

Committee Report
Planning Committee on 25 November, 2009

Case No. 09/2091

RECEIVED: 21 August, 2009

WARD: Kenton

PLANNING AREA: Kingsbury & Kenton Consultative Forum

LOCATION: 557 Kenton Road, Harrow, HA3 9RS

PROPOSAL: Erection of single-storey and two-storey side and rear extension to religious institution, formation of basement with lightwell to rear and associated landscaping (as accompanied by Apcar Smith Planning Design & Access Statement ref. CA/2349A and Three Counties Flood Risk Assessment dated 19/08/2009)

APPLICANT: Mahavir Trust

CONTACT: Jagdish Tolia Architects Ltd

PLAN NO'S: 738/1 Rev B; 738/2 Rev B; 738/3 Rev B

RECOMMENDATION

Grant planning permission

EXISTING

The property is a 2-storey detached house on the south side of Kenton Road. It is not a conservation area nor is the building listed. The surrounding area is predominantly residential. The property was formerly a single family dwellinghouse but now has a self-contained flat on the first floor; the ground floor is in use as a place of worship (Class D1), a Jain Temple operated by the Mahavir Foundation, a situation confirmed by a certificate of lawfulness in 2006.

Kenton Road is a major London Distributor Road and the borough boundary.

PROPOSAL

The proposal involves the erection of a single and two storey side and rear extension and the creation of basement with light well to rear and associated landscaping to increase the area available for worship and supporting facilities.

HISTORY

09/0892 Erection of basement, single storey rear and side extensions, single storey extension to front entrance and associated landscaping of religious institution **Application Withdrawn** 04/06/2009 withdrawn due to significant design concerns and lack of response from Environment Agency.

06/2973 Certificate of Lawfulness for proposed use of the ground floor as a place of worship **Granted** 08/02/2007

95/1559 Change of use of ground floor of property from residential to part non-residential educational use and part residential. (As revised by letters dated 12/11/95 and 10/12/95 and plan dated 12/95 received on 08/01/96) **Refused** 13/02/1996 for following reasons:

1. *The proposed change of use would be contrary to the Greater London Development Plan*

Written Statement, Para 3.37 which states that "so long as an overall shortage of housing persists in London, planning permission will not normally be given for a change of use of any residential building that can still be used, with or without adaptation, for residential purposes". There is currently a serious shortage of housing within the London Borough of Brent and there are no special circumstances to justify the loss of residential accommodation in this instance.

2. *The proposed development would result in an over-intensive use of the premises by virtue of increased noise and activity that would be detrimental to the residential amenities of the area.*

86/0515 EREC OF S/S SIDE EXTN & CAR PORT Granted 24/06/1986

POLICY CONSIDERATIONS

Brent UDP 2004

STR37 Accessible community facilities to meet the needs of the Borough will be permitted, existing community facilities will be protected

BE2 Townscape: Local Context and Character

BE7 Public Realm: Streetscape

BE9 Architectural Quality

H22 Protection of Residential Amenity

EP2 Noise and Vibration

TRN3 Environmental Impact of Traffic

TRN4 Measures to Make Transport Impact Acceptable

TRN22 Parking Standards: Non Residential Developments

PS12 Non-Residential Institutions (Use Class D1) and Hospitals (Use Class C2)

CF2 Location of Small Scale Community Facilities

CF4 Community Facilities Capable of Holding Functions – proposals should have an acceptable transport impact and noise impact

SPG5 Altering & Extending Your Home

CONSULTATION

Neighbours

Neighbours were consulted on 27 August 2009. One objection received on following grounds:

- Current use only lawful due to a certificate of lawfulness
- Current use of 30-50 people with hours limited to a few a week – this proposes to increase the hours considerably and to do so all week
- Increase in gross internal floor space of nearly 300%
- There are several specific occasions when attendance is considerably higher and attendees arrive by coach
- This will result in further traffic hazard – incidents have occurred in the near vicinity
- Flood risk arising from basement, supported by photos of flooding in the garden of 565 Kenton Road

The consultation area was widened to ensure all residents on Kinross Close were consulted. Additional properties along Kenton Road and opposite within Harrow were also consulted. Any additional representations will be reported to members in a supplementary report.

Internal

Transportation: The site has 4 off-street parking bays. It is located in an area of PTAL1. Kenton Road is a London Distributor Road, with restricted parking during the day time. Onstreet parking on Kinross Close and Clifton Road is unrestricted. Clifton Road is used by parents picking up school children at school opening and closing times. Night time parking on these roads is low. Close to the building are parking, waiting and loading restrictions effective from Mon-Fri 08:00-09:30 and 16:30-18:30.

The parking allowance for Use Class D1 is in PS12 of the UDP. The maximum allowance is 2 spaces per 5 visitors, which for 30-50 people would be 12-20 spaces. Four are available. The main peak of 30-50 people is for the lunch time meditation session, which means local parking restrictions are not in operation and school activity is minimal.

As the predicted maximum attendance at the temple will remain below 200 there is no need for a Travel Plan.

Subject to a condition to provide 2 cycle parking spaces, the application can be supported on transportation grounds.

External

Environment Agency: No specific objection, directed to the Flood Risk Standing Advice. Advised that the basement be tanked to provide a barrier to flood water, provide uninhibited internal access to a higher floor and have raised thresholds or demountable barriers around the basement to delay or prevent flood to the basement.

London Borough of Harrow

Comments awaited.

REMARKS

Key considerations

- Need to provide adequate community facilities for a diverse Borough
- Visual impact of extensions and alterations
- Implication of extension of a community facility on neighbouring residential amenity
- Transport implications of extensions to a community facility
- Impact on the residential unit on the first floor
- Flood risk potential

Need to provide appropriate facilities

Brent is one of the most ethnically diverse boroughs in Britain, with the majority of residents from a wide range of ethnic and cultural minority communities. This diversity gives rise to a high demand for community facilities, many of whom cannot compete in the market for land and buildings. Brent's policy guidance seeks to reflect this situation by protecting existing facilities and ensuring new or expanded facilities can be accommodated, subject to any impact being minimized, mitigated or controlled.

On this basis, therefore, the local objection that this is an extension of use that would not normally have been granted permission is not considered a reason for refusal.

Visual impact

The property has an existing single storey side extension with a flat roof. The proposal is to develop the other side of the property with a single and two storey side extension and to extend the rear with a single storey extension. In addition there would be a newly landscaped garden to facilitate rear access to the new basement.

The side extension is flush at ground floor and set back 2m at the first, to avoid the loss of an interesting flank bay window on the first floor. The roof of the extension is set down from the ridge of the main roof, but only by 400mm. To set it down further would require a crown roof, which is not considered appropriate since the property is detached and the roof would be visible from No. 555 and from views along Kenton Road.

The side extension is set 1.4m off the boundary with No. 555, thus minimising its visual impact.

The rear extension is also set off that boundary by 1.4m. It is 3m deep and 12m wide, running the full width of the property and both side extensions (existing & proposed). It is angled at the eastern end to follow the property boundary and is 1.1m off that boundary. Between No. 565 and the property is a watercourse (not a main river).

The rear garden would be landscaped to include a 3.2m deep patio and a landscaped terrace to the lightwell for the basement. It would have a low wall (0.8m high) around it and there are proposed to be removable barriers installed, further details of which will be sought.

The extensions are considered acceptable in terms of the visual impact and the impact on neighbouring residential amenity. Further details of the landscaping proposals for the rear garden including boundary treatment to minimise disturbance to the garden of No. 555 shall be sought.

Implication of extension of a community facility on neighbouring residential amenity and traffic

The ground floor is used on a daily basis as a place of worship. Between 10 to 15 people attend prayer between 19:00 and 21:00 daily. 3 or 4 days a week there are meditation meetings between 10:00 and 12:30, attended by between 30 and 50 people, who arrive via car, bus and foot. Up to 10 times a year a maximum of 100 people attend special events. The existing hours of operation are 10:00 to 21:00, though closed in the afternoon. This is not controlled by the Council as the use is granted by a Certificate of Lawfulness. The proposed times are 09:00 to 22:00, an additional two hours per day.

These are the existing activities but understandably there is concern amongst local residents that an increase in the floor space from 88.9sqm to 167.2sqm would result inevitably in an increase in the congregation and increased disruption to local residents in terms of noise impact and traffic.

The existing prayer room is 61.5sqm, the remaining space is a given over to a kitchen, WC and circulation areas. The proposed prayer room on the ground floor would be extended by 16.9sqm to 78.4sqm, which is a 27% increase. Downstairs would be a 49sqm space identified on the plans as a library/reading room. It is stated in the design and access statement that this would be used for private study. No formal use of the garden is proposed.

The increase in size of the building is not a concern in terms of neighbouring amenity and traffic implications provided no significant change to the nature of operation occurs following the increase (e.g. number of visitors, changes in patterns of worship, increase in number of functions).

It is unlikely that the pattern of worship would change from that described in the design and access statement. An increase in the hours of operation does not seem sensible given this could alter that pattern, although logically it follows that if the congregation numbers remain static they could spread their visits over a longer period of time. This might reduce the impact at other times of days. The question is whether it is appropriate for worshippers to be using the property up until 22:00. As the property is detached and located on a busy main road the impact of such an extension would not be as significant as in a quieter location, albeit the predominant character of the area is residential.

The facilities to support the use amount to:

- On the ground floor 5 WCs (2 female, 2 male and 1 disabled) and shower. A small lobby for shoes is provided.
- In the basement a further WC, a cleaners store, a store and a plant room.
- On the first floor an office is proposed.

These facilities do not appear to be sufficient to support a significant number of visitors on a regular basis, however they are substantially more than the existing facilities, which comprises of 1 WC and a kitchen. It is not logical, however, to believe that a substantial increase in the facilities will mean a corresponding increase in the congregation. It is logical that a costly building

programme such as this would include an increase in the number and quality of facilities to such a level as is required to support the existing congregation.

This application is supported by a letter written by Vinod Kapashi, dated 05/04/09, in which the method of worshipping is explained. In brief, worshippers move around idols and therefore require adequate space to do so. In addition, male and female worshippers are separated, hence the proposed moveable partition on the ground floor. The basement would house a library of significant books and scriptures, with a quiet area for reading.

On the basis of the above information and consideration, the Council does not believe that the proposed extensions and alterations are intended to facilitate any significant change to the existing pattern of usage of the site. On this basis the proposal can be supported, subject to conditions.

Those conditions should ensure that possible changes in the future do not result in harm to the amenity of the area or to the traffic situation. Consideration should also be given to the potential that the facility could be sold at a later date and purchased by a group who may wish to operate it in a different manner.

Therefore condition(s) will be sought which:

- (a) Limit the hours of operation
- (b) Limit the number of special events (as these would clearly involve a very large number of people)
- (c) Limit the use within the D1 class
- (d) Include a green travel plan

A green travel is proposed following further consultation with transportation officers who agree that a means of advising worshippers on non-car modes of transport and the formation of a plan to manage visitor arrivals on special event days (those 10 days a year when up to 100 people are present), amongst other items, would provide a proportionate response to the local objectors concerns that the site may generate additional traffic harm as a result of its extension.

Impact on the residential unit on the first floor

The residential unit on the first floor is not permanently occupied. It is used by the Mahavir Foundation to house visitors, including teachers for the temple who stay up to 3 months at a time. Therefore the amenity of the unit is an important consideration but the needs will be different to those of a wholly independent residential use. Its nature has changed over the years since the ground floor became used regularly for worship and religious instruction. It is not reasonable to demand the normal standards for such a unit as it is no longer a conventional residential unit and it would not be desirable if it were.

Therefore the assessment of the likely impact on the amenity of the residential unit, and the provision of normal requirements such as amenity space and dedicated parking, is made with this distinction in mind. It would not be the case that other examples of such shared facilities as this would result in the same decision nor is it reasonable that this example might be used as a precedent for conversion of dwellinghouses to substandard self-contained flats.

Flood Risk

A flood risk assessment has been submitted and the Environment Agency has reviewed this and the proposed basement from a technical perspective. They have no objections to the proposal but recommend that:

- (a) the basement be tanked to provide a barrier to flood water;
- (b) provide uninhibited internal access to a higher floor; and
- (c) have raised thresholds or demountable barriers around the basement to delay or prevent flood to the basement.

This will be secured by condition.

The objection that the basement could be flooded, supported by photos of flooding in the garden of No. 565, is not considered a reason for refusal. The lack of objection from the Environment Agency and the provision of flood protection measures mean it would be unreasonable of the Council to refuse permission and it is not clear that the ground levels in No. 557 are the same as those affected by flooding in No. 565.

Other

To the front of the property it is proposed to remove the existing tall hedge with close boarded fences. Also the proposal does not provide for other soft landscaping to meet the requirements of policy BE7. A condition will therefore be sought to ensure the retention of the hedge, albeit it may be reduced in height, and the planting of a similar hedge on the other side of the crossover. A landscaping layout should also provide for soft landscaping to the forecourt.

Conclusion

The proposed extensions would provide improved facilities for an existing lawful community facility. The need to provide such facilities within an ethnically diverse borough is a weighty consideration. In any event the proposal is not expected to have a detrimental impact on the amenity of neighbouring occupants. As the proposal involves an increase in the size and quality of available facilities it may result in a change in the established pattern of use; on this basis it is considered necessary to seek additional protection in terms of number of visitors, the hours of operation and the means by which people travel to the site.

The proposal is deemed to comply with the relevant policies of the 2004 UDP and approval is recommended.

REASONS FOR CONDITIONS

RECOMMENDATION: Grant Consent

REASON FOR GRANTING

- (1) The proposed development is in general accordance with policies contained in the:-

Brent Unitary Development Plan 2004
Council's Supplementary Planning Guidance 5

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment
Environmental Protection: in terms of protecting specific features of the environment and protecting the public
Transport: in terms of sustainability, safety and servicing needs
Community Facilities: in terms of meeting the demand for community services

CONDITIONS/REASONS:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.

Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) All new external work shall be carried out in materials that match in colour, texture and design detail those of the existing building.

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

- (3) Notwithstanding any details of landscape works referred to in the submitted application, a scheme for the landscape works and treatment of the surroundings of the proposed development (including species, plant sizes and planting densities) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any site clearance, demolition or construction works on the site. Any approved planting, turfing or seeding included in such details shall be completed in strict accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. Such a scheme shall include:-

- (a) the landscaping of the rear access terrace;
- (b) proposed means of enclosure, indicating materials and heights, along the boundary with No. 555;
- (c) screen planting along the boundary with No. 555;

Any planting that is part of the approved scheme that within a period of *five* years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season and all planting shall be replaced with others of a similar size and species and in the same positions, unless the Local Planning Authority first gives written consent to any variation.

Reason: To ensure a satisfactory appearance and setting for the proposed development and ensure that it enhances the visual amenity of the area.

- (4) Notwithstanding the approved plans, details of the front garden layout shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. All detailed works shall be carried out as approved prior to the use of the building/extension hereby approved. Such details shall include:

- (i) planting of the front garden area with shrubs and/or trees;
- (ii) the retention of existing hedges and shrubs;
- (iii) provision of additional front boundary planting or other form of boundary treatment;
- (iv) car parking space for 4 cars including 2 disabled spaces, the defined points of access and the surfacing materials to be used;
- (v) waste and recycling storage facilities

Reason: To ensure a satisfactory appearance and in the interests of local amenity.

- (5) No music, public address system or any other amplified sound shall be installed on the site which is audible at any boundary outside the curtilage of the premises.

Reason: To safeguard the amenities of the adjoining occupiers.

- (6) Activities within the building shall only be permitted between 0900 - 2130 hours Mondays to Saturday and 1000 - 1700 Sundays and Bank Holidays, with the premises cleared within 30 minutes after these times (unless the Local Planning Authority agrees other hours in writing).

Reason: To ensure that the proposed use does not prejudice the enjoyment by

neighbouring occupiers of their properties.

- (7) The basement, ground floor and first floor office extension shall be used only for the purpose of worship and religious instruction and ancillary activities and for no other purpose (including any other purpose in Use Class D1 specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without the prior written permission of the Local Planning Authority.

Reason: To ensure that no other use commences without the prior permission of the Local Planning Authority and to enable other uses to be considered on their merits.

- (8) The existing boundary hedge/tree screen situated on the north and west boundaries of the site shall be retained at a minimum height of 1.5m. Should any part die or be damaged during the course of development, replacement planting shall be undertaken in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority.

Reason: Permission is granted having regard to the present screening and boundary planting in existence, the retention of which will ensure a satisfactory visual appearance.

- (9) Details of the provision of a minimum of 2 secure cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on site. Thereafter the development shall not be occupied until the cycle parking spaces have been laid out in accordance with the details as approved and these facilities shall be retained.

Reason: To ensure satisfactory facilities for cyclists.

- (10) The whole or any part of the premises shall not be used/occupied by more than 50 persons (including staff) at any one time on any given day of the week, Sundays to Saturdays inclusive (except where events for up to a maximum 100 people are approved on either permanent or temporary basis by the Local Planning Authority) without the further prior written consent of the Local Planning Authority.

Reason: To ensure that the proposed development/use does not prejudice the enjoyment of the occupiers of neighbouring properties.

- (11) Notwithstanding the provisions of Condition 8 above this permission shall allow no more than 10 days per calendar year where up to 100 persons (including staff) are present without the prior written consent of the Local Planning Authority.

Reason: To ensure that the proposed development/use does not prejudice the enjoyment of the occupiers of neighbouring properties.

- (12) The development or any part of it shall not be used or occupied until a Green Travel Plan has been submitted to and approved in writing by the Local Planning Authority and the development thereafter shall only be used or occupied in compliance with the plans so approved.

Reason: To ensure that a satisfactory management of the parking and to ensure that the proposed development does not prejudice the enjoyment of the neighbouring occupiers in the area

(13) The Green Travel Plan shall set out objectives to encourage persons visiting the site to use alternative forms of transport to the private motor car and to address the detailed traffic and parking implications the usage of the development creates. The travel plan shall include details of the matters listed below which directly link to the usage/occupation of the development in accordance with the maximum occupancy numbers controlled by Condition No. 8 of this consent. The plan shall also set out and include details of specific targets for the various objectives, the arrangements for monitoring and implementation of the objectives the responsibility of which rest with the developer/occupiers. The plan shall also include details of a system for reporting the monitoring information to the Local Planning Authority for reviewing/comment and approval:

- (a) measures to encourage the use of public transport facilities organised coach travel for large groups, car sharing and cycling;
- (b) arrangements for the uses set out in Condition No. 9 where persons using/ occupying the development will exceed 100, which shall include details on the following matters:
 - stewarding of the pedestrian and vehicular traffic in particular at times of arrival and departure from the site.
 - use of any park and ride/off site facilities to provide adequate offsite overspill parking during the Special Events Days.

Reason: To ensure that the usage/occupation of the development is in accordance with the maximum occupancy numbers controlled by other conditions of this consent and to protect the residential amenity and highway safety of the local area.

(14) The approved Green Travel Plan shall be implemented on the first use and occupation of the development (the date of first use and occupation shall mean a day previously notified at least 14 days in advance in writing to the Local Planning Authority stating that the development is intended to be brought into use), and the development or any part of it shall not be used or occupied thereafter unless the Management and Green Travel Plan are fully adhered to unless modification or relaxation of it is agreed in writing by the Local Planning Authority.

Reason: To protect the residential amenity and highway safety of the local area.

(15) Further details of a raised threshold or demountable barrier around the basement to delay or prevent flooding to the basement shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced and the development shall be carried out and completed in all respects in accordance with the details so approved before the building is occupied.

Reason: These details are required to ensure that a satisfactory development is achieved.

(16) The uninhibited internal access from the basement to a higher floor shown on drawing No. 738/2 Rev B shall be provided in perpetuity unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the escape route from the basement is permanently maintained.

INFORMATIVES:

- (1) In addition to the requirements of Condition No. 16 the applicant is advised to take note of the Environment Agency's advice that the basement be tanked in accordance

with guidance such as CIRIA Report 139 'Water-Resisting Basement Construction - A Guide (CIRIA, 1995), NHBC Standards (2006).

- (2) The assessment of the impact on the residential amenity of the first floor self contained flat and its lack of provision of normally required facilities such as amenity space and dedicated parking is made on the specifics of this case and is therefore a departure from normal practices. It is not expected that these particular circumstances would be a precedent for substandard residential accommodation being granted permission elsewhere.

REFERENCE DOCUMENTS:

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



Planning Committee Map

Site address: 557 Kenton Road, Harrow, HA3 9RS

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