



Planning Committee

2nd August, 2011

Report from the Assistant Director, Planning and Development

Wards Affected: Harlesden

Report Title: 12 High Street, Harlesden, NW10 4LX

1.0 Summary

- 1.1 This report deals with the planning enforcement history of 12 High Street, Harlesden, NW10 4LX and updates members on the current enforcement position
- 1.2 The council has also received a petition containing approximately 500 signatures in relation to these premises. The petition states 'The following hearby request the Planning Department of London Borough of Brent to reconsider their refusal of an application for planning permission made by Harlesden Ummah Centre of 12 High Street, London NW10 as a Masjid'.

2.0 Recommendations

- 2.1 To note the reasons for refusal of planning permission and the issue of an enforcement notice to obtain the cessation of the unlawful use of the premises.
- 2.4 To support further steps to obtain compliance with the outstanding enforcement notice.

3.0 History

- 3.1 Complaints were received from members of the public on 3rd October, 2006 that the premises were being used for religious gatherings in addition to its lawful use as a retail shop. The matter was taken up with a trustee of the premises who claimed it was not in use as a place of worship but merely as a community shop.

- 3.2 Further works were carried out in 2008 which involved the erection of a rear extension, the cessation of the retail use and its full conversion to a Mosque. Council Officers took the matter up with the Trustee again. No steps were taken to resolve the issue and consequently the Council issued an enforcement notice on 27th March 2009 requiring the demolition of the extension and the cessation of the use of the premises for religious gatherings and prayer.
- 3.3 The Trustee appealed the enforcement notice and this was dismissed on 20th January, 2010. The Planning Inspector, appointed by the Secretary of State, held that the scale and bulk of the extension amount to an over development of the site and its design was out of character with the Harlesden Conservation Area. The Inspector also held that there was a significant loss of residential amenity and an unacceptable transport impact at times of prayer meetings and religious gatherings. He therefore dismissed the appeal and this mean that the enforcement notice had to be complied with by 20th April, 2010.
- 3.4 A planning application was made to retain the use and extension on 21st April, 2010 and was refused on 23rd July, 2010 for the following reasons:-
- 1 The single-storey rear extension, by reason of excessive scale and bulk and utilitarian design, causes harm to the character and appearance of the Harlesden Conservation Area contrary to saved policies BE2, BE9, BE25 and BE26 of the London Borough of Brent Unitary Development Plan 2004
 - 2 The current use of the site, which falls within Use Class D1 of the Town & Country Planning (Use Classes) Order 1987, as amended, is not considered to be an appropriate use within the designated Primary Shopping Frontage as it will fail to provide a service to visiting members of the general public and result in an inactive frontage, lacking in attractive window displays and public access, which would harm the vitality of the Harlesden Town Centre and reduce its attractiveness to shoppers contrary to saved policy SH6 of the London Borough of Brent Unitary Development Plan 2004.
 - 3 The current use of the premises, which includes regular use as a place of worship, generates increased traffic, noise, disturbance and overspill parking, particularly during periods of organised prayers and meetings, which causes harm to the amenity of nearby residential occupiers contrary to saved policies TRN3, CF4 and CF14 of the London Borough of Brent Unitary Development Plan 2004.
 - 4 In view of the fact that the lawful use of the premises is for purposes falling within Use Class A1 (retail) of the Town & Country Planning (Use Classes) Order 1987, as amended, the single-storey rear extension results in the loss of essential rear serving facilities, which are in short supply within Harlesden Town Centre, to the detriment of the free flow of traffic and highway safety contrary to saved policies TRN3, TRN34, PS17, SH19, SH22, SH34 of the London Borough of Brent Unitary Development Plan 2004
- 3.5 No appeal was made against the refusal of planning permission and letters were sent to remind the Trustee of the need to comply with the enforcement notice. Meetings were also had with the Trustee and his planning agents and they were advised that the current use of the premises was unacceptable and that he should find alternative premises elsewhere. Furthermore it was made clear, that in the groups search for alternative premises, officers were prepared to offer further planning advice when he found suitable premises.

- 3.6 As the matter had not been resolved and as the Council were receiving complaints from members of the public about its failure to resolve the matter, the Council was forced to employ its contractors to enter the premises and take direct action to demolish the extension.
- 3.7 The Council's contractors visited the premises on 5th February, 2011 to demolish the extension. The Trustee was present at the premises and encouraged others to hinder demolition works. The situation became so threatening and abusive for Council Officers that they left with only a limited part of the roofing felt removed. The incident was so serious that it was reported to the police which led to the arrest of the Trustee for a Public Order Offence. He was subsequently issued with a Penalty Charge Notice.
- 3.8 The Council were notified by the leaseholder of the premises, Mr Meghi that the extension had been demolished by the Trustee on 17th February, 2011. However an Inspection in May, 2011 revealed that the walls of the extension remained but the roof had been removed. Furthermore the use of the premises as mosque continued in breach of the enforcement notice.
- 3.10 Steps are now being considered about what further action can be taken to ensure compliance with the notice. This is likely to include prosecution proceedings.

4.0 Planning Assessment

- 4.1 The premises are located within Harlesden Town Centre's Primary Shopping Frontage. The Council's development policies contained in the Unitary Development Plan seek to control changes of use within the Primary Shopping Frontage to ensure that town centres consist of a useful range of appropriate uses which will improve the attractiveness of the centre to shoppers and visiting members of the general public.
- 4.2 The Council recognises that an appropriate proportion of suitable non-retail uses can complement and enhance the retail function of a town centre and policy SH6 of Brent Unitary Development Plan 2004 sets out which non-retail uses are generally considered appropriate within a town centre. Policy SH6 sets out that, subject to compliance with policy SH7, appropriate non-retail uses will be confined to those uses falling within Use Class A2 (Financial and Professional Services), Use Class A3/A4/A5 (Food and Drink Uses) and Libraries.
- 4.3 The appropriate non-retail uses defined in policy SH6 are generally those which would create attractive active frontages and provide complementary services for shoppers. The current use of the premises as a youth & community centre/place of worship is contrary to policy SH6 and results in an section of 'dead frontage' whilst failing to improve the range of services for shoppers.
- 4.3 During the determination of the appeal the Planning Inspector considered the issue of precedence but found that, whilst acknowledging that allowing the change of use would make it more difficult for the Council to resist similar

applications in the area, a precedent would not be set as every case should be considered on its own merits.

IMPACT ON RESIDENTIAL AMENITY

- 4.4 Policies CF4 and CF14 seeks to support the provision of community facilities and places of worship provided that this does not result in an unacceptable loss of residential amenity. There are a number of residential properties in close proximity to the site, particularly those on the upper floors of the properties along High Street, Harlesden.
- 4.5 Paragraph 13 of the Planning Inspectors appeal decision states:-
"The Council states, and the appellant does not dispute, that the current use generates increased traffic, noise, disturbance and overspill parking which adversely affect neighbouring residents as well as being prejudicial to the free flow of traffic and highway safety."
- 4.6 During a recent site visit, undertaken whilst a prayer meeting appeared to be taking place on the premises, the adverse impacts on residential amenity, referred to by the Inspector, were observed. In the Planning application from 2010 it is stated that the site is visited by an average of 5 people per day. However this is not the case. Given the size of the premises and the observations made during officers' visits to the premises, it is considered that the intensity of the current use harms the amenity of neighbouring residential occupiers. The current use is considered contrary to policies CF4 and CF14 of the UDP.

TRANSPORTATION

- 4.7 It is considered that the use of the premises as a place of worship also results in problems relating to overspill parking and increased traffic which are harmful to the safe and free flow of traffic and residential amenity.

OTHER CASES

- 4.8 Planning Permission has been granted for a community/religious use and rear extensions at 212-214 Church Road. On tonight's agenda, there is a further application for community/religious use at 107 High Street, Harlesden and this is recommended for approval. It is also anticipated that a similar application for 72 to 74 Harrow Road will be reported to the next committee with a recommendation for approval, subject to some revisions being made.
- 4.9 All cases are treated on their individual merits. However, 12 High Street is located within the Primary Shopping Area of Harlesden Town Centre. While one of the other properties mentioned above is a listed building, neither are in the primary shopping area or cause the same residential amenity or highway problems that 12 High Street does.
- 4.10 As it is located in a primary shopping centre, the Council must place greater emphasis on protecting the area's retail vitality and viability. The other premises are located either within a Local Centre or Secondary shopping frontage where there is greater scope for non retail uses.

5.0 Conclusions

- 5.1 The use of 12 High Street, Harlesden as a community centre/religious use is unacceptable for the reasons set out above and further enforcement action should be taken to ensure that the enforcement notice is complied with.

6.0 Financial Implications

- 6.1 If further prosecution proceedings are taken and convictions obtained, the defendant usually pays the Council's Costs at the discretion of the Court.

7.0 Legal Implications

- 7.1 None Specified

8.0 Diversity Implications

- 8.1 Planning policies seek to accommodate a range of needs. However, one particular use or a group's needs must be considered against wider local needs and objectives. The approach of supporting such uses in less sensitive locations where they may assist in taking up vacant shop units without harming an area's wider retail attractiveness seeks to meet this balance.

Background Papers

Enforcement Appeal Decision E06/0772

Planning Application 10/0969

Brent Unitary Development Plan 2004

Contact Officers

Any person wishing to inspect the above papers should contact

Tim Rolt, Planning Enforcement Manager Tel: 020 89375242

Email: tim.rolt@brent.gov.uk

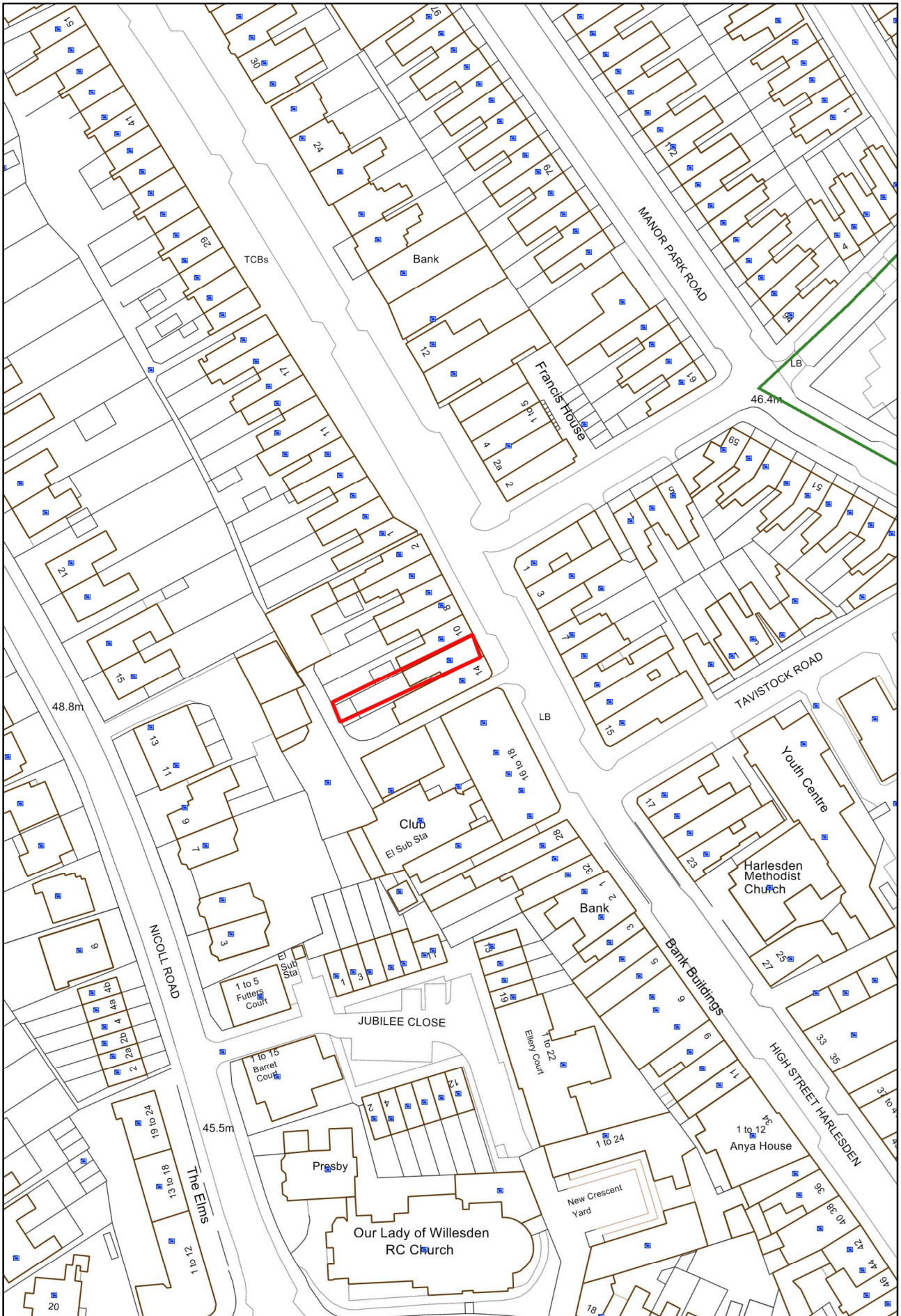
Stephen Weeks, Head of Area Planning Tel: 020 89375238

Email: Stephen.weeks@brent.gov.uk

Chris Walker

Assistant Director,

Planning and Development



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office ©Crown copyright. Unauthorised reproduction infringes ©Crown copyright and may lead to prosecution or civil proceedings. London Borough of Brent Licence No. LA 100025260 2011

1:1250

