

Location	Rear Of 184 Burnt Oak Broadway Edgware HA8 0AS	
Reference:	21/4174/OUT	Received: 27th July 2021 Accepted: 30th July 2021
Ward:	Burnt Oak	Expiry: 24th September 2021
Case Officer:	Dominic Duffin	
Applicant:	Mr Dhiraj Shiyani	
Proposal:	Erection of a commercial garage following partial demolition of existing commercial garage	

OFFICER'S RECOMMENDATION

Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in their absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan: 01
 Existing Site Plan: 02
 Proposed Site Plan: 03
 Existing Ground Floor Plan: 05
 Existing Roof Plan: 06
 Existing Elevations (01): 07
 Existing Elevations (02): 08
 Proposed Ground floor Plan: 09
 Proposed Roof Plan: 10
 Proposed Elevations (1): 11
 Proposed Elevations (2): 12

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 Application for the approval of the reserved matters must be made before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 3 The development to which this permission relates must be begun not later than two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

- 4 Details of the access, appearance, layout and scale (Reserved Matters as per condition 1)) of the development shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out in accordance with those details as approved.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality, the flow of traffic and conditions of general safety on the adjacent highway or the enjoyment of neighbouring occupiers of their properties, in accordance with Policies DM01 and DM17 of the Development Management Policies DPD (adopted September 2012) and Policies T6, D3, D4, D5 and D6 of the London Plan 2021.

- 5 The use hereby permitted shall operate within the application site, and there shall be no works to vehicles, or any activities in connection with the proposed use, carried on outside the application site.

Reason: To safeguard the amenities of occupiers of adjoining residential properties and in the interest of the visual amenity of the area.

- 6 a) No development other than demolition works shall commence on site in connection with the development hereby approved until a report has been carried out by a competent acoustic consultant that assesses the likely noise impacts from the development, including from any ventilation/extraction plant, and mitigation measures for the development to reduce these noise impacts to acceptable levels, has been submitted to and approved in writing by the Local Planning Authority.

The report shall include all calculations and baseline data and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the amenities

of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2016) and Policies D13 and D14 of the London Plan 2021.

- 7 a) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractors compound and car parking arrangements;
 - ix. details of interim car parking management arrangements for the duration of construction;
 - x. details of a community liaison contact for the duration of all works associated with the development.
- b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.

Reason: In the interests of highway safety, noise and good air quality in accordance with Policies DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policies SI 1, SI 7, D14 and T7 of the London Plan 2021.

- 8 The level of noise emitted from any plant used in connection with the car garage use hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

Reason: To ensure that the proposed development does not prejudice the amenities

of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and D.14 of the London Plan 2021.

9 Part 1

Before development commences other than for investigative work:

a) A desktop study (Preliminary Risk Assessment) shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study (Preliminary Risk Assessment) and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.

b) If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:

- a risk assessment to be undertaken,
- refinement of the Conceptual Model, and
- the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

c) If the risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using the information obtained from the site investigation, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.

Part 2

d) Where remediation of contamination on the site is required completion of the remediation detailed in the method statement shall be carried out and a report that provides verification that the required works have been carried out, shall be submitted to, and approved in writing by the Local Planning Authority before the development is occupied.

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety in accordance with Policy CS NPPF of the Local Plan Core Strategy DPD (adopted September 2012), DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016).

- 10 The premises hereby permitted shall be used for the repair and maintenance of vehicles (Use Class B2) and there shall be no spraying of vehicles carried out in connection with the use.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2016) and Policies D13 and D14 of the London Plan 2021.

- 11 a) Details of any flues that may be required in connection with the use shall be submitted to and approved by the Local Planning Authority prior to their installation. Measures should be put in place to ensure any flue(s) are as far away as possible from resident's windows and reduce the line of sight. The final discharge must be vertically upwards. There should be no Chinese hat or cowl on the top of the flue. If flues are to be attached to neighbouring noise/vibration sensitive premises they must incorporate anti-vibration mounts, flexible couplings and silencers.

b) In each case, the development shall proceed in accordance with the agreed details.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and D14 of the London Plan 2021.

- 12 The detailed scheme to be brought forward in discharge of Reserved Matters shall comprise only 1 no door for entry/exit onto South Road. Any such door shall be either inward opening, up and over, or a sliding door and shall not open outward onto South Road.

Reason: In the interests of highway safety, in accordance with Policy DM17 of the Development Management Policies DPD (adopted September 2012).

- 13 The proposed building hereby permitted shall not be open to members of the public before 08.00am or after 18.00pm on weekdays, before 08.00am and after 17.00pm on Saturdays and not at all on Sundays and Bank and Public Holidays.

Reason: To safeguard the amenities of occupiers of adjoining residential properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and D.14 of the London Plan 2021.

Informative(s):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

OFFICER'S ASSESSMENT

1. Site Description

The application site is located to the rear of No.184 Burnt Oak Broadway. No.184 is a commercial premises within a parade of units and is occupied by a large retail unit which trades car parts and accessories. There are residential units above. No184 is within the secondary frontage of Burnt Oak Town Centre.

To the rear of the unit is a pre-fabricated structure, which is the application site, it is outside the town centre boundary, and is located on South Road. The character here differs and consists of modern new build residential flats at Redhill Court, and more established semi-detached dwellings.

The unit is surrounded by parking space, and there are some lock-up garages opposite, and it straddles the access road for the parking area serving the dwellings and an access that runs along the rear of units facing Burnt Oak Broadway. A palisade fence runs from the centre of the unit, with a door entrance onto the rear access and another onto South Road. The applicant states that this operates as a one-way flow, entry/exist system.

The unit is of no visual merit and is in use as a car garage "Coly Garage" (Use Class B2). The application site amounts to this building, with no ancillary space or curtilage around it.

2. Relevant Site History

There is no planning application history relevant to the application site. There has been some enforcement history going back many years, in relation to a car garage at the site, the most recent investigation was in 2009. The planning history is discussed below.

Reference: ENF/01352/09/H

Address: 184 Burnt Oak Broadway, Edgware, Middx, HA8 0AS

Decision: No Further Action (lawful)

Decision Date: 23.10.2009

Description: Unauthorised change of use of the land to car repairs.

Reference: ENF/01494/07/W

Address: 184 Burnt Oak Broadway, Edgware, Middx, HA8 0AS

Decision: No Further Action (lawful)

Decision Date: 18.09.2012

Description: Change of Use - Car Repair Garage

3. Proposal

Consent is sought at outline stage with all matters reserved to part demolish the existing buildings on site and construct a new purpose-built garage.

Whilst an outline application has been made indicative plans have been submitted. These show a front facing gabled roof structure, finished in metal cladding, with a sheet metal roof, to a total height of 4.0m; 3.20m facing South Road. The plans indicate 2 doors would open onto South Road with a single door opening onto the rear access road. The building would be able to accommodate two cars for servicing purposes.

4. Public Consultation

113 consultation letters were sent to neighbouring properties - Nine replies received through public consultation.

This consisted of eight letters of objection and one letter of support.

The objections received can be summarised as follows:

- The occupation of parking bays by repair cars/recovery vehicles which are designed for local residents and it is difficult to find parking next to our residential properties
- Noise nuisance and gathering of customers in the area at all times and noise from recovery lorries
- Concern about impact on the health of residents from fumes
- The area has been over-developed and this has caused more pollution, more traffic and more difficulty to find parking spaces.
- Cars are tested along South Road and are speeding up and down which is dangerous.
- Repair cars are parked all over the estate sometimes for weeks on end.
- Concerns of health and safety like fire hazard and noise levels
- This is a residential area, the garage should be on an industrial estate.
- The cars left parked are often in a very poor state and make South Road look unsightly.

The support received can be summarised as follows:

- Support this planning permission. I feel that the work will create a building that is more in keeping with the buildings the garage is located next to.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The revised National Planning Policy Framework (NPPF) was published in July 2021. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2021

The new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous Plan.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

Relevant Local Plan Core Strategy DPD (Adopted 2012) Policies: CSNPPF, CS1, CS4, CS5, CS9, CS13, CS14

Relevant Local Plan Development Management DPD (Adopted 2012) Policies: DM01, DM02, DM03, DM04, DM06, DM07, DM08, DM17

Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Barnet's Local Plan (Reg 22) 2021

Barnet's Draft Local Plan -Reg 22 - Submission was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission the Local Plan will now undergo an Examination in Public. The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. It represents Barnet's draft Local Plan.

The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of the policies and site proposals in the draft Local Plan and the stage that it has reached.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Principle of development;
- Whether harm would be caused to the living conditions of neighbouring residents
- Whether harm would be caused to the character and appearance of the street scene and the wider locality;
- Whether the development would impact traffic and highways to an unacceptable level.

5.3 Assessment

Principle of development:

The application building is currently in use as a car repair garage, which falls within Use Class (B2). The Use Classes order describes B2 uses as involving an industrial process.

It is evident that a car garage use has occupied the application site for some period of time. As detailed above there have been two previous enforcement investigations dating from some years ago now, which addressed the issue of the use of the site as a car garage.

The most recent of these enforcement investigations provides some useful background and commentary on the application site. As detailed above both investigations concluded that the use was lawful.

The following provides detail of the conclusions into the 2009 investigation;

"The planning history is scant but it is accepted that the 'shop' property at the front has historically been an auto factors for many years past, going back at least to the 1960's.

There also appears to have been an associated car repair business at the rear, based around a brick building described as a 'garage' but which was thought to be originally an air raid shelter. This building has been extended with 'lean-to' type additions over the years, of sheet iron and wood sheet board of poor quality and design.

Originally, this car repair garage was tucked away at the end of a private access way to the rear of the shops.

In 1970's the land to the East of the site was compulsorily purchased, the existing development, mainly Victorian and Edwardian housing stock was swept away and a new housing estate and road layout was made.

The new development exposed the rear of the shops from 184 to 198 Burnt Oak Broadway and the existing car repair garage, which was outside of the scheme, to a view from the newly aligned South Road.

As the result of complaints to the Council regarding the car repair garage, the history has been reviewed at various times, the most recent being, in 2007 and previous to that 2001.

Although there is no planning permission, development becomes lawful after 4 years and a non-residential use becomes lawful after ten years.

In this case both the use and the development have become lawful through the passage of time and no further action can be taken under the Town & Country Planning Act 1990.

Twelve years have passed since the last enforcement investigation, there is nothing to suggest the use ceased in this period, and it is evident that the garage has been a long established fixture at this location. Whilst no Lawful Development Certificate was ever put in place, the council considered that the time for taking enforcement action had passed, and the garage was an established and lawful use.

Street view images dating back to 2009 show a less substantial use in terms of built form, a small brick building with various wooden lean-to's, and an open yard area. The building which now occupies the site is more substantial, albeit it is still a low set building, and has been in place from at least 2015, and is therefore similarly established.

This application seeks to part demolish the existing structure and provide a new building to replace. There would be some advantages to this as the existing is in a dilapidated state, this is discussed in more detail below. However, the general principle of upgrading the premises can be accepted, but critical considerations, some raised in third party representations, are also discussed below.

Whether harm would be caused to the living conditions of neighbouring residents

As detailed above, some local residents have raised concern that this use, at this location has caused issues and it is recognised that a car garage use on a confined site, in close proximity to residential dwellings does have the potential to cause a conflict in land use terms.

The view could be taken that this is an unrestricted use, over which the council cannot exercise control, and the application represents an opportunity to regulate the use to some degree and to alleviate some of the concerns raised above.

The council's Environmental Health section have been consulted on this application and provided comment.

This states that the materials used for the garage will generate a lot of sound reverberation, therefore any noisy equipment will need to be isolated from the ground and structure. With residential properties in close proximity, a noise report will need to be produced to show how the applicant would mitigate any noise from the use. It is recommended that the hours of use should also be conditioned.

Other suggested conditions include;

- Construction method statement- to minimise impacts on the local environment and

surrounding amenity during construction & demolition

- Conditions to restrict noise from any plant, ventilation and extraction equipment
- A contaminated land survey.

It is noted that in third party representations, the point has been made, that this use should be located on an industrial estate. It is acknowledged that the location of this use close to residential properties and the confined nature of the site, is of some concern. However, the options available amount to; the granting of consent for this application which opens up the potential to control the use to some degree, or the likely continued unrestricted use as a car garage, in a visually poor building.

In addition to conditions on noise control, further controls on hours of operation, and the carrying out of the use within the site can also be considered. There would be no increase in the operational capacity of the garage, it would still serve two cars within.

It should be noted that South Road is a service road to access parking areas and as such there is some separation to residential properties at Fell Walk, rear garden areas are closest to the site. The more recent development at Redhill Court, is closer to the garage, and has windows close to the car garage. A more substantial building will have some impact on outlook, and there would be increased overshadowing in the later evening, however it is not considered that this aspect of any new scheme would result in an unacceptably detrimental impact, appear significantly overbearing or cause serious harm to the amenity of adjacent occupants relative to the established position. Appropriate ventilation could be secured by condition.

It is considered that, on balance, the proposed use, restricted by conditions can be accepted at this location from an amenity perspective, given the above considerations.

Whether harm would be caused to the character and appearance of the street scene and the wider locality

The application has been made in outline form, although as detailed above, plans have been submitted. It is noted that third party comments mention the potential to replace the built form with a more suitable building and this has been touched upon above. Any building to serve this use is inevitably going to be more utilitarian in character. However the existing buildings detract from the character of the area, and whilst located close to residential properties, the site is also on a service road to the rear of commercial units, including lock-up garages, and so to some degree is mixed in character.

The submitted plans propose a steel-clad building, more substantial in height but with the same footprint. The applicant advises the increased height is needed to accommodate a car lift and this is considered a reasonable requirement for a garage. In light of the above considerations, such a structure would be acceptable at the site. The detailed design would be considered at Reserved Matters stage.

Whether the development would impact traffic and highways to an unacceptable level

Policy CS9 of the Barnet Core Strategy (Providing safe, effective and efficient travel)

identifies that the Council will seek to ensure more efficient use of the local road network and more environmentally friendly transport networks, require that development is matched to capacity and promote the delivery of appropriate transport infrastructure. Policy DM17 (Travel impact and parking standards) of the Barnet Development Management Plan document sets out the parking standards that the Council will apply when assessing new developments.

Other sections of Policies DM17 and CS9 seek that proposals ensure the safety of all road users and make travel safer, reduce congestion, minimise increases in road traffic, provide suitable and safe access for all users of developments, ensure roads within the borough are used appropriately, require acceptable facilities for pedestrians and cyclists and reduce the need to travel.

The Highways section of the council has been consulted and provided comment. As detailed above this is an unregulated use and its potential impact on highway safety has not been previously considered. The Highways section comment that *"the proposed development would mean further vehicular conflict when accessing and egressing the garage. Additional doors would create additional conflict points with pedestrians due to lack of segregation between pedestrians and vehicles in the area. Therefore, Highways will not support the proposal"*.

Whilst it is acknowledged this is an existing use, Highways would not support any increase in potential conflicts and it is evident that this development opening straight onto the highway is not an ideal scenario.

The proposed plans, which demonstrate two doors opening onto South Road, are indicative, but highways have advised they would maintain an objection, even if the proposal resulted in a like for like replacement of one single door opening onto South Road - *"The proposal of retaining just 1x door instead of the previously proposed 2x, although it would mean no increase of concerns, it wouldn't mean that the existing concerns are removed"*

However, as discussed within the amenity and design sections, the present circumstances can be improved and further improvements can be made with use of planning conditions which can control work practices, control noise, hours of operation etc. It is accepted that there is a highway concern with this application, how a new structure with a single door opening onto South Road would not worsen the existing scenario, and it is considered there are no reasonable grounds of refusal - given the lawful use and existing dilapidated state of the building which clearly needs upgrading - if it were revised at the reserved matters stage to present only one door (which did not open outward). A condition to that effect is therefore proposed.

Some neighbours have made comment about the garage, using parking spaces around the site for customers vehicles/recovery vehicles. However, this is something which is difficult for the council to have control over, as the use itself is not within the scope of the development description and there are no parking restrictions in place.

In light of the above, it is considered that a like for like access replacement, onto South Road, in connection with the use, can be accepted. Details can be agreed at Reserved Matters stage.

5.4 Response to Public Consultation

It is considered that third-party comments have been discussed and addressed within the report.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

In light of the above appraisal, it is considered that the proposed development can, on balance, be accepted, given the site history and need for refurbishment. Concerns around amenity and highway safety are acknowledged but can to some degree be mitigated with the use of planning conditions. It is therefore recommended for APPROVAL subject to conditions

