

Report of the Head of Planning & Enforcement Services

Address 7 CHERRY TREE AVENUE YIEWSLEY

Development: Continued use of extended dwelling as two separate dwellings

LBH Ref Nos: 63027/APP/2011/1129

Drawing Nos: 06/381/03 Rev B (Existing Plans - Floorplans)
06/381/02 Rev B (Existing Plans - Elevations)
06/381/00/A (Location Plan)
Planning, Design and Access Statement

Date Plans Received: 10/05/2011 **Date(s) of Amendment(s):**

Date Application Valid: 10/05/2011

1. SUMMARY

The application seeks the continued use of an extended dwelling house at no. 7 Cherry Tree Avenue as two separate dwellings, served by individual external amenity areas and a single off street car parking space.

The proposal would fail to provide adequate living conditions for future occupiers of unit 7a due to inadequate internal or external space provision, and fail to provide an acceptable level of inclusive design.

It would also result in an unacceptable level of overlooking of the neighbouring property, and provide inadequate off street car parking to the detriment of highway and pedestrian safety.

Accordingly, the application is recommended for refusal.

2. RECOMMENDATION

REFUSAL for the following reasons:

1 NON2 Inadequate Residential Living Environment

As a result of the proposed sub-division of the existing residential plot, the development would result in a deficient amount of internal floorspace and external amenity space for the proposed new dwelling (labelled 7a), the proposal would therefore result in substandard living conditions for future occupiers of this unit contrary to policies BE19 and BE23 of the Hillingdon Unitary Development Plan (Saved Policies September 2007), Policy 3.5 of the London Plan (July 2011) and the adopted Hillingdon Design and Accessibility - Residential Layouts Supplementary Planning Document.

2 NON2 Overlooking

The proposed development by reason of the first floor rear facing bedroom window and its proximity to the neighbouring property No.1 Park Tree Avenue would result in a form of development which would not provide satisfactory amenities for that adjoining property, due to the loss of privacy that would arise. The proposal is therefore contrary to Policy BE24 of the Hillingdon Unitary Development Plan (Saved Policies September 2007) and the adopted Hillingdon Design and Accessibility - Residential Layouts

Supplementary Planning Document.

3 NON2 Lack of Inclusive Design

The proposal would fail to meet all relevant Lifetime Home Standards, contrary to Policy AM13 of the Hillingdon Unitary Development Plan Saved Policies (September 2007), policies Policy 3.8 of the London Plan (July 2011) and guidance within the Council's Supplementary Planning Guidance - Accessible Hillingdon.

4 NONSC Insufficient Parking

The proposed development fails to provide alternative off street parking provision for the existing property (No 7 Cherry Tree Avenue), and therefore the development is considered to be deficient in car parking provision with regard to the Council's approved car parking standards, leading to on-street parking to the detriment of public and highway safety and therefore contrary to policy AM14 of the Hillingdon Unitary Development Plan (Saved Policies September 2007) and the Council's Car Parking Standards (2007).

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 (February 2008) and national guidance.

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.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
AM2	Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity
AM7	Consideration of traffic generated by proposed developments.
AM14	New development and car parking standards.
>>	London Plan Policy 3.5 Quality and Design of Housing

3. CONSIDERATIONS

3.1 Site and Locality

The application site is that of 7 Cherry Tree Avenue in Yiewsley. A side extension has recently been erected, however the extension does not comply with the requirements of planning permission 63027/APP/2007/3871 and is subject to an enforcement notice. In addition the side extension has been converted to and is currently being utilised as a separate dwelling unit. The current application seeks to retrospective permission to regularise the works and use as currently on site.

3.2 Proposed Scheme

The application seeks the continued use of an extended dwelling house at no. 7 Cherry Tree Avenue as two separate dwellings, served by individual external amenity areas and a single off street car parking space.

The external built form proposed for retention is largely consistent with the extension previously approved with the differences being limited to the additional window on the flank elevation, alterations to the first and ground floor fenestration to the rear elevation and the provision of an additional door on the rear elevation.

3.3 Relevant Planning History

63027/APP/2007/1247 7 Cherry Tree Avenue Yiewsley
ERECTION OF TWO STOREY SIDE EXTENSION AND DEMOLITION OF EXISTING GARAGE.

Decision: 19-06-2007 Refused

63027/APP/2007/3871 7 Cherry Tree Avenue Yiewsley
ERECTION OF A TWO STOREY SIDE EXTENSION.

Decision: 15-02-2008 Approved

Comment on Relevant Planning History

In addition to the above the application site is currently subject to two enforcement notices between them requiring that the use of the premises as two separate dwellings cease and that the building be made compliant with the plans approved under application 63027/APP/2007/3871.

4. Planning Policies and Standards

The London Plan (July 2011).

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.

Part 2 Policies:

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.
BE21	Siting, bulk and proximity of new buildings/extensions.
BE23	Requires the provision of adequate amenity space.
BE24	Requires new development to ensure adequate levels of privacy to neighbours.
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AM14	New development and car parking standards.
>>	London Plan Policy 3.5 Quality and Design of Housing

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- Not applicable

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

22 nearby and neighbouring owner/occupiers were consulted on the application.

Two letter of objection have been received raising concerns regarding:

- (i) Parking
- (ii) Amenity for future occupiers; and
- (iii) Drainage

Internal Consultees

HIGHWAYS

Cherry Tree Avenue has a 5.5m wide carriageway, accessed from Royale lane via Falling Lane benefiting and is densely populated residential area benefiting from footway parking on both sides.

A recently constructed hard standing area in front garden on the eastern section of dwelling is assumed to accommodate one off street vehicle parking, without clearly showing a legal vehicle cross over.

The applicant has failed to clearly show proposed parking spaces for use by two separate dwellings, whilst submitted design and Access statement is suggesting to utilise footway parking on highway that is contrary to sustainability objectives of policy AM7 of the Council's Parking Standards (Annex 1, adopted Hillingdon Unitary Development Plan, Saved Policies September 2007).

Policy AM14 of the UDP refers to the Council's vehicle parking standard contained in the Annex 1, which requires minimum of two vehicle parking space for similar use.

Allowing this application could set a precedent resulting in other similar unacceptable proposals, affecting the Council's position in resisting the same.

It can therefore be concluded that the proposal fails to make adequate off-street parking provision to serve proposed flats in accordance with the Council's adopted car parking standards. The proposal would therefore be likely to give rise to additional on-street car parking, to the detriment of highway and pedestrian safety, contrary to policies AM7(ii) and AM14 of the adopted unitary

Development saved policies (September 2007), and is therefore recommended to be refused.

ACCESS OFFICER

I raise objection to the proposed application which does not demonstrate compliance with Lifetime Homes standards. In essence a house that was potentially accessible has been modified into two houses, which due to their design are not conducive to Lifetime Home standards.

TREES & LANDSCAPE

Background:

The site is an end of terrace house on a wider than usual corner plot at the junction of Pear Tree and Cherry Tree Avenues. There is an existing extension (7A on plan) to the side of the original house accessed via a driveway with a dropped kerb on the corner of the streets

The only significant landscape feature is a highway tree in the footway opposite number 7. There is also a dense Privet hedge which belongs to the garden of 1 Cherry Tree Avenue, which contributes to the character of the area.

There are no Tree Preservation Orders on, or close to, the site, nor does it fall within a designated Conservation Area.

Proposal:

The proposal is a retrospective application to continue to use the extended dwelling as a separate unit.

Landscape Considerations:

Saved policy BE38 seeks the retention and utilisation of topographical and landscape features of merit and the provision of new planting and landscaping wherever it is appropriate.

· No trees or other landscape features will be affected by the development and the proposed new building will have little impact on views into the site, or the landscape setting.

Recommendations:

No objection and, in this case, no need for landscape conditions.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

The proposal seeks the retention of the property as two separate dwellings units. There is no objection to the intensification of the existing residential use on the site subject to the proposal complying with all other planning policies and with regard to all other material planning considerations.

7.02 Density of the proposed development

The proposal seeks the retention of the property as two separate dwelling units, which would result in a residential density of 77 units/ha or 269 habitable rooms/ha.

The London Plan recommends a density of 50-75 units/ha or 150-200 habitable rooms/ha for development sites within suburban settings with a public transport accessibility level of 1. The application would significantly exceed the recommended standard and would only be acceptable should it accord with all other relevant policies.

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

The application site is not located within a Conservation Area, Area of Special Local Character, or such that it would impact on the setting of any Listed Buildings.

It is not considered that the proposal would have any detrimental impacts on remains of archaeological importance.

7.04 Airport safeguarding

The application would not conflict with any airport or aerodrome safeguarding criteria.

7.05 Impact on the green belt

The application site is not located within or in proximity to the designated Green Belt.

7.07 Impact on the character & appearance of the area

In terms of the physical appearance the built form proposed for retention is largely as previously approved with the differences being limited to the additional window on the flank elevation, alterations to the first and ground floor fenestration to the rear elevation and the provision of an additional door on the rear elevation.

The amendments do not significantly alter the appearance of the building from the built form previously approved, the retention of these features would not therefore detract from the character and appearance of the original dwelling or street scene and would accord with Policies BE13 and BE15 of the Saved Policies UDP.

The proposal would also retain an additional area of concrete hardstanding, however this would retain an adequate balance between hard and soft landscaping within the front garden in accordance with the HDAS - Residential Extensions and as such would not result in significant detriment to the street scene.

7.08 Impact on neighbours

Policies BE20, BE21 and BE22 of the Saved Policies UDP seek to ensure that new buildings do not have adverse impacts on the residential amenity of neighbouring occupiers by way of dominance or loss of light. The HDAS - Residential Extensions and Residential Layouts provide further guidance on this matter.

The physical built form in terms of layout, size and bulk is the same as that approved under planning permission 63027/APP/2007/3871 which was considered acceptable in terms of policies BE20, BE21 and BE22. Accordingly, the proposal would comply with the above policies.

Policy BE24 seeks to ensure that the design of new building seeks to protect the amenity of occupiers and their neighbours. The HDAS - Residential Extensions and Residential Layouts provide further guidance on this matter.

The application site and dwelling proposed for retention (within the extended part of the property) are located in close proximity to no. 1 Park Tree Avenue, with the first floor rear window causing significant and unacceptable overlooking of sensitive parts of this property. On the approved scheme for an extension this issues was to be addressed by having a relatively small non-opening and obscure glazed window on the first floor rear elevation to prevent loss of privacy. The current proposal seeks to retain the window as currently installed which is larger, clear glazed and would serve a habitable room.

The proposal would therefore result in an unacceptable loss of privacy to neighbouring occupiers contrary to Policy BE24 and should be refused for this reason.

7.09 Living conditions for future occupiers

The proposal seeks the retention of two individual dwelling units on the site, for the purposes of this report these will be referred to as 7 and 7a as referred to on the submitted block plan.

Unit 7, would represent the original dwelling (before it was extended) with 2 bedrooms and a study. The dwelling would have an internal floorspace of 70.8sq.m, an external amenity space measuring 69 sq.m and all habitable room windows would benefit from adequate

light and outlook. Accordingly, unit 7 would provide appropriate living conditions for the future occupiers in accordance with Policy BE23 of the Saved Policies UDP and guidance within the HDAS Residential Layouts.

Unit 7a, would represent the proposed new two bedroom dwelling to be created within the previously approved extension. The dwelling would have an internal floorspace of 41-44sq.m and a usable external amenity space measuring 23 sq.m to the rear, this falls substantially below the floorspace and amenity space guidelines set out within the HDAS Residential Layouts and the London Plan. The proposal would result in unsatisfactory living conditions contrary to Policy BE23 of the Saved Policies, Policy 3.5 of the London Plan and the adopted HDAS - Residential Layouts SPD.

While all habitable room windows within unit 7a would attain adequate levels of light and outlook, the rear bedroom window would cause an unacceptable loss of privacy to the neighbouring property. The window cannot be obscure glazed to overcome this issue as this would result in an unacceptable living environment for the future occupiers of unit 7a. The application is therefore contrary to Policy BE24 as identified above.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Cherry Tree Avenue has a 5.5m wide carriageway, accessed from Royale Lane via Falling Lane benefiting and is densely populated residential area benefiting from footway parking on both sides.

The Council's Parking standards require a maximum provision of 2 parking spaces for dwellings with curtilage parking. A recently constructed hard standing area in front garden on the eastern section of dwelling could accommodate one off street vehicle parking for the proposed dwelling (Unit 7a). However, the proposal would not retain any off street parking for the existing dwelling (Unit 7).

The proposal would therefore fail to make adequate off-street parking provision to serve the existing property (Unit 7) in accordance with the Council's adopted car parking standards. The proposal would therefore be likely to give rise to additional on-street car parking, to the detriment of highway and pedestrian safety, contrary to policies AM7(ii) and AM14 of the adopted unitary Development saved policies (September 2007).

7.11 Urban design, access and security

Issues of design and access are addressed elsewhere within the body of this report.

The proposal is not considered to give rise to any substantive issues or concerns with regard to security.

7.12 Disabled access

The proposed new dwelling would fail to comply with Lifetime Homes Standards and is therefore contrary to Policy 3.8 of the London Plan (July 2011) and the Accessible Hillingdon SPD.

7.13 Provision of affordable & special needs housing

The application does not propose special needs housing and is not of a scale which would necessitate the provision of affordable units.

7.14 Trees, landscaping and Ecology

The proposal would not necessitate the loss of any trees or landscape features of merit above the originally approved side extension, in addition both properties would retain a sufficient level of soft landscaping within their frontages in compliance with guidance within the HDAS - Residential Extensions. Accordingly, the proposal is considered to comply with Policy BE38 of the Saved Policies UDP.

7.15 Sustainable waste management

The application does not demonstrate any specific waste management provision, however generally individual dwelling houses in the borough make their own provision for waste and recycling with bags being taken to the pavement on collection days. No objection is therefore raised in respect of the waste or recycling storage.

7.16 Renewable energy / Sustainability

Planning permission was originally granted for an extension which did not require any sustainability measures to be implemented and some flexibility has to be applied with regard to conversions of an existing structure as you cannot necessarily 'retrofit' sustainable design and construction techniques. On this basis it is not considered that the lack of detail in respect of this issue is sufficient to justify refusal in this instance.

7.17 Flooding or Drainage Issues

The proposal would not raise any concerns relating to flooding and drainage. The area of hardstanding which has been created and would be retained is of a type which could have been constructed under permitted development rights due to the amount of soft landscaping around it and as such it is not considered it would not give rise to drainage issues.

7.18 Noise or Air Quality Issues

The proposal would not raise any concerns relating to noise or air quality.

7.19 Comments on Public Consultations

Issues (i), (ii) and (iii) have been addressed in the body of this report.

7.20 Planning obligations

The proposal is not of a scale which would necessitate planning obligations to mitigate its impacts.

7.21 Expediency of enforcement action

The application property is already subject to enforcement notices relating to the works proposed for retention.

7.22 Other Issues

The submitted design and access statement provides a number of examples of previous and historical planning application and appeal decisions which seek to argue that the proposal is acceptable. This evidence has been taken into consideration, however the cases cited are not considered directly relevant to the current application or policy context.

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

The application seeks the continued use of an extended dwelling house at no. 7 Cherry Tree Avenue as two separate dwellings, served by individual external amenity areas and a single off street car parking space.

The proposal would fail to provide adequate living conditions for future occupiers of unit 7a due to inadequate internal or external space provision, and fail to provide an acceptable level of inclusive design.

It would also result in an unacceptable level of overlooking of the neighbouring property, and provide inadequate off street car parking to the detriment of highway and pedestrian safety.

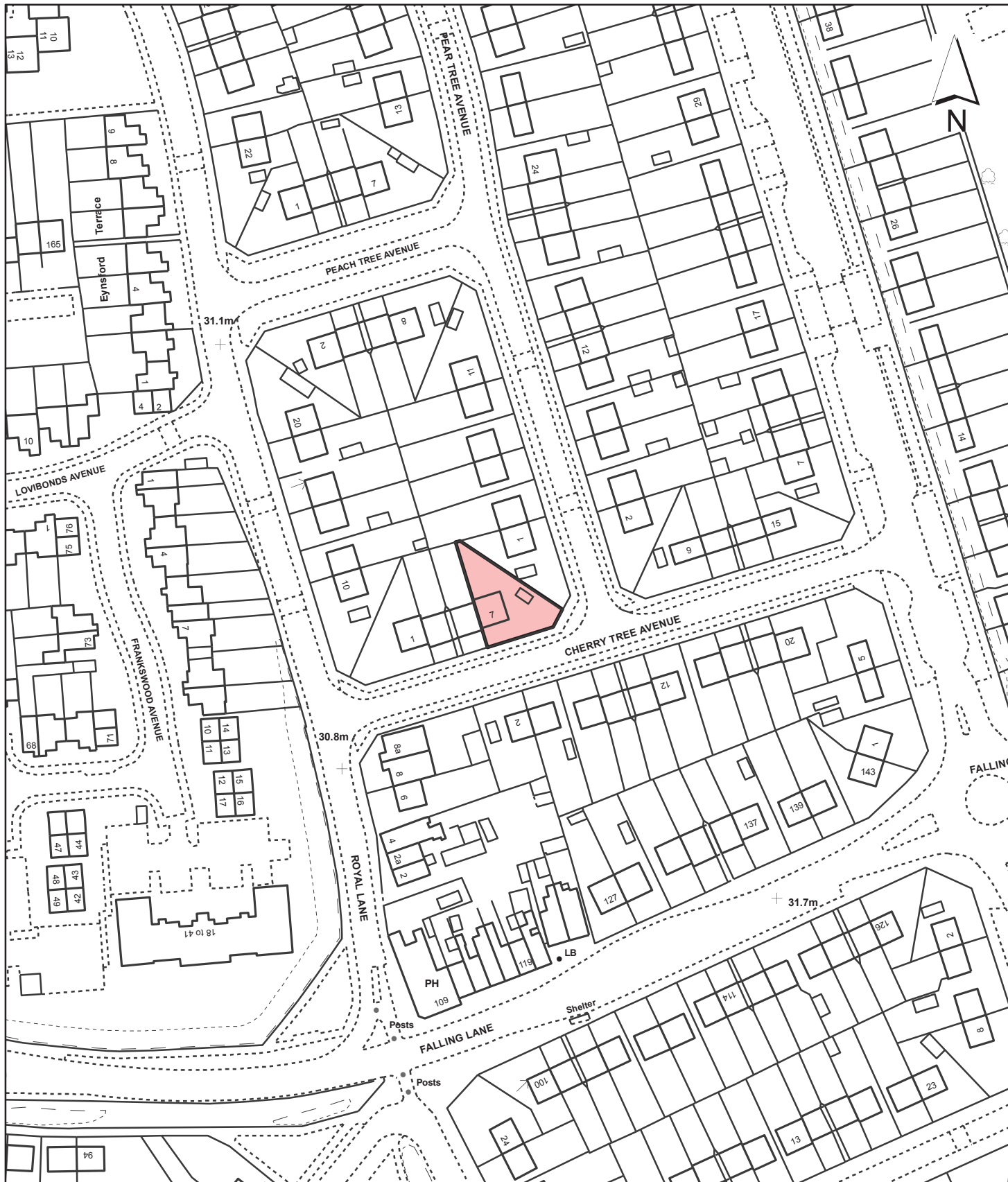
Accordingly, the application is recommended for refusal.

11. Reference Documents

The London Plan 2011

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Notes



Site boundary

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Site Address

**7 Cherry Tree Avenue
Yiewsley**

Planning Application Ref:

63027/APP/2011/1129

Planning Committee

Central and South

Scale

1:1,250

Date

**July
2011**

**LONDON BOROUGH
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