

Application Number	09/0550/FUL	Agenda Item	
Date Received	19th June 2009	Officer	Mr Amit Patel
Target Date	14th August 2009		
Ward	Castle		
Site	37A Castle Street Cambridge Cambridgeshire CB3 0AH		
Proposal	Change of use of the ground floor of the annexe at 37a Castle Street from a garage/kitchen use to use as a Mikvah (Jewish Ritual Bath) and engineering operation to create a Mikvah		
Applicant	Rabbi Reuven Leigh 37A Castle Street Cambridge Cambridgeshire CB3 0AH		

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The site is located to the north of the City Centre on the west side of Castle Street. The application site is to the rear and is located on St Peters Street. The site is a two storey annexe that serves 37a Castle Street. The area is mixed in character and adjacent to St Peters Street which is part of the principal road network. The site is on land sloping down from north to south.
- 1.2 The site falls within Conservation Area No.1.
The site is within the curtilage of a grade II listed building but is not a listed building itself.
There are no tree preservation orders on site and the site is within a controlled parking zone.

2.0 THE PROPOSAL

- 2.1 This application seeks approval for the conversion of the ground floor of the annexe at 37A Castle Street to create a Mikvah, a Jewish bath.
- 2.2 The creation of the Mikvah constitutes an engineering operation and is part of the application.

2.3 The application is accompanied by the following supporting information:

1. Design Statement
2. Associated Plans

3.0 SITE HISTORY

This site has had various planning history which is logged on file.

3.1 The decision notice for the previously refused application 07/0646/CLUPD is attached to this report as Appendix 1. This application was dealt with under delegated powers.

4.0 PUBLICITY

4.1 Advertisement:	No
Adjoining Owners:	Yes
Site Notice Displayed:	No

5.0 POLICY

5.1 Central Government Advice

5.2 **PPS1 Delivering Sustainable Development (2005):** Paragraphs 7 and 8 state that national policies and regional and local development plans (regional spatial strategies and local development frameworks) provide the framework for planning for sustainable development and for development to be managed effectively. This plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. Where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise.

5.3 **PPG13 Transport (2001):** This guidance seeks three main objectives: to promote more sustainable transport choices, to promote accessibility to jobs, shopping, leisure facilities and services, by public transport, walking and cycling, and to reduce the need to travel, especially by car. Paragraph 28 advises that new development should help to create places that connect with

each other in a sustainable manner and provide the right conditions to encourage walking, cycling and the use of public transport.

5.4 **PPG15 Planning and the Historic Environment (1994):** This guidance provides advice on the identification and protection of historic buildings, conservation areas and other elements of the historic environment.

5.5 **Circular 11/95 – The Use of Conditions in Planning Permissions:** Advises that conditions should be necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other respects.

5.6 **East of England Plan 2008**

SS1 Achieving sustainable development

T2 Changing travel behaviour

T3 Managing traffic demand

T4 Urban transport

T9 Walking, cycling and other non-motorised transport

T14 Parking

ENV6 The historic environment

ENV7 Quality in the built environment

5.7 **Cambridge Local Plan 2006**

3/1 Sustainable development

3/4 Responding to context

3/11 The design of external spaces

4/11 Conservation Areas

4/13 Pollution and amenity

5/4 Loss of Housing

5/12 New Community Facilities

8/2 Transport impact

8/10 Off-street car parking

5.8 **Supplementary Planning Documents**

Cambridge City Council (May 2007) – Sustainable Design and Construction: Sets out essential and recommended design considerations of relevance to sustainable design and construction. Applicants for major developments are required to submit a sustainability checklist along with a corresponding

sustainability statement that should set out information indicated in the checklist. Essential design considerations relate directly to specific policies in the Cambridge Local Plan 2006. Recommended considerations are ones that the council would like to see in major developments. Essential design considerations are urban design, transport, movement and accessibility, sustainable drainage (urban extensions), energy, recycling and waste facilities, biodiversity and pollution. Recommended design considerations are climate change adaptation, water, materials and construction waste and historic environment.

5.9 **Material Considerations**

Cambridge Historic Core – Conservation Area Appraisal (2005): Provides an appraisal of the Historic Core of Cambridge.

6.0 **CONSULTATIONS**

Cambridgeshire County Council (Engineering)

6.1 No Objection, same comments as below.

Cambridgeshire County Council (Transport)

6.2 No objection, the loss of parking will not have an effect on the surrounding streets

Head of Environmental Services

6.3 No objection in principle, however suggests conditions and informatives.

Policy Section

6.4 No objection.

Conservation Section

6.5 No objection, internal works only and therefore no impact on the Conservation Area.

Cambridge City Council Access Officer

- 6.6 Suggests that guard rails and better level access is installed for disabled users.
- 6.7 The above responses are a summary of the comments that have been received. Full details of the consultation responses can be inspected on the application file.

7.0 REPRESENTATIONS

7.1 Councillor Zmura and Hipkin have commented on this application. Their representations are attached to this report.

7.1 The owners/occupiers of the following addresses have made representations:

- 4 Pound Hill
- 6 The Terrace
- 1 Shelly Row
- 8 The Terrace
- 37 Castle Street
- 101 Perse Way

7.2 The representations can be summarised as follows:

- Character of area
- Over development
- Covenants
- Noise
- Intensification of use
- Used as a separate dwelling
- 268 Milton Road Mikvah already in use, serving the Cambridge Jewish Community
- Impact of the number of people using Mikvah
- Inadequate parking space size
- Increase traffic and parking
- Volume of water and impact on drainage

7.3 Prof. S. Goldhill of Kings College has made representations in support of the application on the basis that this is a much needed facility.

7.4 The above representations are a summary of the comments that have been received. Full details of the representations can be inspected on the application file.

8.0 ASSESSMENT

8.1 From the consultation responses and representations received and from my inspection of the site and the surroundings, I consider that the main issues are:

1. Principle of development
2. Context of site, design and external spaces
3. Disabled access
4. Residential amenity
5. Highway safety
6. Car and cycle parking
7. Third party representations

Principle of Development

8.2 The principle of development is supported by policy 5/12 of the Cambridge Local Plan 2006. The policy supports the provision of community facilities in Cambridge, especially where there are limited facilities of the same type. Policy 5/4 directs that the loss of residential accommodation through development would not be supported except in certain circumstances. Part d of policy 5/4 states that the loss of housing can be supported if there is a need for a community facility.

8.3 Under planning reference C/98/0997/FP a restrictive condition stated that the annexe should be used as ancillary to the residential dwelling and shall not be sold or let separately. The councils legal team have advised that the new permission, if granted, would override this condition. (Full text on file). There will be some degree of separation in terms of the function of the use, because the Mikvah is not solely for the use of the occupants of the dwelling. Should planning permission be granted the application site would become a separate planning unit.

8.4 In my opinion, the principle of the development is acceptable and in accordance with policies 5/4 and 5/12.

Context of site, design and external spaces

- 8.5 The application site is located in the rear garden of 37a Castle Street. This is currently used as an annex to the main house in accordance with planning approval C/98/0997/FP. The building itself is a two-storey building accommodating a garage and a kitchen at ground floor level and a living room and a bedroom at first floor level. The annex sits lower, in terms of ground level to the main house due to the topography of the land. The external appearance of the annexe is not being altered only the garage element is being lost and so externally there will be no change.
- 8.6 The application is for the change of use of the ground floor level only, to create a mikvah, which is a Jewish ritual bath. Access to the proposal will be from the existing door which is located on the northern boundary. Car parking space is retained to the front of the annexe, this will be retained for use by the residents of 37a Castle Street.
- 8.7 The area is a mixed in character but is predominately residential. The external appearance of the building is not changing and I feel, that being the case, the proposal in my opinion is compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policies 3/4, 3/7, 3/11, 3/12.

Disabled access

- 8.8 The access to the site will be as existing, which is mainly level and so will be fully inclusive to all people visiting the site. The access officer has requested that guard rails be installed internally for people with disabilities. This cannot be secured via a planning regulations but I have added an informative to encourage the applicant to consider making this change to the plan.
- 8.9 In my opinion the proposal is compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policies 3/7 and 3/12.

Residential Amenity

Impact on amenity of neighbouring occupiers

- 8.10 The main concerns that I envisage with this application are the impact of movements back and forth from the site as this will create a degree of noise and disturbance. Currently the annexe is used as an ancillary part to the dwelling house. Creating a mikvah, will create some form of intensification of the use. The impact on 39 Castle Street is, in my opinion going to be the greatest impact as the common boundary abuts the entrance/exit to the mikvah.
- 8.11 The common boundary to 37a and 39 Castle Street is a fairly tall boundary. This is made up of a brick wall standing approximately 3 metres in height and combined with this fact and that there is mature planting immediately behind this wall, which is even taller will minimise the noise impact to this neighbour.
- 8.12 The application states that there are to be 6 people per month using this facility. The applicant has stated that the Mikvah is used on an individual basis and will not create a gathering of people. With this in mind and given the numbers being proposed, it is my view that the use of the Mikvah will not generate a degree of disturbance which is significantly greater than that associated with the use of the site as a whole as a family home. I would further add that if the numbers were to increase and more people were to use this facility then depending on numbers, the proposal would be unlikely to create such an intensification of use so as to be detrimental to the amenity of the neighbouring occupiers given the limitations of the scale of the site and the way in which the Mikvah is used.
- 8.13 The applicant has stated that the house will not be used in connection with the Mikvah. I note that this could potentially have a detrimental impact on the neighbouring occupiers. The annex has sufficient room to accommodate all the functions of the Mikvah and as such the impact is localised to this area. The main dwelling to 37 Castle Street will not be impacted in terms of noise or disturbance if this was controlled. I feel that a condition restricting the use of the Mikvah to the garage area can overcome my concerns.

- 8.14 I feel that the movements of cars back and forth will also have an impact on the surrounding area. However the numbers of movements will be relatively low and St Peters Street is adjacent to a principal road (Shelly Row and Albion Row) where traffic would be expected. This road is busy at most hours of the day due to its links to the highway network and the nature of the area. The additional traffic generated, in my opinion will not be detrimental to the amenity of the neighbouring occupiers.
- 8.15 Subject to condition, in my opinion the proposal adequately respects the residential amenity of its neighbours and the constraints of the site and I consider that it is compliant with East of England Plan (2008) policy ENV7, and Cambridge Local Plan (2006) policies 3/4 and 3/7.

Highway Safety

- 8.16 The local highway authority has not raised any concerns on grounds of highway safety. I agree with this as the traffic will still be allowed to flow as the car parking will either be in Shire Hall or dedicated bays. Other parts of the road network are controlled by yellow lines which restrict the parking of vehicles in such a way that the parked cars will not interfere with the highway.
- 8.17 I do have concerns over the existing parking layout, as the loss of the garage will mean that the cars will have to park in front of the annexe. If cars are not parked properly, they will encroach on the safe passage of pedestrians past the site. However this is an existing situation and is not possible to control through this application.
- 8.18 In my opinion the proposal is compliant with East of England Plan (2008) policy T1 and Cambridge Local Plan (2006) policy 8/2.

Car and Cycle Parking

- 8.19 There are no residential parking rights associated with 37a Castle Street, with the exception of visitor parking permits. Once established there will be no parking rights associated with the Mikvah as a separate planning unit.

- 8.20 There have been objections with regard to parking problems that may be caused if this application was to be allowed. I agree that there is the potential for increase competition for car parking spaces in the area. However car parking is restricted in the area and there is a car park in Shire Hall, which can be used, which is relatively close by.
- 8.21 It is also stated that this facility will be used by local people, with another mikvah already approved in Milton Road and that some people are likely to come by bicycle. This being the case I feel that the competition for car parking space will not be as great as envisaged and that this can be accommodated on site. The owners already have a car parking space in front of the annexe which can be used to for their own vechiles.
- 8.22 The Mikvah is to be used late in the evening and at night and at this time there is no restriction on parking in the area. This will have the potential, to generate additional competition for car parking but I feel that there are plenty of car parking spaces in close proximity to minimise this impact and combined with this, assuming the numbers of people using the mikvah is correct and that the ceremony lasts 45mins, I feel that the parking problems will increase slightly but not to the level where this is going to be detrimental to the neighbouring occupiers to the extent that a refusal of planning permission can be justified.
- 8.23 In my opinion the proposal is compliant with East of England Plan (2008) policies T9 and T14, and Cambridge Local Plan (2006) policies 8/6 and 8/10.

Third Party Representations

- 8.24 The issues of parking, use, character, over development and residential amenity impacts (noise and disturbance) have been dealt with in my report.
- 8.25 The issue of covenant and conditions on previous application has been addressed in the report under Principle of Development.
- 8.26 The use of existing drainage is not within the control of planning and is dealt with by Building Control.
- 8.27 The issue of an existing Mikvah in Milton has been raised, however it is not the role of the planning authority to interfere

with the rights of individuals and communities to carry out the religious duties. In my view this facility is justified.

9.0 CONCLUSION

I do have some reservations about this application as a balance has to be struck between community need and impacts this generates. In this instance I felt that the impacts are relatively minor and therefore recommend approval.

10.0 RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

2. Before the development/use hereby permitted is commenced, a scheme for the insulation of the building(s) and/or plant in order to minimise the level of noise emanating from the said building(s) and/or plant shall be submitted to and approved in writing by the local planning authority and the scheme as approved shall be fully implemented before the use hereby permitted is commenced.

Reason: To protect the amenity of nearby properties (Cambridge Local Plan 2006 policy 4/13)

3. The Mikvah (Jewish ritual bath) hereby approved shall be used only between the hours of 0700 and 2300.

Reason: To protect the amenity of the neighbouring occupiers. (East of England Plan 2008 policy ENV7 and Cambridge Local Plan 2006 policies 3/4, 3/7 and 4/11.

4. The use of the premises as a Mikvah (Jewish Ritual Bath) shall be restricted to the application site only and no associated activities shall take place within 37a Castle Street or the first floor annexe accommodation.

Reason - In the interest of the amenity of adjacent residents (Policies 3/4 and 4/13 of the Cambridge Local Plan 2006)

5. The premises shall be used for a Mikvah (Jewish ritual bath) and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: For the avoidance of doubt, and because use of the building for any other purpose would require re-examination of its impact. (Cambridge Local Plan 2006 policies 3/4 and 4/13)

INFORMATIVE: To satisfy standard conditions relating to Noise Insulation, the noise level from all plant and equipment, vents etc (collectively) associated with this application should not raise the existing background level (L90) by more than 3 dB(A) both during the day (0700 to 2300 hrs over any one hour period) and night time (2300 to 0700 hrs over any one 5 minute period), at the boundary of the premises subject to this application and having regard to noise sensitive premises. Tonal/impulsive noise frequencies should be eliminated or at least considered in any assessment and should carry an additional 5 dB(A) correction. This is to guard against any creeping background noise in the area and prevent unreasonable noise disturbance to other premises.

It is recommended that the agent/applicant submits a noise prediction survey/report in accordance with the principles of BS4142: 1997 'Method for rating industrial noise affecting mixed residential and industrial areas' or similar. Noise levels shall be predicted at the boundary having regard to neighbouring residential premises.

Such a survey / report should include: a large scale plan of the site in relation to neighbouring premises; noise sources and measurement / prediction points marked on plan; a list of noise sources; details of proposed noise sources / type of plant such as: number, location, sound power levels, noise frequency spectrums, noise directionality of plant, noise levels from duct intake or discharge points; details of noise mitigation measures (attenuation details of any intended enclosures, silencers or barriers); description of full noise calculation procedures; noise levels at a representative sample of noise sensitive locations and hours of operation.

Any report shall include raw measurement data so that conclusions may be thoroughly evaluated and calculations checked.

INFORMATIVE: The applicant is advised that the history of the site shows that industrial process were undertaken on this site. If at any time during development the developer notices hydrocarbon odour to contact the Council's Scientific Team on 01223 457732.

INFORMATIVE: The applicant is also advised to contact Building Control on 01223 457200.

INFORMATIVE: The applicant is also recommended that they talk to the statutory agent for discharging the water into the existing waste system.

INFORMATIVE: The applicant is minded to make the Mikvah accessible to all and could introduce a handrail to take people into the Mikvah.

Reasons for Approval

1. This development has been approved, conditionally, because subject to those requirements it is considered to generally conform to the Development Plan, particularly the following policies:

East of England plan 2008: SS1, T2, T3, T4, T9, T14, ENV6 AND ENV7

Cambridge Local Plan (2006): 3/1, 3/4, 3/11, 4/11, 4/13, 5/4, 5/12, 8/2 and 8/10

2. The decision has been made having had regard to all other material planning considerations, none of which was considered to have been of such significance as to justify doing other than grant planning permission.

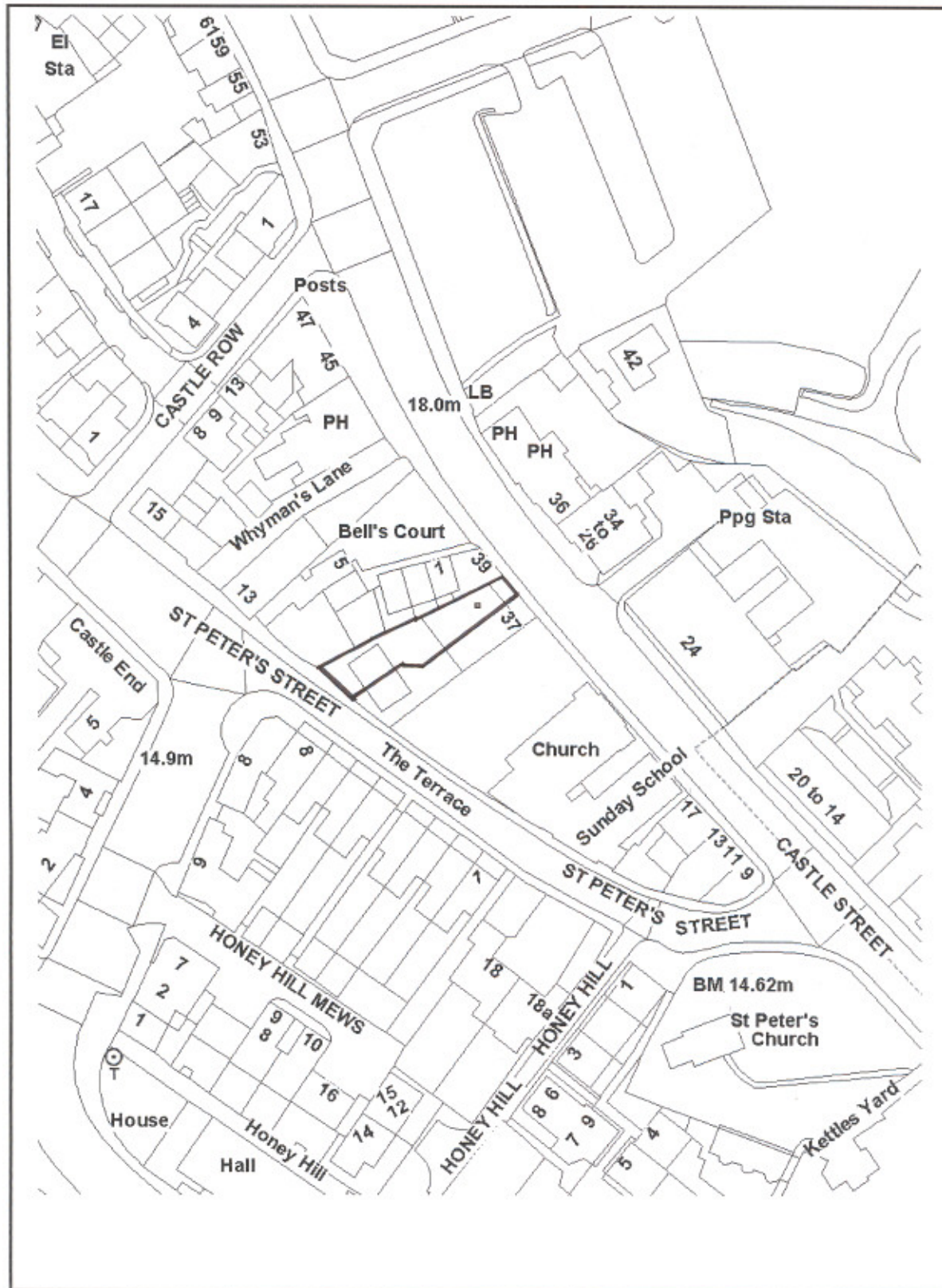
These reasons for approval can be a summary of the reasons for grant of planning permission only. For further detail on the decision please see the officer report by visiting the Council Planning Department.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;
2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses “exempt or confidential information”
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected by contacting John Summers (Ext.7103) in the Planning Department.



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