. 246 on its north-east and south-east (part) elevations. It is currently derelict, but was last used as a recording studio (Class B1). It is understood that the former use of the site was as a motor factory and a timber yard.
- 1.2 No. 246, which abuts the site to the north-east and in part to the south-east, is a 2-storey property in use as a live/work unit. This property has an extant permission to erect a second floor level roof extension and a first floor level cantilevered extension to the front elevation (see para. 3.2). Beyond this building to the north-east is an area of public open space known as Kilburn Grange Park.

- 1.3 South-east of the site is a gated vehicular entrance which provides access to No. 246. It is understood that Nos. 248 and 246A have a right-of-way over the adjoining driveway, but that it forms part of the property known as No. 246. Beyond this is No. 244, which is a 2-storey commercial property. Planning permission was granted in 2005 for the erection of 3 additional floors on the Kilburn High Road frontage and 2 new floors to the rear of the site to provide additional residential accommodation above the ground floor retail. This permission is currently being implemented.
- 1.4 North-west of the site are Nos. 250-252 Kilburn High Road which comprise ground, and first to third floors with retail at ground floor level and residential accommodation above. Beyond this is a builders yard surrounded by low rise commercial premises including a marble masons, which are accessed via a vehicular entrance off Kilburn High Road adjacent to No. 252.
- 1.5 The application site is identified as containing potentially contaminated soil. The site is not located within a Conservation Area and the existing building is not listed. The site is located within a Town Centre under the Replacement Unitary Development Plan (2006). It is located opposite the boundary with the London Borough of Brent.

2.0 THE PROPOSAL

2.1 Planning permission is sought for the following works:

- Erection of a building on the site of No. 248 comprising ground plus first, second, third floors which project over the vehicular entrance.
- Erection of a building to the rear of the site (No. 246A) comprising basement, ground and (part) first, second and third floor level. Roof terraces are to be provided at first floor level and balconies at second and third floor level on the north-west elevation facing onto the Builders Yard (No. 254). Balconies are to be provided at first, second and third floor level on the south-east elevation facing onto the vehicular entrance to No. 246 and No. 244 beyond.

2.2 The proposed new buildings will provide the following accommodation:

	246A Kilburn High Road	248 Kilburn High Road	Total
Retail (A1)	68m ²	-	68m ²
Business (B1)	-	681m ²	681m ²
Residential (C3)	356m ² (6 units)	573m ² (4 units)	929m ² (10units)
2-bedroom	3 units	4 units	7
3-bedroom	3 units	-	3
Total	424m ² (6 units)	1254m ² (4 units)	1678m ² (10 units)

The residential flats are all accessed via the vehicular entrance to the south-east of No. 248. Refuse areas are provided at ground floor level and are all accessed via the vehicular entrance. There is secure, covered cycle storage at ground floor level with provision for 18 bicycles. The proposal incorporates measures to conserve energy and resources including the provision of 133m² of photovoltaic panels at roof level on No. 246A.

3.0 RELEVANT HISTORY

3.1 246A – 248 Kilburn High Road

2007/2027/P

An application was submitted on 19/04/07 for demolition of existing buildings (Class B1) and erection of building fronting Kilburn High Road comprising ground and 4 upper floors to provide retail unit (Class A1) on ground floor and 4 residential units on the upper floors and building to rear of site comprising basement, ground and 3 upper floors to provide offices (Class B1) at ground floor and 8 self-contained flats on the upper floors.

The application was withdrawn on 18/07/07 following officer advice that the scheme conflicted with the permission granted in respect of No. 246 Kilburn High Road (2005/1186/P). The approved extensions at no. 246 would obscure windows proposed in the south-east elevation, rendering some of the residential units uninhabitable.

2006/2674/P

An application was submitted on 12/10/06 for demolition of existing buildings (Class B1) and erection of a 4-storey building with basement to provide retail unit (Class A1) on ground floor at No.248, business unit (Class B1) at ground and basement at No.246A, and 14 self-contained flats on first, second and third floors of both Nos.246A and 248. The application was withdrawn on 16/01/07.

The application was withdrawn following advice from officers that the proposal was unacceptable in terms of mix of units, design, sustainability and that inadequate information had been submitted in relation to the amenity impact of the development, refuse storage and collection, cycle parking and lifetime homes standards.

2004/4552/P

Planning permission was granted on 31/03/05 for demolition of existing building (Class B1) and erection of a part 4/part 3 storey new building comprising of a gymnasium (Class D2) with ancillary café.

PWX0103456

Planning permission was granted on 22/08/02 for the change of use of the existing two storey building at the rear of the site from a recording studio (Sui Generis) to an office use (Class B1a), together with the partial demolition of the existing first floor and the remodelling and extension of the upper part of the building to create a total of three floor levels of office accommodation, together with associated elevational alterations.

3.2 246 Kilburn High Road

2005/1186/P

Planning permission was granted on 11/05/05 for erection of a second floor roof extension and a first floor extension at front part of building, to create additional habitable floorspace for the existing two storey live/work unit.

PWX0103854

Approval of Details was granted on 28/11/01 for facing materials pursuant to condition 1 of planning permission granted 13/09/01 (ref: PWX0103302/R1) for the erection of a 2 storey building for use as photographic studio and residential unit.

PWX0103302

Planning permission was granted on 13/09/01 for the demolition of the existing building and park boundary wall and the erection of a two storey building for use as a photographic studio with a self-contained residential unit.

3.3 244 Kilburn High Road

2003/3333/P

Planning permission was granted on 27/04/05 for the demolition of the existing first floor, alterations to the existing shopfronts and the erection of 3 x new floors on the Kilburn High Road frontage and 2 x new floors at the rear to accommodate 3 x 3 bedroom residential units and 4 x 1 bedroom flats above the existing ground floor retail premises.

4.0 CONSULTATIONS

4.1 Statutory Consultees

London Borough of Brent

No objection.

Transport for London

No comments; the proposed development would not result in an unacceptable impact on the Transport for London Network (TFLN)

4.2 Adjoining Occupiers

	Original
<i>Number of letters sent</i>	51
<i>Total number of responses received</i>	1
<i>Number of electronic responses</i>	0
<i>Number in support</i>	0
<i>Number of objections</i>	1

- 4.3 Martineau Johnson has raised objection to the proposal on behalf of the owner and occupier of No. 246 Kilburn High Road on the following grounds:

Amenity Issues

- Loss of privacy;
- Noise from increased activity in the courtyard;
- The scale and mass of the development will impact on the amenity of the occupiers of No. 246;
- Reduction in daylight and sunlight to No. 246 and their roof terrace;
- Noise disturbance from roof level plant;

Transportation Issues

- The development would restrict the height of the vehicular entrance to less than 3.75m which is less than the requirements of the photographic studio.

Other Issues

- The proposal conflicts with the outstanding planning permission at No. 246 (2005/1186/P);
- There is no reasonable prospect of the application being implemented, since it would involve the owners of No. 246 giving their consent, it therefore runs contrary to guidance in Circular 11/95 which relates to conditions;
- The assessments which accompany the application have not been updated following the redesign and are flawed and misleading;
- Reduction in security; and
- Not in compliance with local and national policy.

5.0 POLICIES

5.1 London Borough of Camden Replacement Unitary Development Plan 2006

S1/S2 Sustainable development

SD1 Quality of life

SD2 Planning obligations

SD3 Mixed use development

SD4 Density of development

SD6 Amenity for occupiers and neighbours

SD7B Noise/vibration pollution

SD8A Disturbance from plant and machinery

SD9 Resources and energy

SD12 Development and construction waste

H1 New housing

H7 Lifetime homes and wheelchair housing

H8 Mix of units

B1 General design principles

B4 Shopfronts, advertisement and signs

N4 Providing public open space

T2 Capacity of transport provision

T3 Pedestrians and cycling

T8 Car free housing and car capped housing

T9 Impact of parking

T12 Works affecting highways

R1A Location of new retail and entertainment uses

R2 General impact of retail and entertainment uses

E2 Retention of existing business uses

5.2 Camden Planning Guidance (2006)

6.0 ASSESSMENT

6.1 Land Use

The proposal will result in the net loss of 209m² of B1 floorspace on the site. It should be noted that some B1 floorspace (681m²) will be retained on site. The proposal is for a mixed use development which also incorporates provision of retail and residential accommodation

The existing use of the site is as Class B1 (Business). Policy E2 states that the Council will not grant planning permission for development that involves the loss of a business use on a site where there is the potential for that use to continue. Where it is not suitable for continuation of any business use other than B1(a) offices, as an exception to the general approach the Council may grant permission for a change of use; in such cases the Council would seek permanent residential or community uses.

The previous scheme granted for redevelopment of this site in March 2005 accepted the loss of all the Class B1 floorspace. It was considered that the suitability of the site for continued employment use was limited by the restricted access arrangements from Kilburn High Road and the lack of on-site servicing and that, notwithstanding the existing recording studio use, the main potential for continued B1 use would be for offices. There has been no significant change in policy or circumstance since this time. In light of this, the loss of some of the B1 office floorspace as part of the current development is considered to be acceptable.

In respect of the proposed use of the site to provide residential and retail floorspace, Replacement Unitary Development Plan Policies H1 and R1 welcome the provision of additional residential accommodation within Camden and new retail floorspace within Town Centres. The reintroduction of a retail unit onto Kilburn High Road will create a livelier frontage and contribute towards the vitality of the Town Centre. The provision of mixed use developments is sought under Policy SD3 in order to reduce the need for travel between homes, services and jobs. The proposal is therefore considered to be acceptable in land use terms.

6.2 Density

The application site has an area of 654m². The proposal provides 10 dwellings on the site; this equates to a density of 152 dwellings per hectare. The proposal will have a density of 505 habitable rooms per hectare.

Policy SD4 of the Replacement Unitary Development Plan (2006) regarding density of development refers to Policy 4B.3 of the London Plan. The proposed site is located within 10 minutes walk of a Town Centre and the environment fits into the 'urban' context described by the London Plan. The London Plan expects that, in such locations, 165-275 units per hectare should be provided. The proposal is slightly below this figure. The number of habitable rooms is within the range

recommended in an urban location, that being 450-700 habitable rooms per hectare.

The London Plan guidelines are a rather crude way of measuring development, since it is often difficult to categorise a site to fit within the matrix provided. Neither do they take into consideration the constraints of the site to provide more units, or the need to provide fewer dwellings to secure family sized units within schemes.

The proposed density of the residential development reflects the mixed use nature of the proposal, the desire to secure larger units as part of the scheme and the physical constraints of the site which dictate the scale of the proposed buildings. It is therefore considered to be acceptable in terms of density.

6.3 Mix of Units

Policy H8 requires that new residential schemes provide a mix of unit sizes, large and small. The policy does not give any indication as to the percentage of accommodation which should provide family sized accommodation. However, it states that, when assessing the appropriate mix for units within a housing scheme, the Council should have regard to Camden's Housing Needs Survey (2004), the site conditions and general locality.

The Survey shows that there is a shortage of all sizes of homes within the Borough. Whilst it is appreciated that the site is located in a busy environment and that the proposed flats have little private outdoor amenity space, it is located within close proximity to Kilburn Grange Park and in light of this it is considered that a scheme offering a proportion of family-sized accommodation would be appropriate.

The proposal includes the provision of smaller 2-bedroom units and 3-bedroom family-sized residential flats. The larger units have been appropriately located so that they can take advantage of the private outdoor amenity space provided as part of the development. The proposed mix of units is considered to be acceptable; providing accommodation suitable for a range of households.

6.4 Standard of Accommodation

The proposed 2-bedroom residential accommodation ranges in size from 65m² to 110m² and the 3-bedroom units from 91m² to 107m².

Residential development standards are outlined in Camden Planning Guidance (2006) - they require the following

No. of persons	1	2	3	4	5	6
Minimum floorspace (m ²)	32	48	61	75	84	93

The proposed residential units are all generously proportioned and exceed the minimum space standards for residential units outlined in Camden Planning Guidance (2006). All of the bedrooms meet the Council's expectation of 11m² for a first or double bedroom and 6.5m² for single bedrooms. The proposed units will all receive adequate natural light and ventilation.

Refuse and Recycling

The proposal includes the provision of 3 separate storage areas at ground floor level. All stores front onto and are accessed via the gated pedestrian and vehicular entrance from Kilburn High Road. Drawing No. P03C indicates provision of a refuse store to the rear of the retail shop. The flats at Nos. 248 and 246A are to share a storage area located adjacent to the entrance to the new flats at No. 246A, and next to this there is a refuse and recycling store for the new office accommodation. Street Environmental Services have confirmed that sufficient space has been allocated for waste and recycling storage. They suggest that 2-3 1110L Eurobins and 5 x 360L recycling containers would provide adequate receptacles for the residential accommodation. A condition should be imposed on the permission (if granted) to ensure that refuse and recycling facilities are provided prior to the first occupation of any of the residential and commercial units, and retained thereafter.

6.5 Lifetime Homes and Wheelchair Housing

As the proposal is for a new building, Approved Part M of the Building Regulations will apply to all elements of the proposed development. In addition, planning Policy H7 encourages all new dwellings to be designed to Lifetime Homes Standards and 10% to be wheelchair accessible or easily adaptable for residents who are wheelchair users.

In terms of the retail and business floorspace, the access officer is satisfied that most of the requirements will be met. Building Control has advised that internally there may be issues with the lift and stairs; but this should not affect consideration of the planning application.

The applicant has confirmed that they will seek to meet Lifetime Homes Standards. It is recommended that lifetime homes standards be secured via a S. 106 legal agreement.

There are two 2-bedroom units (20%) provided at second floor level within No. 246A which the access officer has confirmed could easily be adaptable for wheelchair users. The proposal therefore exceeds the Policy H7 recommendation that 10% of units within new residential developments be wheelchair accessible.

6.6 Design

Existing site and context

Fronting onto Kilburn High Road (south-west elevation) there is an existing single-storey building. The façade is unusual, as it has a shopfront consisting entirely of glass bricks, with no entrance. It also has an over-sized fascia with no signage. The rest of the façade is rendered.

South-east of the single-storey building is a gated vehicular entrance which leads to a private courtyard (belonging to No. 246) and the rest of the application site. The rear building of the application site is a 2-storey brick structure; its south-east

elevation looks onto the courtyard and its north-west elevation flanks another yard which forms part of the curtilage of surrounding commercial properties.

The south-east courtyard is owned by No. 246 Kilburn High Road, which is located at the north-west end of the courtyard and is a 2-storey structure with roof terrace and standing seam zinc cladding. There is an extant permission to extend this property at second floor roof level and into the courtyard at first floor level.

The rear of the application site (north-east elevation) looks out on to Kilburn Grange Park, over the roof terrace of 246 Kilburn High Road.

South east of the application site (Kilburn Road façade) are a series of 2-storey shopfront buildings (238-244 Kilburn High Road). The building closest to the application site has an attractive brick rounded gable. It is currently being extended under a permission granted in 2005. North-west of the application site (Kilburn High Road façade) are a series of 4-storey brick buildings with shopfronts at ground floor, stone banding, and prominent gables with mansard roofs behind (250-252 Kilburn High Road).

The architectural character of Kilburn High Road around the application site is varied. However, there is an overriding theme of dark coloured brick, decorated gables and decorated window surrounds.

Principle of Demolition

The existing buildings are located outside a conservation area and therefore the Council's consent as planning authority is not required for demolition. Notwithstanding this, it is considered that the existing buildings on the site of no particular architectural merit and they do not make a positive contribution to this area; there is no objection to their demolition. It should be noted that the Council has previously accepted the principle of demolition in relation to the redevelopment schemes granted in 2002 and 2005.

No. 248 Kilburn High Road (Front Building)

It is proposed to erect a building comprising ground, three upper floors and roof storey. The height of the building is considered to be acceptable, as the proposed building will be similar in height to the adjacent buildings to the north. Furthermore, a 4-storey building was approved on Kilburn High Road in 2005 and this forms part of an extant permission on the site.

The top roof storey is a mansard with a gable in front; the same arrangement as that at the adjacent properties Nos. 250-252 Kilburn High Road. This is considered acceptable in principle, as it completes the terrace and respects the neighbouring buildings. However, the proposed gable device at roof level is a weak version of those on the adjacent properties; it is simply shown as a parapet wall. It would be more authentic if it actually fronted a roof structure behind. However, it is considered to be acceptable as proposed subject to a condition for the submission of further details of the parapet coping. The parapet coping is currently a simplified version of that at No. 250. It will need to be sufficiently developed to be of adequate quality.

A bay window is proposed at first to third floor level in the centre of the front elevation. This is considered to be acceptable. It is an attractive design feature and bay windows above ground floor level are a feature of buildings in the surrounding area.

The proposed ground floor shopfront is considered to be acceptable, as it relates to the design of neighbouring shopfronts, and contains a stallriser and fascia of appropriate proportions and in suitable locations. The proposed shopfront is a significant improvement on the existing shopfront. Detailed drawings of the shopfront should be secured by condition to ensure that it is a suitably high quality.

Above ground floor level, the elevation is considered to be generally of high quality design, with storey heights, window proportions, window surround decoration, glazed brick banding, and gable feature, all successfully relating to the adjoining elevation at Nos. 250-252 Kilburn High Road.

However, the detailed design of windows and in particular the pattern of the glazing bars does not successfully relate to the neighbouring development. The windows on the first and second floor have a single transom and the windows on the third floor no glazing bars. It is recommended that all the windows on the elevation should have glazing bars. It is recommended that the windows be redesigned in the form of 2 over 2 paned timber sliding sash windows; further details of the windows should be secured by condition. The condition should also secure further details of the form and materials of the window reveals, lintels, cills and architraves. This will ensure quality and interest in the elevational finish.

The flank (south-east) and rear (north-east) elevation are also considered generally acceptable, with the brick and glazed brick banding decoration being carried through. The condition regarding the window design and detailing referred to above is also applicable to the rear elevation. No windows are proposed in the flank elevation.

The proposed materials for the elevation are facing brickwork with glazed brick banding, timber painted windows with stone surrounds and a slate roof. These are considered acceptable. The facing brickwork must be dark in colour and have a good texture to match as closely as possible Nos. 250-252 Kilburn High Road. It is recommended that a condition be imposed requiring a sample panel of all facing materials to be erected on-site. This must include a brick sample demonstrating type of brick selected, mortar mix, pointing specification and brick bond.

No. 246A Kilburn High Road (Rear Building)

A second building is proposed to the rear of No. 248. It comprises basement, ground and stepped back first, second and third floor levels. The third floor is located to the very rear of the site, facing Kilburn Grange Park. The local pattern of development is for lower buildings to the rear of those properties facing onto Kilburn High Road. The height of the rear building is considered acceptable, as it will not rise above the proposed building fronting Kilburn High Road and is broadly in scale with other development that has been approved at neighbouring properties such as Nos. 240-242 and No. 244. Furthermore, it is broadly similar in height, bulk and mass to the buildings granted permission on this site in 2002 and 2005.

The rear building is more contemporary in design than the Kilburn High Road building. It incorporates brick at ground floor level with render, terracotta and rainscreen cladding on the upper floors. The windows and doors are to be powder coated aluminium. There are projecting balconies on the south-east and north-west elevations which comprise steel mesh panels set between steel upstands and handrails. It is not clear from the drawings what colour the windows are to be. It is recommended that they be a dark colour and this should be secured by condition.

The detailed design of the south-east elevation has been extremely difficult to develop given the extant permissions at No. 246. This elevation would abut the approved first floor level extension to No. 246. Window openings on the northern most end of this elevation have had to be omitted and the internal layout reconfigured accordingly. Any windows would have been obscured by the extension at No. 246 if it were implemented; thereby rendering the space behind unsuitable for habitable residential accommodation.

The south-east elevation is considered to be well detailed when considered in conjunction with the extension at No. 246. In the event that it is not constructed, the elevation would have a slightly unstructured appearance. Given that the south-east elevation of the existing building is a 2-storey brick wall with no openings and that the proposed south-east elevation is a flank wall which would not be visible from the public realm, it will be obscured by the development currently under construction at No. 244, the detailed design of this elevation is considered to be acceptable.

The south-west and north-east elevation of the buildings offer limited scope for innovative design because of the need to maintain the privacy of neighbouring properties; both elevations therefore contain minimum glazing.

6.7 **Amenity**

Policy SD6 seeks to ensure that the amenity of occupiers of neighbouring properties is protected. It states that planning permission will not be granted for development that causes harm to the amenity of occupiers and neighbours in terms of loss of daylight, sunlight and outlook.

Daylight, Sunlight and Outlook

In the close urban environment where a proposal brings a wall or building close to an affected party, there may be two related, but different potential impacts; firstly there may be a loss of view of the sky, with the resultant reduction of daylight and in some cases sunlight; but secondly, the very presence of the solid structure in close proximity creates an uncomfortable enclosed feeling. Both issues require consideration in respect of this application.

The SPG states that the guidelines and methods contained in the BRE document '*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*' should be applied in assessing the impact of new development. It refers to use of the two most commonly used measurement of the Vertical Sky Component (VSC) and Average Daylight Factor (ADF).

The applicant has submitted a daylight and sunlight study prepared by J. W. Associates in support of their application. It is noted that this report was prepared in respect of the previously withdrawn scheme 2007/2027/P. However, as the only changes to the proposal between the two schemes relates to the detailed design, and there has been no increase in the height, bulk, mass and position of the proposed buildings, it remains relevant and adequate for assessment of the current application.

The report assesses the impact of the proposed development on Nos. 246 and Nos. 250-252 Kilburn High Road. It also gives consideration to the impact on No. 254 Kilburn High Road; however, this is not relevant as the building is in commercial rather than residential use.

The daylight study details the existing and proposed VSC to a window at front first floor level No. 246 Kilburn High Road and the rear first floor level windows of Nos. 250-252 and No. 256 Kilburn High Road. This is a test of the amount of skylight falling onto the windows 'as existing' and 'as proposed' with the development in place. The BRE suggest that a VSC of 27% would be broadly equivalent to a good level of daylight. If the VSC, with the new development in place, were to fall below 27% and was less than 0.8 times its former value, then the occupants of the existing building would experience a noticeable reduction in the amount of daylight. The BRE state that these are guidelines, not mandatory, and should be applied flexibly.

The report indicates that the windows to the rear of 250-252 and 256 Kilburn High Road will continue to receive daylight in excess of BRE recommendations.

In terms of the impact on daylight to No. 246, the report indicates that there will be a loss of daylight to the front first floor level window in excess of BRE guidelines. The reduction in VSC will be from 35.47% to 21.83%. The resulting level of daylight is 0.6 of its former value. As stated above, the BRE recommendations are guidelines rather than rigid standards. The window serves a study room belonging to a live/work unit. Given that the loss of VSC is only marginally beyond BRE guidelines, it is considered that it would be difficult to justify refusal of this scheme on loss of daylight.

The BRE recommends that all main living rooms of dwellings and conservatories shall be checked for loss of sunlight if they have windows within 90 degrees of due south. In this instance, the only property potentially affected by the development which has windows within 90 degrees of due south is No. 276 Kilburn High Road.

The BRE guidelines suggest that a dwelling will appear reasonably well sunlit provided that at least one main window wall faces within 90° of due south and it receives at least a quarter (25%) of annual probable sunlight hours, including 5% of annual probable sunlight hours during the winter months. As with the test for daylighting, the guidance recommends that any reduction below this level should be kept to a minimum; if a window will not receive the amount of sunlight suggested, and the available sunlight hours is reduced to less than 0.8 times of the former level over the whole year or during winter months, the reduction would be

noticed by the occupants, the room may appear colder and less cheerful and pleasant.

The first floor level window as existing does not receive a level of annual or winter sunlight which accords with BRE guidelines. The proposed development would result in no change to the level of sunlight this window receives. In terms of the level of sunlight to the roof terrace of this property, the report demonstrates that even with the development in place the terrace will continue to be adequately sunlit.

It should be noted that permission has previously been granted for a development of similar height, bulk and massing on this site in 2002 and 2005. The latter permission remains valid. It was considered at the time these permissions were granted that there would be no adverse impact on No. 246 in terms of loss of daylight or sunlight. There has been no change in circumstance since this time.

No. 244 which lies to the south-east of the site has no windows in its flank elevation. The rear extension currently being constructed is to include rooflights. Because of the angle of these openings, there will be no loss of light or outlook to this property.

Overlooking

The BRE guidelines recommend distances of 18-35m between residential windows which directly face each other, to ensure privacy is maintained. Such distances are generally unachievable in a central urban location such as this. However, Policy SD6 of the RUDP does seek to ensure that privacy is maintained, and overlooking is not of an unacceptable level.

Those windows on the rear elevation of the new building at No. 248 would in part look onto the south-west elevation of the new rear building at No. 246A. There would be no overlooking between these two properties, since the south-west elevation of the new rear building is to have obscure glazing. There are windows on No. 248 at first to fourth floor levels which face into the existing courtyard. No. 244, once development has been completed, will have no windows in the flank elevation at this end of the site; those to the rear take the form of rooflights which, by virtue of their angle and distance, would not be directly overlooked. No. 248 would look onto the communal garden between the front and rear building at No. 244, but this is already overlooked by other properties further south. No. 246 has a window on its front elevation facing into the courtyard; at present this would be 25m distant, but were the extant permission at No. 246 to be implemented it would be 16m away from windows on the rear of No. 248. Whilst this is marginally below the recommended 18m, it is considered to be acceptable given that this is a dense urban environment where such a distance is rarely achieved. It is considered that the 16m will continue to provide an adequate level of privacy to the occupier.

Windows proposed on the south-west elevation at first, second and third floor levels and on the north-east elevation at third floor level on the rear building (No. 248) are to be obscure glazed in order to protect the privacy of neighbouring properties Nos. 250-252 and No. 246. The windows on the south-west elevation would be within 18m of windows on the rear elevation of Nos. 250-252. Those windows on the north-east elevation would face over the glass roof of the proposed extension to

No. 246 and also their roof terrace. It is recommended that a condition be imposed to secure these windows as obscure glazed and fixed shut.

The north-east elevation includes the provision of windows, balconies and terraces at first, second and third floor levels. This elevation faces onto a builders yard and commercial properties. The rear elevation of Nos. 256-258 also faces onto this yard. The terraces and windows at first floor level are largely obscured by the parapet wall. The higher level windows and balconies are 17m or more distant from rear elevation of Nos. 256-258. This is considered to be sufficient to prevent any adverse impact on residential amenity in respect of openings and amenity space on this elevation.

The first floor level terrace is to be sub-divided between the two first floor level flats by means of a 1.8 high privacy screen. This will ensure that the occupiers of the new properties have adequate privacy when using their outdoor amenity space.

Those windows and balconies on the south-east elevation at first and second floor levels face towards No. 244. No. 244 is currently being extended. The additional floors to the rear of the building are to provide residential accommodation. The roof form of this structure has been designed with a double pitched roof and rooflights. The first and second floor level windows and balconies would overlook these, but by virtue of the angle of them would not be directly overlooked. The first floor level window on the front elevation of No. 246 sits perpendicular to this elevation. In terms of the impact on this window, it has to be assumed that it would be in the location were the approved scheme at No. 246 implemented, as this would be closer to the proposed developments windows. It is considered that the proposed first and second floor level French doors, because of their recessed nature, will not allow views into this window. It is recommended that the proposed balconies be amended to Juliette balconies, as those shown on the drawings would allow views into this window. The windows at first and second floor level closest to No. 246 will obtain some views into the first floor level accommodation; however, because of the layout of No. 246 and the recessed nature of the proposed openings, only the very corner of the first floor level room would be visible. On balance, it is considered that this level of overlooking is not so severe that it warrants the use of obscure glazing in these openings.

Those at third floor would be set further back and would, if the permission at No. 246 were implemented, be largely obscured from view. In the event that the permission was not implemented, they would be looking onto the existing zinc clad roof of No. 246. This does have one rooflight, but it is sufficiently distanced to prevent views into it and would be sufficiently distanced from the rooflights at No. 244 to prevent any direct overlooking.

Noise

The proposal includes the provision of plant in an enclosure at first floor level on a flat roof between the new front and rear building. The applicant has submitted an acoustic report prepared by Applied Acoustic Design as part of this application. The report assesses background noise levels between 09.00 and 22.00 (the proposed hours of operation). It concludes that the lowest background noise level is 48dB between 09.00 and 19.00 and 51dB between the hours 19.00 and 22.00.

The Council's standard noise condition as detailed in Appendix 1 of Replacement Unitary Development Plan requires that plant operates at 5dB below the background noise level at the nearest noise sensitive façade or 10dB if the plant is the plant has a distinguishable discrete or continuous note. It is not predicted that the plant will emit any distinguishable tonal noises. The report demonstrates that levels 5dB below the background noise level (43dB) can be achieved between 09.00 and 19.00 and 8dB below (38dB) between the hours of 19.00 and 22.00. It is considered that the proposed plant can comply with the requirements of Policy SD7B and SD8A of the Replacement Unitary Development Plan over the proposed hours of operation (09.00 to 22.00) subject to the plant being installed in accordance with recommendations of the acoustic report. It is recommended that conditions be imposed to ensure attenuation and enclosures referred to in the acoustic report are provided and to ensure that noise levels and the hours of operation are restricted.

6.8 Transportation Issues

Car Parking

The application site is located within a Town Centre with easy access to shops and services. It is close to Brondesbury train station, which provides access to the North London Line and also Kilburn Underground station which is on the Jubilee Line. There are also numerous bus services which stop along Kilburn High Road. The site has a PTAL rating of 5 (excellent). The proposed development would increase demand for on-street car parking within the area. The site is within a Controlled Parking Zone which operates Monday to Friday 08.30 to 18.30. There is a ratio of parking permits to available parking bays of 0.89. This means that more permits have been issued than there are spaces available. It is therefore recommended that, if planning permission were granted, all residential units should be secured as car-free by a S. 106 legal agreement.

Cycle Parking

The Council aims to increase the attractiveness of walking, cycling and public transport. As such, Policy T3 of the Replacement Unitary Development Plan and Appendix 6 require the provision of 1 secure cycle parking space per residential unit. Spaces are also required for visitors to the residential accommodation if the proposal exceeds 20 units (this should be 1 per 10 units or part thereof). In terms of the commercial floorspace - where a development exceeds the 500m² threshold, 1 space should be provide per 250m² or part thereof for staff and a minimum of 2 for visitors if visitors are expected. In this instance, there is the requirement of 10 cycle parking spaces for the residential accommodation and 5 for the B1 business floorspace.

The proposal includes the provision of 18 cycle spaces located at ground floor level. The proposal therefore exceeds the requirements of Policy T3. The cycle parking is covered, secure and has level access. It is not clear what design of parking is to be used. The Council prefers Sheffield style stands as described in Camden's Streetscape Design Manual or cycle lockers. Hook and hang or vertical parking systems are not acceptable as they are not easily accessible. It is recommended that further details of the cycle parking be secured by condition.

Construction Management Plan

If permission were to be granted it would be necessary to require the applicant to enter into a S. 106 legal agreement to secure the provision of a construction management plan. A construction management plan outlines how construction work will be carried out and how this work will be serviced (e.g. delivery of materials, set down and collection of skips etc.), with the objective of minimising traffic disruption and avoiding dangerous situations for pedestrians and other road users.

A S.106 agreement would also be required for repaving the footway in front of the development following construction.

6.9 Sustainability

An Ecohomes Pre-Assessment report has been prepared by Julian Brooks Associates. The report concludes that the proposed residential development would achieve an overall score of 59.6% giving it an Eco-Homes rating of 'Very Good' which is in accordance with the requirements of Policy SD9 of the Unitary Development Plan. The development achieves credits of 58.33% in energy, 66.67% in water and 70.97% in materials. The development is slightly below the recommended credits in terms of energy, but on balance the proposal is considered to be acceptable.

Similarly, A BREEAM assessment has been undertaken in respect of the new commercial element of the proposal. The assessment shows that the proposal will only achieve a rating of 31.62% which gives it a 'pass' rating. The applicant has indicated that they believe that they can achieve an overall rating of 'good' once they have finalised the detailed design of the commercial space (it has only be design to shell and core finish at present). Council policy requires that commercial developments achieve a BREEAM rating of either 'very good' or 'excellent'. It is recommended that, if permission is granted, a S.106 agreement be used to secure the submission of further details of sustainability measures for the commercial floorspace to demonstrate that it can achieve a standard of 'very good' or 'excellent'.

As a Major Development, there is a requirement that at least 10% of the predicated energy requirements should be provided by renewable energy sources. The predicted annual carbon emission for the development is 14,055.42kg C/year. In order to comply with Policy SD9, carbon emissions should be reduced by at least 1,406 kg C/year. It is proposed to install 133m² of photovoltaic panels at roof level and the energy statement submitted in support of the application indicates that this will result in a predicted reduction of 1503 kg C/year. The proposal therefore exceeds the 10% requirement of Policy SD9.

6.10 Crime Prevention

The Crime Prevention Design Advisor has advised that there are no concerns regarding the design and layout of the proposal. The applicant has indicated that they intend to apply for Secure by Design. In order to ensure the development meets the Secure by Design standards, it is recommended that the communal entrance and residential doors meet the BA PAS 23/24 standard. It is also recommended that access control, both audio and video, should be provided at the

street entrance and the two residential entrances. The communal gating should be controlled by self-closers/locking and communal lighting should be provided to BS 5489.

6.11 Contaminated land

The former uses of the site could have potentially led to contamination of the site. Adjacent historical land uses, which include a printing works, may have also led to contamination migrating onto the site. It is recommended that a condition of planning permission be included that requires an appropriate site investigation to be undertaken and a report including any recommendations for remediation be submitted prior to any construction works taking place.

6.12 Planning Obligations

Proposals which include the provision of 5 or more residential units are likely to result in an increase in the use of public open space. Under Policy N4 of the Replacement Unitary Development Plan, where permission is granted for such developments a contribution should be made to the supply of open space. The proposed residential units potentially provide an additional 23 bedspaces. The Camden Planning Guidance (2006) requires the provision of 9m² per person; therefore the requirement in respect of this application would be 207m². The guidance states that the cost of provision is £55 per m²; with £5.70 per m² for maintenance of that space over 5 years. Therefore, in respect of the current development, a contribution of £12,564.90 is required towards the provision of public open space. The proposed commercial element of the proposal does not exceed the threshold (1000m²) which triggers a requirement for public open space provision in respect of non-residential proposals.

The proposed development, which includes the provision of 10 new residential units, is likely to place an increased burden on educational facilities in the area. It is therefore recommended that a contribution be made toward the provision of educational infrastructure in accordance with Policy SD2 and Section 34 of Camden Planning Guidance. The contribution has been calculated in accordance with formula contained in the CPG. The formula requires the provision of £3,148 per 2-bedroom unit and £7,572 per 3-bedroom unit. Therefore, in respect of the current proposal which includes 7 x 2-bedroom units and 3 x 3-bedroom units, a contribution of £44,752 is required towards educational infrastructure.

6.13 Other Issues

It is understood that the title deeds for No. 246 include a number of covenants that may restrict development on No. 248 and significantly affect construction of the approved scheme. The existence and content of property title covenants are not considerations that are material to the determination of planning applications. This is a civil matter that should be resolved between relevant parties.

The objector states that the BREEAM, Ecohomes, Acoustic and sunlight and daylight reports accompanying the application are misleading as they have not been updated to take into account the design changes that have occurred. It is noted that a number of the documents submitted in support of the application, in particular the design statement, design and access statement did refer to 12 flats instead of 10. The applicant has since amended these. The other documents did

not require amendment. These were prepared in respect of the previously withdrawn scheme. The only changes between the scheme submitted in April 2007 and the current scheme relate to the detailed design of the south-east elevation and the internal layout and therefore would not impact on the findings of the said documents.

7.0 CONCLUSION

7.1 The application site is an extremely constrained site. The adjacent buildings have extant permissions to extend upwards which have placed significant restrictions in terms of redevelopment of the site. The building has been vacant for 6 years. The proposed development would provide much needed additional residential accommodation, and in particular family housing, in the Borough. It also includes retail and office space to provide a mixed use development in line with RUDP policy. The design of the building fronting Kilburn High Road relates well to the surrounding properties in terms of scale and detail. The more contemporary rear building is considered to be a good response to the development of what is an extremely difficult site. The proposed development will not adversely impact on the amenity of neighbouring properties either as existing or in the event that they implement outstanding planning permissions. The proposed accommodation is of a good standard and has been designed with sustainability in mind. The office accommodation is not currently as sustainable as the Council would expect, but improvements to this are to be secured via legal agreement.

7.2 Planning Permission is recommended subject to a S.106 Legal Agreement to secure the following:

- Car-free housing
- Contribution towards provision of educational infrastructure £44,752;
- Contribution towards provision of public open space £12,564.90;
- Associated highways works;
- Construction transport plan;
- Lifetimes homes; and
- Sustainability measures.

7.3 In the event that the S106 Legal Agreement referred to above has not been completed within 13 weeks of the date of the registration of the application, the Development Control Service Manager be given authority to refuse planning permission for the following reasons:-

- Increased pressure on on-street car parking;
- Increased pressure on educational facilities;
- Increased pressure on existing public open space facilities; and
- Inadequate provision of measures to ensure conservation of resources and energy.

8.0 LEGAL COMMENTS

8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

