

<b>Application Number</b>	09/0731/FUL	<b>Agenda Item</b>	
<b>Date Received</b>	6th August 2009	<b>Officer</b>	Mr John Evans
<b>Target Date</b>	1st October 2009		
<b>Ward</b>	Arbury		
<b>Site</b>	107 Darwin Drive Cambridge Cambridgeshire CB4 3HQ		
<b>Proposal</b>	Two storey rear extension and single storey side extension to community house and first floor flat (key worker).		
<b>Applicant</b>	Mr H Ali 14 Darwin Drive Cambridge Cambridgeshire CB4 3HQ		

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## **1.0 SITE DESCRIPTION/AREA CONTEXT**

- 1.1 The application site is located on the eastern side of Darwin Drive, close to the junction with Erasmus Close. Darwin Drive and the surrounding area is predominantly residential in nature, comprising pairs of two storey semi-detached properties. Full planning permission was granted in 2006 for conversion on the ground floor from a dwelling to a Bangladeshi Community Centre, with residential accommodation retained at first floor.
- 1.2 The front of the site is hard surfaced with a hedge along the northern boundary and a fence of approximately 1 metre high along the southern boundary. To the rear is a garden area with wire fencing along both boundaries to neighbouring properties.
- 1.3 The site is not within a conservation area or within a controlled parking zone.

## **2.0 THE PROPOSAL**

- 2.1 This application seeks consent for a 2 storey rear extension, projecting 4.6m to the south east, in line with the neighbouring extension at number 105. The extension is to be constructed in materials to match the existing building, and as proposed has a

gable end to the rear elevation. To the southern flank elevation, a single storey extension that projects 2.3m accommodates a disabled toilet which is served by a ramped access.

- 2.2 Internally, on the ground floor the extension will increase the main community hall by some 25 sq m. The upper floor, which is used as accommodation for the resident Imam, will increase in footprint accordingly, providing further living space for guest preachers.
- 2.3 Externally the application proposes a covered cycle store which abuts the common boundary with number 109 and a bin storage area.

### Application History

- 2.4 The application was considered at North Area Committee on 12 November 2009. Committee resolved to approve the application, against officer recommendation, and planning permission was issued on 10 December 2009.

Following this, a claim for judicial review was submitted seeking an order from the High Court to quash the grant of full planning permission.

- 2.5 To briefly summarise, the Court found that there were four issues of concern.
  - The planning officer's summary of enforcement complaints in the 2009 Committee report was incomplete.
  - An objector was deprived of the opportunity to speak at the Committee.
  - The Committee permitted one oral representation to be made by someone not entitled to speak.
  - The Committee did not in its deliberations address or consider an objection relating to previous breaches of planning conditions and the extent to which these breaches might continue or increase if the application were approved, particularly in the absence of any management plan submitted and approved for the property.

- 2.6 The judge decided that the claim should be allowed and the December 2009 planning permission should be quashed. The Court issued the formal Judgment on 5 July 2011.

2.7 The effect is to leave the original planning application undetermined. The Council is now required to consider the planning application afresh in light of this Judgment.

2.8 The application is accompanied by the following supporting information:

1. Design and Access Statement

### 3.0 SITE HISTORY

Reference	Description	A/C, REF, W/D
C/04/0112	Change of use from residential to ground floor only to Islamic Centre	Withdrawn
04/1236	Change of use from single family residential space to community house for the Bangladeshi Community in the Akeman Street/Darwin Drive area, including residential space for key worker	Approved until 1 May 2006
06/0473	Change of use from single family residential space to community house for the Bangladeshi community, including residential space for key worker.	Approved
07/1458/FU L	Part single, part two storey side and rear extension to incorporate first floor 2 bed flat.	Refused

### Summary of Enforcement History

I have attached a summary of the enforcement history within APPENDIX 1.

### 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 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.

### **5.4 East of England Plan 2008**

ENV7 Quality in the built environment

### **5.5 Cambridge Local Plan 2006**

3/1 Sustainable development  
3/4 Responding to context  
3/7 Creating successful places  
3/11 The design of external spaces  
3/14 Extending buildings  
5/12 New Community Facilities  
8/2 Transport impact  
8/4 Walking and Cycling accessibility  
8/6 Cycle parking  
8/10 Off-street car parking

### **5.6 Material Considerations**

**Facilities for faith communities in new developments in the Cambridge Sub region (2008)** – This is a Cambridgeshire Horizons report. This has not been adopted as planning guidance.

## 6.0 CONSULTATIONS

### Cambridgeshire County Council (Highways)

6.1 No significant adverse impact on the public highway is likely.

### Head of Environmental Services

6.2 No objections in principle, although given that complaints have been received in the past it is important that conditions are maintained.

- Standard construction hours condition recommended
- Recommended that the Council's Housing Services are contacted regarding light to first floor flat.

6.3 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 Todd-Jones made comments during the original consultation period. The representation is set out below:

*This application follows refusal of an application for an extension (07/1458/FUL) in 2008 due primarily to a 'consolidation of mass and form, disproportionate to the existing house' with a 'negative impact on the visual amenity'. Following discussion with the planning case officer, the architect submitted new plans that form the basis of the current application and I believe the current application meets the previous concerns.*

*The proposed extension has been reduced in size and scale and its height is below the existing ridge line and, in my opinion, therefore responds to its context according to the Cambridge Local Plan 2006 3/4. The current application also removes the external staircase that was proposed on the side elevation by the previous application, therefore reducing the impact on the visual amenity, and the angle of the property and extension does not lead to overlooking, overshadowing, or dominating neighbouring properties, therefore meeting the requirements of the Cambridge Local Plan 2006 3/14.*

*The justification for the ground floor extension, to increase the floor space to easily allow the separate teaching of boys and girls according to the religion and custom of the Bangladeshi Community, is, in my opinion, reasonable. The justification for the upper storey extension, to allow for the accommodation of visiting Imams/Preachers in addition to the resident Imam occupying the existing upper storey, is, again in my view, reasonable and the need for ground floor and upper storey extension accords with the Cambridge Local Plan 2006 5/12 where the extension of existing community facilities, for which there is a local need, is permitted.*

*There are also many precedents/examples of similar or larger extensions to properties in Darwin Drive therefore the application for 107 is not out of character with the street scene.*

*The application allowing change of use to a Community House (04/1236/FUL) included conditions relating to the numbers of persons using the house at any one time and to the hours of use. Whilst I support the current application for the extension, and the justifications, on their own merit; sensitivity over the existing conditions merit further discussion at North Area Committee, irrespective of whether you are minded to accept or refuse the application.*

*Cllr Mike Todd-Jones,  
Cambridge City Council,  
Arbury Ward*

7.2 Representations were originally received from the following properties:

106 and 111 Darwin Drive.

The representations received made the following points:

- The proposal is inappropriate for the area and does not respect the character and context of the site.
- Adjoining properties will suffer a loss of privacy.
- There will be an increase in noise and disturbance and traffic problems.
- 107 was built as a family home and not as a community facility for upwards of 20-30 people.
- There are already unacceptable noise problems from people

- talking loudly when arriving and leaving.
- The centre serves a much wider area than the surrounding streets.
  - Any extensions would exacerbate existing visitor and traffic problems.
  - There are present restrictions on the property regarding numbers visiting the site. These restrictions are already ignored to the detriment of those living locally.
  - Any extension to the property would simply exacerbate an already difficult problem with an increase in both visitors and traffic.

**All neighbouring properties and consultees originally consulted were re-consulted on 15 August 2011.**

The following representations have been received following fresh consultation:

106 (2 representations received), 111 Darwin Drive (2 representations received), 12 Erasmus Close.

The representations received made the following points:

- The objection is primarily but not solely based on the applicants inability to adhere to conditions set down in 2006 (06/0473)
- The community house is not well managed.
- Despite the 2006 permission not requiring a management plan the applicants have constantly been reminded for the need for one.
- No management plan has been received, so how officers and members can assess the proposal is puzzling.
- The 2004 conditions should have been complied with.
- Conditions relating to the provision of car parking has not been complied with.
- There are conditions limiting the first floor flat to persons directly associated with the community house. However, there have been a number of taxi drivers lodging who have no connection with the community house.
- The community house has never provided a covered cycle store as required by condition.
- Most importantly the community centre does not comply with the restriction on numbers. There is only compliance when the enforcement team are monitoring the premises.
- Only after multiple breaches was a Breach of Conditions notice finally served on 23 June 2010.
- Officers failed to address the concerns of local residents when

- the application 09/0731/FUL was submitted.
- The community house tried to make the case of flexibility rather than intensification of use. There is contradictory information across the application history where there is a clear desire to increase numbers to 30 people at any one time.
  - The design and access statement states that community house officers will enforce the hours of operation, but this goes against their own constitution stating 'prayers will take place 5 times a day with 4 prayer sessions consisting of more than 3 in attendance'.
  - The likelihood that any extension of the premises will lead to intensification can be evidenced both by past history and failure to comply with conditions and intentions to increase numbers in the future.
  - The number of children playing in the street has increased since the last application and the argument regarding potential accidents remains as it was before.

A petition has also been received with 23 signatures. The following points are made:

- Cars are still parked on the footpaths of Darwin Drive at all hours.
- The car parking area is never open to accommodate worshippers.
- The noise levels of worshippers has not decreased. Car doors being slammed, engines being started late at night, worshippers talking loudly in the street, Erasmus Close is still being used as a car park.
- Worshippers have been seen leaving the premises at 5am in the morning.
- Darwin Drive is a residential area and should remain as such.
- There seems to be a wider catchment than Darwin Drive.
- How many people live in the flat?
- No is against worshippers of any creed or culture following their religion. But why is a prayer house allowed to be situated in a crowded residential area
- Respect and consideration should be shown to residents living locally as we are being overlooked

## **8.0 ASSESSMENT**

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. Impact on Residential Amenity
3. Context of site, design and external spaces
4. Car and cycle parking
5. Refuse arrangements
6. Disabled access
7. Highway safety
8. Third party representations
9. Planning Obligation Strategy

### **Principle of Development**

- 8.1 Proposals which involve the provision of new, or the extension of existing community facilities are generally supported within policy 5/12 of the Local Plan. This policy states that new community facilities for which there is a local need will be permitted and the development of City-wide or sub-regional community facilities will be permitted if they are in sustainable locations. The application is supported in broad terms by the Cambridgeshire Horizons study 'Facilities for faith Communities in New Developments in the Cambridge Sub Region' (2008), however that is not an adopted policy and should be regarded as a material consideration only.
- 8.2 Community facilities which are located in Cambridge generally serve a wide catchment area, benefiting from good transport links. However, as detailed within policy 5/12, a suitable location should be demonstrated through a sequential test. Clearly, as set out within the Cambridgeshire Faith Study there is a need and recognised shortage for community buildings, although that need does not mean that any building is necessarily suitable for such occupation. This former residential dwelling meets a local need; although number 107 Darwin Drive is not in itself a flexible building or in a suitable location to easily accommodate other community uses, now or in the future.
- 8.3 The proposed community house members, from the information detailed within the applicants Design and Access Statement, are drawn from the immediate Akeman Street and Darwin Drive area. It is argued the Mawson Road Mosque provides teaching predominantly in Arabic and Urdu, which is difficult for Bangladeshi children to understand. The community centre in Darwin Drive provides teaching in Bengali, which meets a local need. On this

basis, the faith facility is considered to broadly be consistent with the requirements of policy 5/12, given that a reasonable need has been demonstrated compared with other available sites in the city.

- 8.4 In my opinion, the broad principle of the development is acceptable and in accordance with Cambridge Local Plan 2006 policies 5/12 and 7/3. However, this former residential semi detached property is situated in a relatively quiet residential area, and is not in my view suitable for expansion. The proposal also requires assessment under other relevant policies in the Local Plan below.

### **Impact on Residential Amenity**

- 8.5 The key issue in terms of amenity relates to the impact of the new use on the residential character of the locality and on the amenities of neighbouring properties.
- 8.6 The community centre is used by children after school and during the day time on holiday periods to receive religious and moral guidance and for communal prayer for all members of the Akeman Street and Darwin Drive community. During Ramadan the premises is used more intensively and at other specific times during the year, including occasional Board of Trustees meetings. At present the existing planning permission limits numbers to 20 persons at any one time. The community centre is also restricted in terms of its hours of operation, from 9.00 to 21.00 Monday to Sunday and between 09.00 and 22.30 throughout the months of June and July. The Local Planning Authority has agreed to temporary written variations of these hours during the period of Ramadan, to allow for prayers to take place between 01.15 and 02.15.
- 8.7 It is argued within the application that more space is required to accommodate the teaching of children, and the enlarged community hall will provide a more flexible space for separate teaching for boys and girls. This space will be divided up with moveable screens. While I recognise that the improved facilities will provide a better, less cramped learning environment for children, it represents a considerable expansion of the premises, which in my view is likely to result in more members of the community using the centre at any one time. The Local Planning Authority could consider increasing the current limit of 20 people at any one time, although I do not consider this to be appropriate in

this residential location. There needs to be recognition that this property and this location will impose limits on the levels of activity that can take place without compromising the amenity of other residents in the area.

#### High Court Judgment: Enforcement History

- 8.8 The Judge was critical of the previous officer report relating to the history of non compliance with condition 5 of 06/0473/FUL relating to restriction of numbers at the premises to 20 people at any one time and also with condition 7 relating to the hours of use. In his view the absence of this information led to the conclusion that the Council took its decision to approve the application without a complete and accurate account and understanding of the history of noncompliance at the Community House.
- 8.9 The centre has received complaints since planning permission was granted in 2006 and, at times, has struggled to control the number of members using the community centre and keep within the hours of use. In response to this I have set out a summary of enforcement monitoring at the Community House over recent years (section 3). In recent months there has been an improvement by the Community House in managing its visitor numbers. There have been no recorded breaches of more than 20 people at any one time since officers witnessed 34 people at the premises earlier in June 2011. There was a recorded breach of hours on 8 August 2011, although the main focus of enforcement monitoring has been numbers of people using the premises.
- 8.10 The comings and goings of community members through the day has the greatest impact upon the amenities of neighbouring residential properties. Clearly this is a greater problem during busier times, particularly during Ramadan when the premises is more intensively used and during Friday prayers which have a larger attendance. The building is situated on a corner plot and benefits from a relatively large paved driveway for members to gather before and after prayers. This also provides a small buffer between number 109 to the south. Despite assertions that the community house officers will enforce all journeys to be made on foot, some movements will inevitably be by car. It is very difficult to control the noise generated from the slamming of car doors and engine noise. Furthermore, some disturbance will be created from members of the centre exiting the property after classes, particularly from children. In my view the overall increased scale of

the proposed use would be detrimental to the quiet, residential character of Darwin Drive, making this an unsuitable location to expand the Community Centre. The Community centre was originally granted a temporary consent because of its potential impact upon neighbouring amenity and in my view these concerns remain.

- 8.11 In terms of the physical impact of the extension, the first floor windows will obliquely overlook the neighbouring garden of number 109, although the harm is not considered to be so great as to recommend refusal.

### Management Plan

- 8.12 The High Court Judgment made specific reference to non-compliance with planning conditions requiring a management plan for both the temporary 2004 permission and the 2006 permission. The Council did not impose a condition on the 2006 consent so there was in fact no requirement on the applicant to submit such a plan following the grant of that permission. However, the Council did impose such a condition on the 2004 temporary permission and also sought to impose this condition on the quashed 2009 permission. While I understand a management plan is to be submitted shortly and recent enforcement monitoring has recorded a pro active more organised management of people using the community house, The Council has still received not received any written management plan setting out the short, medium and longer term aspirations for the use of the centre.
- 8.13 While there is a commitment made within the design and access statement to control visitor numbers and times of use, this has not always been achieved in the past. Concerns remain that there has yet to be a written management plan submitted as part of this application, which sets out how the premises will be managed and controlled. Members will need to satisfy themselves that management controls, whether approved by the Council or left to the organising body can be relied upon to address the potential detrimental impacts upon amenity that have been raised.
- 8.14 I remain concerned that the expanded premises will not lead to an intensification of use of the centre. While I have sympathy with the desire to improve the teaching accommodation at the community house, I believe that an extension will encourage a more intensive use of the premises, which has not been properly managed in the

past. The associated comings and goings of members has the potential to adversely affect the residential amenity of its neighbours, and the constraints of the site have to be seen as setting a limit on the scale of activities that can be satisfactorily accommodated in this location. My judgement is that the proposed extension is not therefore compliant with Cambridge Local Plan (2006) policies 3/4 and 3/7.

### **Context of site, design and external spaces**

- 8.15 In design terms, the acceptability of the extension turns on its scale, form and detailed design in relation to the main building.
- 8.16 Local Plan policy 3/14 states that extensions to existing buildings should reflect or successfully contrast their form and architectural detailing and should not dominate neighbouring buildings. The extension is rather deep at 2 storey level, although it essentially replicates what has already been approved at the neighbouring number 105, and is not disproportionate to the plan form of the original property.
- 8.17 The gable end detailed design to the rear elevation is somewhat illogical compared with the neighbouring extension, and others in the vicinity which all have hipped roofs. However, this minor issue could be resolved through amended plans if all other matters were considered acceptable.
- 8.18 The extension would only be visible at an oblique level within the street scene and in my view would not detract from the character and appearance of the building, in accordance with Local Plan policy 3/14. It is the expanded use however of the premises which is not acceptable.

### **Car and Cycle Parking**

- 8.19 This site provides off street car parking for 3 spaces, which is in accordance with adopted standards. The development will also provide cycle storage for 20 bicycles which is likely to be sufficient. Whilst there is a commitment to ensure members of the centre arrive on foot, an overall increase in vehicle movements is likely to result in an erosion of amenities to existing residential properties within the street.

8.20 In my opinion the provision of car and cycle parking is however compliant with Cambridge Local Plan (2006) policies 8/6 and 8/10.

### **Refuse Arrangements**

8.21 The application proposes a bin store to meet the needs of the facility to the south of the site, within the car park area. It is of sufficient size and is obscured from the street. In my opinion the proposal makes adequate provision for bin storage and therefore is compliant with Cambridge Local Plan (2006) policy 3/7.

### **Disabled access**

8.22 The building has wheelchair access; with the floor level the same throughout. In my opinion the proposal is compliant with Cambridge Local Plan (2006) policies 3/7 and 3/12.

### **Highway Safety**

8.23 The County Highways Authority have considered this proposal in terms of highway safety and do not raise any concerns in terms of any significant adverse harm to the public highway. In my opinion this aspect of the proposal is compliant with Cambridge Local Plan (2006) policy 8/2.

### **Third Party Representations**

8.24 The points raised in letters of representation received have been addressed in the above assessment.

### **Planning Obligation Strategy**

8.25 The Planning Obligation Strategy (2004) provides a framework for expenditure of financial contributions collected through planning obligations. The proposed use being a community facility falling within the D1 Use Class would not be required to contribute towards this strategy.

## **9.0 CONCLUSION**

9.1 The proposed extension, whilst acceptable in principle and design terms, would in all likelihood lead to an unacceptable expansion of the community centre leading to an erosion of the amenities currently enjoyed by neighbouring residential properties in Darwin

Drive, that is out of character with the area. While I note recent compliance with the 20 person restriction at the premises (imposed by condition 5 of the 2006 permission), it is my judgement that there have to be concerns about the further expansion of a community facility, which by its nature has regular comings and goings of visitors. Refusal is therefore recommended.

- 9.2 In relation to on-going compliance with planning conditions. The planning enforcement service will continue to monitor the situation and will report back to committee if formal action to secure compliance with any planning condition or restriction becomes necessary.

## **10.0 RECOMMENDATION**

### **REFUSE for the following reasons:**

1. The proposed extension is unacceptable because it would increase the size, scale and intensity of the existing community centre, which is in close proximity to neighbouring residential dwellings and situated on what is a relatively quiet residential street, to a level which is over and above what is reasonably acceptable to maintain the residential character and amenity of the area. This would be likely to have a significant adverse impact on the residential amenities currently enjoyed by occupiers, by reason of the comings and goings of visitors, some of which are likely to arrive by car, and the gathering of members before and after prayers and other events. In so doing the proposed development fails to respond positively to the site context and would not make a positive contribution to the character of the area in terms of its impact on existing residential amenity. The development is therefore contrary to Cambridge Local Plan 2006 policies 3/4 and 3/7.

## **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.





09/0731/FUL  
107 Darwin Drive Cambridge