

## Report of the Head of Planning & Enforcement Services

**Address** 86-90 HIGH STREET AND 45, 47, 47A ALBERT ROAD YIEWSLEY

**Development:** Change of use of first and second floor from retail to residential forming 7 one-bedroom flats, and 1 studio flat, involving a second floor extension, roof terrace at third floor level, remodelling of existing elevations to include new balconies, alterations to form new entrance area at ground floor and associated parking to rear of land at 45, 47, and 47A Albert Road.

**LBH Ref Nos:** 64714/APP/2009/778

**Drawing Nos:** GUG/2009/660/101  
GUG/2009/660/102  
Design and Access Statement  
GUG/2009/660/204 A  
GUG/2009/660/202 A  
GUG/2009/660/203 A  
GUG/2009/660/201 A  
GUG/08/660/105 A  
GUG/08/660/104 A  
GUG/08/660/106 A  
GUG/08/660/103 B  
MB/1721/1  
Location Plan

<b>Date Plans Received:</b>	15/04/2009	<b>Date(s) of Amendment(s):</b>	15/04/2009
<b>Date Application Valid:</b>	30/04/2009		23/11/2009
			17/02/2010
			04/03/2010

### 1. SUMMARY

This application was approved, subject to a S106 Agreement being entered into, on 30/03/2010 by the Planning Committee. There was subsequently a delay with the signing of the S106 Agreement and the application went back to Committee on 12/10/2010 where Members agreed an extension of time to allow the S106 Agreement to be completed.

16 months have now passed and the applicant has not entered into a Section 106 Agreement with the Council. In this case it is not considered that a further extension of time would result in the legal agreement being signed. Without the planning obligations the scheme would have unacceptable impacts on local schools and would result in inadequate parking for occupiers of 47 and 47a Albert Road.

Refusal is recommended.

### 2. RECOMMENDATION

**REFUSAL for the following reasons:**

#### 1 NON2 S106 Agreement

The proposal has failed to secure by way of an appropriate legal agreement a contribution to secure necessary capacity enhancements in local educational facilities

and an obligation to ensure the provision of off street parking for the occupiers of 47 Albert Road and 47A Albert Road. The proposal is therefore contrary to Policies R17 and AM14 of the Hillingdon Unitary Development Plan Saved Policies (September 2007), the Planning Obligations Supplementary Planning Document, including the revised Chapter 4 'Educational Facilities' (September 2010).

## INFORMATIVES

### 1 I52 Compulsory Informative (1)

The decision to REFUSE planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

### 2 I53 Compulsory Informative (2)

The decision to REFUSE planning permission has been taken having regard to the policies and proposals in the Hillingdon Unitary Development Plan Saved Policies (September 2007) set out below, including Supplementary Planning Guidance, and to all relevant material considerations, including the London Plan (July 2011) and national guidance.

AM10	Incorporation in new developments of additions to the proposed cycle network
AM13	AM13 Increasing the ease of movement for frail and elderly people and people with disabilities in development schemes through (where appropriate): - (i) Dial-a-ride and mobility bus services (ii) Shopmobility schemes (iii) Convenient parking spaces (iv) Design of road, footway, parking and pedestrian and street furniture schemes
AM14	New development and car parking standards.
AM7	Consideration of traffic generated by proposed developments.
AM9	Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities
BE13	New development must harmonise with the existing street scene.
BE19	New development must improve or complement the character of the area.
BE20	Daylight and sunlight considerations.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
BE38	Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
CACPS	Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
H11	Provision of affordable housing
H4	Mix of housing units
HDAS	'Residential Developments'
MIN19	Use of Category A waste for restoration of sand and gravel pits Noise

PPG24	
PPS1	Delivering Sustainable Development
PPS3	Housing
R17	Use of planning obligations to supplement the provision of recreation, leisure and community facilities
R16	Accessibility for elderly people, people with disabilities, women and children
LPP 6.13	(2011) Parking

### 3. CONSIDERATIONS

#### 3.1 Site and Locality

See previous report

#### 3.2 Proposed Scheme

See previous report

#### 3.3 Relevant Planning History

64714/APP/2008/2057 86-90 High Street Yiewsley  
14 SELF CONTAINED FLATS

**Decision:** 10-10-2008 Withdrawn

64714/APP/2008/3483 86-90 High Street Yiewsley

Change of use of first and second floor from retail to residential forming 5 two-bedroom and 4 one-bedroom flats, involving a second floor extension, roof terrace at third floor level, remodelling of existing elevations to include new balconies, alterations to form new entrance area at ground floor and associated parking.

**Decision:** 17-02-2009 Withdrawn

#### Comment on Relevant Planning History

The planning history is set out in the previous report. Of particular relevance is the: planning History at 47 and 47 A Albert Road.

Planning permission 58675/APP/2005/179 relates to the land at 47 and 47A Albert Road. This permission is relevant because the land at 47 and 47A Albert Road form part of the application site. That permission approved the erection of two storey two-bedroom attached dwelling house. The approved plans show a portion of the rear garden area accommodating 4 car parking spaces (2 spaces for 47 and 2 spaces for 47A Albert Road). Importantly, condition 3 of the consent requires that the parking spaces on the approved plan be maintained for the use of 47 and 47A.

### 4. Planning Policies and Standards

See previous report

#### UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

- PT1.10 To seek to ensure that development does not adversely affect the amenity and the character of the area.
- PT1.16 To seek to ensure enough of new residential units are designed to wheelchair and mobility standards.

Part 2 Policies:

- AM10 Incorporation in new developments of additions to the proposed cycle network
- AM13 AM13 Increasing the ease of movement for frail and elderly people and people with disabilities in development schemes through (where appropriate): -  
(i) Dial-a-ride and mobility bus services  
(ii) Shopmobility schemes  
(iii) Convenient parking spaces  
(iv) Design of road, footway, parking and pedestrian and street furniture schemes
- AM14 New development and car parking standards.
- AM7 Consideration of traffic generated by proposed developments.
- AM9 Provision of cycle routes, consideration of cyclists' needs in design of highway improvement schemes, provision of cycle parking facilities
- BE13 New development must harmonise with the existing street scene.
- BE19 New development must improve or complement the character of the area.
- BE20 Daylight and sunlight considerations.
- BE23 Requires the provision of adequate amenity space.
- BE24 Requires new development to ensure adequate levels of privacy to neighbours.
- BE38 Retention of topographical and landscape features and provision of new planting and landscaping in development proposals.
- CACPS Council's Adopted Car Parking Standards (Annex 1, HUDP, Saved Policies, September 2007)
- H11 Provision of affordable housing
- H4 Mix of housing units
- HDAS 'Residential Developments'
- MIN19 Use of Category A waste for restoration of sand and gravel pits
- PPG24 Noise
- PPS1 Delivering Sustainable Development
- PPS3 Housing
- R17 Use of planning obligations to supplement the provision of recreation, leisure and community facilities
- R16 Accessibility for elderly people, people with disabilities, women and children
- LPP 6.13 (2011) Parking

**5. Advertisement and Site Notice**

Not applicable

**5.1** Advertisement Expiry Date:- **16th December 2009**

**5.2** Site Notice Expiry Date:- Not applicable

## **6. Consultations**

### **External Consultees**

See previous report

### **Internal Consultees**

S106 OFFICER

The S106 officer has advised that the applicant has failed to enter into a S106 Agreement.

## **7. MAIN PLANNING ISSUES**

### **7.01 The principle of the development**

See previous report

### **7.02 Density of the proposed development**

See previous report

### **7.03 Impact on archaeology/CAs/LBs or Areas of Special Character**

See previous report

### **7.04 Airport safeguarding**

See previous report

### **7.05 Impact on the green belt**

See previous report

### **7.07 Impact on the character & appearance of the area**

See previous report

### **7.08 Impact on neighbours**

See previous report

### **7.09 Living conditions for future occupiers**

See previous report

### **7.10 Traffic impact, Car/cycle parking, pedestrian safety**

Historically, only 1 car parking space has been required to be provided for the entire premises at 86 to 90 High Street. No enlargement of the shop is proposed, and as such it is not considered reasonable to require additional car parking for the ground floor retail use.

The applicant provided evidence which proves that the ground floor shop use benefits from a legal right to use an existing car parking space within the communal car parking area to the rear of the shops at 70 to 84 High Street.

In addition a car parking area would be created for 12 cars on land to the rear of 45, 47, and 47A Albert Road. 8 spaces would be provided for the 8 proposed residential units, additionally 1 space would be maintained for the ground floor shop incorporating the space in the existing car park at 70 to 84 High Street.

The applicant proposes that 4 parking spaces be maintained for the dwellings at 47 and 47A Albert Road. These spaces are needed as there is an acute parking stress issue along Albert Road. Many of the dwellings along Albert Road are built so close to the footpath that no parking can be provided in the front set back. This means that residents only have the option of parking on the street. This causes parking pressures along Albert

Road, such that it would not be acceptable to allow additional development in this street without off street parking.

The consent to allow 47A to be built was allowed (in part) because parking spaces were proposed to the rear of the site for both 47 and 47A (which was seen as a significant benefit as 47 did not have parking previously). The current proposal seek permission to use the parking area for 47 and 47A as part of the wider parking area for the proposed flats. The current scheme would only be acceptable if parking is maintained for 47 and 47A Albert Road.

**7.11 Urban design, access and security**

See previous report

**7.12 Disabled access**

See previous report

**7.13 Provision of affordable & special needs housing**

See previous report

**7.14 Trees, landscaping and Ecology**

See previous report

**7.15 Sustainable waste management**

See previous report

**7.16 Renewable energy / Sustainability**

See previous report

**7.17 Flooding or Drainage Issues**

See previous report

**7.18 Noise or Air Quality Issues**

See previous report

**7.19 Comments on Public Consultations**

See previous report

**7.20 Planning obligations**

Policy R17 of the Council's Unitary Development Plan states that: 'The Local Planning Authority will, where appropriate, seek to supplement the provision education facilities through planning obligations in conjunction with other development proposals.'

Policies 6A.1 of the London Plan and the Council's Unitary Development Plan set out parking requirements and the Council's Planning Obligations SPD provides further guidance in relation to planning obligations.

Future occupiers of the scheme would place a burden on local schools, which do not have capacity to cope with additional students. A Planning Obligation would be needed to cover the cost of capacity enhancements to local schools. Additionally, the proposal would impact on approved parking for 47 and 47 a Albert Road. The applicant proposes that 4 parking spaces be maintained for the dwellings at 47 and 47A Albert Road. These spaces are needed as there is an acute parking issue along Albert Road. Many of the dwellings along Albert Road are built so close to the footpath that no parking can be provided in the front set back. This means that residents only have the option of parking on the street. This causes parking pressures along Albert Road, such that it would not be acceptable to allow additional development in this street without off street parking.

The consent to allow 47A to be built was allowed (in part) because parking spaces were proposed to the rear of the site for both 47 and 47A (which was seen as a significant

benefit as 47 did not have parking previously). The current proposal seek permission to use the parking area for 47 and 47A as part of the wider parking area for the proposed flats. The current scheme would only be acceptable if parking is maintained for 47 and 47A Albert Road. This was to be secured by way of a legal agreement (via a planning obligation).

The S106 Officer has confirmed that the applicant has failed to enter into a S106 Agreement and that there is little possibility of the matter being resolved. The scheme is not considered acceptable in this regard.

#### **7.21 Expediency of enforcement action**

See previous report

#### **7.22 Other Issues**

See previous report

### **8. Observations of the Borough Solicitor**

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

### **9. Observations of the Director of Finance**

### **10. CONCLUSION**

This application was approved, subject to a S106 Agreement being entered into, on 30/03/2010 by the Planning Committee. There was subsequently a delay with the signing of the S106 Agreement and the application went back to Committee on 12/10/2010 where Members agreed an extension of time to allow the S106 Agreement to be completed.

16 months have now passed and the applicant has not entered into a Section 106 Agreement with the Council. Furthermore there is little possibility of such an agreement being entered into in the near future. As such it is recommended that the development be refused for this reason.

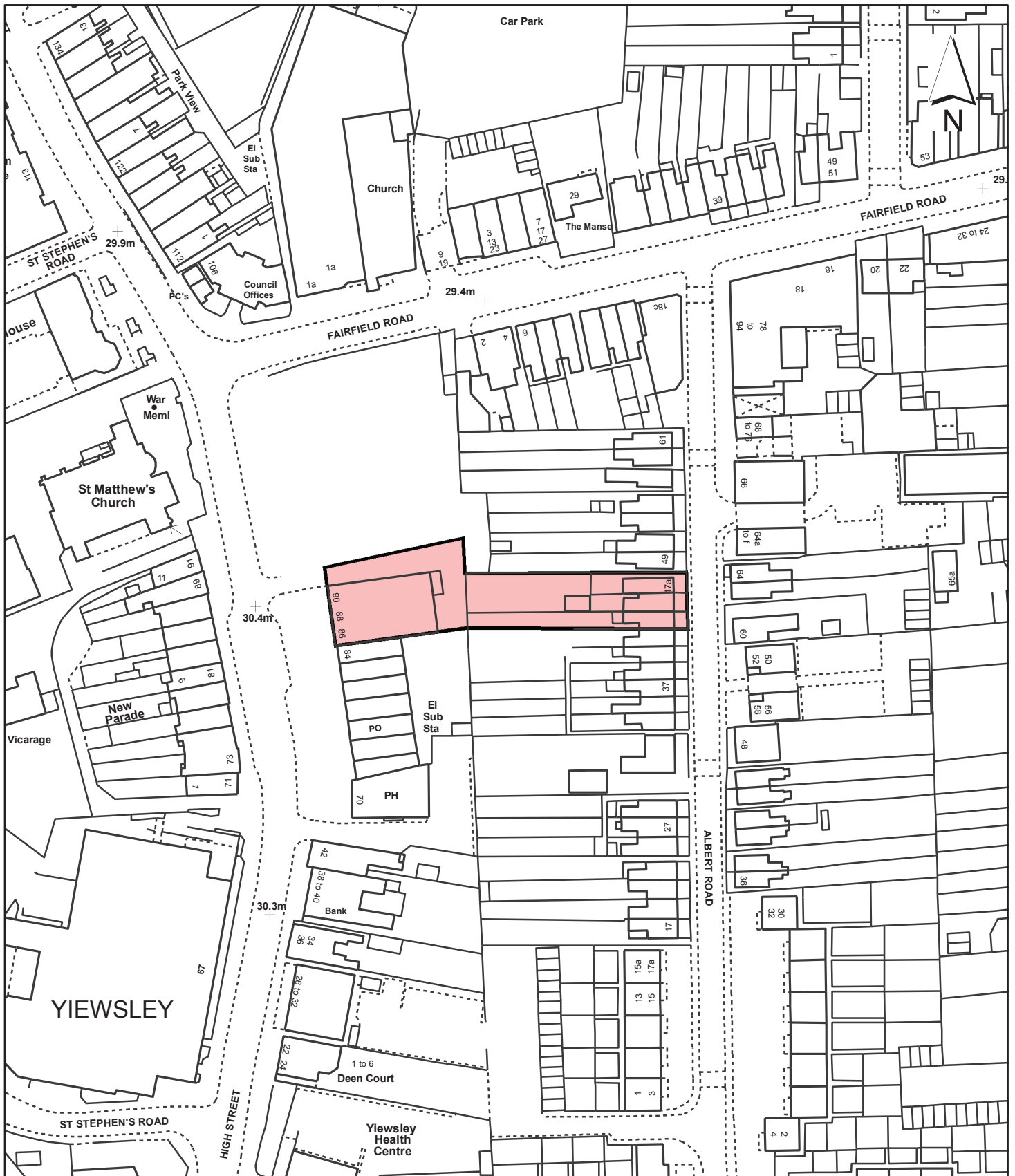
#### **11. Reference Documents**


See previous report

**Contact Officer:** Matt Kolaszewski

**Telephone No:** 01895 250230





<p><b>Notes</b></p> <p> Site boundary</p> <p>For identification purposes only.</p> <p>This copy has been made by or with the authority of the Head of Committee Services pursuant to section 47 of the Copyright, Designs and Patents Act 1988 (the Act). Unless the Act provides a relevant exception to copyright.</p> <p>© Crown Copyright. All rights reserved. London Borough of Hillingdon 100019283 2009</p>	<p>Site Address</p> <p><b>86 - 90 High Street and 45, 47, 47A Albert Road Yiewsley</b></p>		<p><b>LONDON BOROUGH OF HILLINGDON</b></p> <p><b>Planning, Environment &amp; Community Services</b></p> <p>Civic Centre, Uxbridge, Middx. UB8 1UW Telephone No.: Uxbridge 250111</p>
	<p>Planning Application Ref:</p> <p><b>64714/APP/2009/778</b></p>	<p>Scale</p> <p><b>1:1,250</b></p>	 <p><b>HILLINGDON</b> LONDON</p>
	<p>Planning Committee</p> <p><b>Central and South</b></p>	<p>Date</p> <p><b>September 2010</b></p>	