



<b>Application Reference:</b>	<b>P0729.19</b>
<b>Location:</b>	<b>148A Chase Cross Road, Romford</b>
<b>Ward:</b>	<b>Havering Park</b>
<b>Description:</b>	<b>S.73 Application – Variation of Condition 8 (Application Ref. P0729.99 dated 07/08/1999) to allow for an extension of hours whereby the premises shall not be used other than between the hours of 06:00~21:30 (October to February), 04:00~23:30 (March to September).</b>
<b>Case Officer:</b>	<b>Aidan Hughes</b>
<b>Reason for Report to Committee:</b>	<b>A Councillor call-in has been received which accords with the Committee Consideration Criteria.</b>

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### 1. BACKGROUND

- 1.1 This application was called in by Councillor Christine Vickery citing the following reasons: harm arising from noise and unacceptable highway impacts (car parking).
- 1.2 This application went to committee on 1 August 2019, where it was deferred to enable staff to:
  - Preparation of possible additional condition to cover maximum number of worshippers and adaption of already recommended condition to further restrict the hours of use to 6 no. 1 hour slots throughout the day (post meeting observation: the sixth slot would be specific to a Friday)
  - Officers to discuss with the applicant whether these conditions are acceptable

The report is now brought back to Members, updated with further information on the above matters.

- 1.3 The agent has responded on behalf of his client the Iqra Educational & Cultural Centre (IECC) and the following requirements are required which will meet their needs throughout the year:

### **Daily Prayers**

- Five 1 hour slots for daily prayers with additional 1 hour for Friday prayers.
- Limit the number of worshippers to 15 for the Morning Prayer, 30 for the rest of the prayers and 60 worshippers per session for Friday midday prayer.

### **Ramadan**

- Additional 1-hour slot is required for 5<sup>th</sup> prayer in month of Ramadan and limit number of worshippers to 60.

### **Eid Prayers**

The two Eid prayers on which these prayers are conducted in large congregations are;

- **Eid al-Fitr**, celebrated after the fasting in the holy month of Ramadan.
- **Eid al-Adha**, celebrated on the main day of the Hajj pilgrimage season.

3 hours slot is required for each Eid prayer and worshippers limited to 60 per session.

### **Educational Requirements**

To meet Islamic educational need of children in local community, the IECC require the following fixed hours:

Monday to Sunday 5 pm to 7 pm and Saturday, Sunday 11 am to 1 pm throughout the year.

- 1.4 Further to the response received from the agent on behalf of IECC, staff sought further clarity.

- 1.5 A full year timetable was provided for the daily prayer timetable for winter months (October to February) and summer months (March to September)

- 1.5.1 Five daily prayers are performed at times determined essentially by the position of the Sun in the sky.

- Dawn Prayer (Fajr): it is performed before sunrise.
- Midday Prayer (Dhuhr): The time interval for offering the Dhuhr prayer starts after the sun passes its zenith.
- Late Afternoon ('Asr): In the late afternoon
- Evening (Maghrib): Just after the sun goes down.
- Night ('Isha): Before retiring for the night

- 1.5.2 During the winter the sunrise is late and sunset is earlier, where in the summer the sunrise is earlier and the sunset late.
- 1.6 It was confirmed by the agent on behalf of the IECC that the one-hour slots for prayers and two hours for educational purposes sufficient for members to arrive, prayer/education and depart the site will be sufficient.
- 1.7 The Imam will not stay on site; he will travel to and from site during prayer and educational sessions.
- 1.8 The following table has been formulated from the information provided to providing the prayer times and the opening of the centre 20 minutes before prayer time and the closing of the centre after 30 minutes of prayer time.

	FAJR		DHOHR		ASR		MAGHRIB		ISHA	
	(Dawn Prayer)		(Midday Prayer)		(Late Afternoon Prayer)		(Evening Prayer)		(Night Prayer)	
	Start	Finish	Start	Finish	Start	Finish	Start	Finish	Start	Finish
January	06:25	07:30	12:40	13:30	14:25	15:45	15:45	17:22	18:40	19:30
February	05:40	07:15	12:40	13:30	14:55	16:30	16:33	18:12	18:40	20:00
March	04:40	06:30	12:40	13:30	15:40	18:15	17:24	20:05	19:10	21:45
April	04:25	06:15	13:10	14:00	17:25	18:45	19:17	20:55	20:55	22:30
May	03:55	05:15	13:10	14:00	17:55	19:30	20:07	21:40	21:40	23:00
June	03:55	04:45	13:10	14:00	18:40	19:30	20:51	21:55	22:20	23:20
July	03:55	04:45	13:10	14:00	18:40	19:30	20:33	21:54	22:10	23:20
August	03:55	05:30	13:10	14:00	17:40	19:30	19:32	21:21	21:20	23:00
September	04:55	06:30	13:10	14:00	16:40	18:15	18:25	20:20	19:55	21:45
October	05:40	07:00	12:40	14:00	14:40	17:30	16:18	19:11	19:10	20:45
November	05:40	07:00	12:40	13:30	14:25	15:30	15:39	17:06	18:55	20:00
December	06:10	07:30	12:40	13:30	14:25	15:15	15:34	16:34	18:40	19:30

KEY - Start time includes arriving 20 mins before prayer time / Finish time includes prayer time and and departure from centre

- 1.9 However, this may overlap with the time required to educate the children in local community in respect to the Islamic faith.

## 2 ADDITIONAL LOCAL REPRESENTATIONS

- 2.1 Since the last committee meeting, additional representations were received and these have been summarised below.

- Noise from children playing and shouting on a Sunday at IECC.
- Concerned that the application site is being used on Sundays.
- Why the numbering of the site has changed and no notification.
- No reference was made to the withdrawn Lawful Certificate application.
- The language and abuse received during the previous meeting.
- Concerned regarding two air conditioning units and their position.

- 2.1.1 In response to the above, any noise related issues should be reported to the Council's Public Protection Team so the matter can be investigated.

- 2.1.2 In response to the second point and the building being used on a Sunday, the building has got consent for a D1 use which falls within a use for a place of worship as per the original planning consent P0729.99 and mindful that the

premises can already operate between the hours of 6.00am and 3.00pm on Sunday as per condition No.8 of the original consent P0729.99.

- 2.1.3 In response to the third point, an application was not shown on the history section of the committee report for a Lawful Certificate Application E0011.17. This application was withdrawn, as there was insufficient evidence provided to come to an informed decision and that the premises were being used outside of the hours allowed under condition No.8 of P0729.99 for over a 10 year period.
- 2.1.4 Residents raised concerns that the planning department did not notify residents of a change of numbering to the premises at the rear of No.148 Chase Cross Road which forms part of this application. It should be noted that the numbering of a property is not a planning consideration and does falls within the parameters of a planning application. The agent has been requested to feed back that the numbering of the site would need to be formalised if applicable with the Council's Street Name and Numbering Department.
- 2.1.5 The matter has been highlighted to Democratic Services in preparation for the next committee meeting.
- 2.1.6 Finally, the matter regarding the air conditioning units has been investigated and Staff are liaising with the agent for the air conditioning units to be removed in the current position and for a planning application to be submitted to relocate them somewhere else within the site.
- 2.1.7 The Committee is invited to consider the information above in the context of their debate on this item at the last Planning Committee meeting on 1<sup>st</sup> August. The Officer recommendation continues to be one of approval for a temporary period of 18 months. The original committee report remains unchanged and is attached as Appendix A.

### **3 RECOMMENDATION**

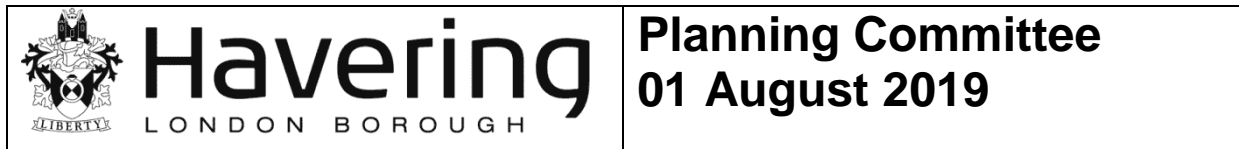
- 3.1 That the Committee agree to vary the Hours Condition on a temporary basis for 18 months subject to a review at 12 months.
- 3.2 That the Assistant Director of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

**Conditions**

1. Review at 12 months
2. Restriction of D1 use
3. Hours of Operation ( vary for a temporary 18 month period)
4. Amplified Music and Sound – Extended Hours restriction
5. Noise insulation (performance)
6. Access way (compliance)

**Informatives**

1. No negotiation required
2. Review after 12 months



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**1. BACKGROUND**

- 1.1 This application was called in by Councillor Christine Vickery citing the following reasons: harm arising from noise and unacceptable highway impacts (car parking).
- 1.2 This application has been submitted to vary condition No.8 of consent reference P0729.99. The application has been invited by the Planning Enforcement Team following a complaint received from a local resident.
- 1.3 It should be noted that the Iqra Educational & Cultural Centre has been using the hall at 148A Chase Cross Road for the last 18 months and during the hours sought by this application.
- 1.4 Planning permission, reference P0729.99 was granted on 5 August 1999 for a single storey building with car parking and entrance drive for use as meeting room. Condition No.7 of this consent restricts the use of the premises for a place of worship only and for no other purpose including uses falling within D1 of the Town and Country Planning (General Development) Order 1995 as amended.

- 1.5 The centre known as the Iqra Educational & Cultural Centre is principally used for community purposes including religious instruction and prayer meetings. Internally the building comprises of a multi-purpose hall which is used for prayer, meetings, and community events.
- 1.6 The most important Muslim practises are the Five Pillars of Islam. The Five Pillars of Islam are the five obligations that every Muslim must satisfy in order to live a good and responsible life according to Islam. These pillars are the declaration of faith, performing ritual prayers five times a day, giving money to charity, fasting during the month of Ramadan and a pilgrimage to Mecca (at least once). Carrying out these obligations provides the framework of a Muslim's life, and weaves their everyday activities and their beliefs into a single cloth of religious devotion.
- 1.7 The five daily prayers referred to above are obligatory and they are performed at times determined essentially by the position of the Sun in the sky. It is for this reason that the Prayers take place at different times throughout the year and throughout the world.

- 1.8 The five prayers are undertaken as follows as specified within the Quran:

The Dawn Prayer (Fajr) - dawn, before sunrise  
The Noon Prayer (Zuhr) - after the sun passes its highest point  
The Afternoon Prayer (Asr)  
The Sunset Prayer (Maghrib) - just after sunset  
The Night Prayer (Isha) - between sunset and midnight

On a typical day this means that the five Prayer meetings are held around 0700, 1330, 1630, 1800 and 2030. On a Friday, there is a second prayer session at 1415 due to number of members attending and due to the limitation of space within the place of worship.

- 1.9 The applicant has submitted a planning application to vary the condition which prevents the use of the centre other than the hours of 6.00am and 3.00pm on Sunday and from 6.00pm to 9.00pm on Monday.

### **SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- 2.1 The Iqra Educational & Cultural Centre having been using the hall for the last 18 months during the hours requested as part of this application.

### **3 RECOMMENDATION**

- 3.1 That the Committee agree to vary the Hours Condition on a temporary basis for 18 months subject to a review at 12 months.
- 3.2 That the Assistant Director of Planning is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

### **Conditions**

7. Review at 12 months
8. Restriction of D1 use
9. Hours of Operation ( vary for a temporary 18 month period)
10. Amplified Music and Sound – Extended Hours restriction
11. Noise insulation (performance)
12. Access way (compliance)

### **Informatives**

3. No negotiation required
4. Review after 12 months

## **4 PROPOSAL AND LOCATION DETAILS**

### **Proposal**

- 4.1 Planning permission is sought to vary condition 8 (Application Ref. P0729.99 dated 07/08/1999) to allow for an extension of hours whereby the premises shall not be used other than between the hours of 06:00~21:30 (October to February), 04:00~23:30 (March to September).

### **Site and Surroundings**

- 4.2 The application site is located on the east side of Chase Cross Road on land rear off No.148 Chase Cross Road and backing onto a private road Known as Cardiff Close. The site contains a single storey building which is finished in face brick.
- 4.3 There is parking in the site for approximately nine vehicles without hindering access to and from the site onto Chase Cross Road as approved on the original consent P0729.99. The surrounding area is characterised by single and two storey dwellings of various styles and designs.

### **Planning History**

- 4.4 The following planning decisions are relevant to the application:

P0166.99 - Single storey building with car parking and entrance drive for use as meeting room – Outline – Approved.

P0729.99 -Single storey building with car parking and entrance drive for use as meeting room - detailed – Approved.

## **5 CONSULTATION RESPONSES**

- 5.1 The views of the Planning Service are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.
- 5.2 The following were consulted regarding the application:
- 5.3 Highways: No objection to the proposal.



- 5.4 Environmental Health: The Public Protection team have highlighted that the variation of hours will increase the amount of noise due to the extended hours.
- 5.5 It has been highlighted to the Public Protection Team that the 18 months that the Iqra Educational & Cultural Centre have been in operation, only one complaint was received last year and further to a request from their department to complete evidence but was non was forthcoming and the case was closed by Public Protection.
- 5.6 In light of this and the recommendation above, Public Protection would have no objection to a temporal approval and that if at the expiry consent and no complaint arises, then we would have no further objections for a permanent approval.

## **6 LOCAL REPRESENTATIONS**

6.1 During the consultation process, residents were re-notified on two separate occasions with a revised description for clarity and transparency and for a better understanding for residents but also to extend the number of residents notified. In addition, the Council also put up a site notice to notify passer-by's of the planning application. It should be noted that the Council are only required to notify the neighbouring properties/addresses abutting and immediately fronting the site. In this instance, the Council have gone beyond the normal parameters of notification for that proposal and in line with current guidance. Furthermore, a resident can make comments on a planning application even though they have not been notified regarding it by the Council.

6.2 The number of representations received from neighbours, local groups etc in response to notification and publicity of the application were as follows:

No of individual responses:	173 that object.
	280 that support.
	1 Petition
	5 Comments

6.3 The following Councillor made representations:

Councillor Christine Vickery wishes to call the application in on the grounds of the hours of operation and the associated impact on the residents living within the local area with the increase in traffic congestion, noise, car doors opening and closing and car engines starting up outside residents houses in Chase Cross Road and the surrounding roads.

### **Representations**

6.4 The following issues were raised in representations that are material to the determination of the application, and they are addressed in substance in the next section of this report:

Comments in objection to the application

- Anti-social hours and impact on neighbouring amenity.
- Issues relating to noise, light and air pollution from vehicles.
- Hours are considerably longer than the current consent on P0729.99.
- Parking issues including lack of on-site parking and parking over drives.
- Traffic / Parking congestion and impact on public highway.
- Lack on notification to neighbouring residents.
- The site notice was too small and should have been larger.
- An alternative site should be sought which is not in a residential area.

Comments in support of the application

- Lack of facilities within the borough to worship.
- No other place of worship has restricted hours.
- There is no evidence that the extension of hours would have a significant increase of noise or traffic.
- Other places of worship are located close to similar residential settings.

## **7 MATERIAL PLANNING CONSIDERATIONS**

7.1 The main planning issues raised by the application that the committee must consider are:

- Any physical Impacts of the proposal.
- The impact of the proposal on neighbouring amenity
- Highways and parking issues
- Conditions to be brought forward

### Physical Impacts

7.2 The proposal would not result in alterations to the appearance of the premises. The proposed additional operating hours would have no impact upon the existing environment.

### Impact on Amenity

7.3 As explained above, the proposed variation of operating hours between allowed on planning application P0729.99 of 6.00am to 3.00pm on Sunday and from 6.00pm to 9.00pm on Monday to 0400 and 2330 on any day for the months of March to September and 0600-2130 October to February would enable the centre to offer the five obligatory Prayers on any day. The present operating hours prevent the Morning Prayer and Night Prayer from taking place at the centre on a number of days throughout the year when sunrise is early in the morning and sunset is late in the evening.

- Consideration should therefore be given to the potential impact on neighbouring amenity for the additional hours requested.
- In order to reach a conclusion as to whether the additional opening hours would be harmful to residential amenity, it would be helpful to understand the number of Centre members involved and how the Centre would be used during these hours.

- The agent has provided a statement that the Centre has a membership of approximately 100 members. The Dawn Prayer is typically attended by between 5 - 15 people and the Night Prayer typically by between 10 and 20 people. Members usually arrive within 15 minutes before the start of a prayer session with the sessions lasting no longer than 20 minutes.
- Residential properties are located immediately to the north and north east on Chase Cross Road and to the properties to the south along the private road of Cardiff Close. The entrance to the centre is located on the north elevation of the building fronting to Chase Cross Road. Although it is acknowledged that the ambient noise levels in the locality are generally lower during the additional periods of operation being sought, than during the daytime, the site is located on a busy road.
- Further to the enforcement complaint being received, officer's visited the site during Friday prayer time and it is noted that there was not excessive noise created by the worshippers. In addition, the Planning Department contacted the Public Protection Health team to clarify if any noise complaints were received in the last 18 months of Iqra Educational & Cultural Centre acquiring ownership with only, one noise complaint being received.
- The complaint was received in July 2018 in relation to noise from prayers. The complainant was asked to supply supporting evidence by the way of a noise incident diary as per our standard investigative procedure. No such evidence of an ongoing nuisance was received and the case was subsequently closed in October 2018.

7.4 Given the limited amount of people that would attend the Centre during the early morning and late evening and that the busiest prayer period is Friday midday. It is considered that the additional noise and disturbance created would not be to an unacceptable degree given the surrounding noise from a busy road. A condition preventing amplified music or speech during the additional hours of operation can be attached if minded to grant planning permission.

#### Parking and Highway Implications

7.5 The application site presently has off street parking for nine vehicles to the front and side of the building. The Highways Department have not objected to the proposal. It is not considered that the extended hours would give rise to any significant harm or a marked increase in trip generation.

#### Conditions to be brought forward

7.6 An application made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission, if approved has the effect is to issue a new planning permission. Central government advises:

*To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.*

The following conditions from the original planning permission (P0729.99) are considered relevant and should be brought forward to the new planning permission.

- Condition 7 (USE) – Restriction of the use of the premises to a place of worship
- Condition 9 – Noise insulation (performance condition)
- No access way obstructions (compliance condition)

## **8 OTHER MATTERS**

### **Equalities and Diversity**

- 8.1 Section 149 of the Equalities Act 2010 (EA) came in to force on 1st April 2011 and broadly consolidates and incorporates the ‘positive equalities duties’ found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A) (1) of the Sexual Discrimination Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.
- 8.2 The Public Sector Equality Duty (PSED) under section 149 of the EA requires the Council, when exercising its functions, to have due regard to:
- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
  - (iii) foster good relations between those who have protected characteristics and those who do not.
- 8.3 The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.4 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the Council is properly aware of the effects and has taken them into account, the duty is discharged. Depending on the circumstances, regard should be had to the following:
- (i) the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision;
  - (ii) the need to remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic;

- (iii) the need to take steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. For example, meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities;
- (iv) the need to encourage persons who share a protected characteristic to participate in public life (or in any other activity in which participation by such persons is disproportionately low); and
- (v) the need to tackle prejudice and promote understanding.

8.5 The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998 (the HRA). This planning application engages certain human rights under the HRA, which prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

8.6 This application has the legitimate aim of amending the hours of operation for a place of worship. The rights potentially engaged by this application, including the right to the peaceful enjoyment of one's possessions, and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

## **9 Conclusions**

9.1 All other relevant policies and considerations have been taken into account, planning permission should be granted to vary the hours of operation (Condition 8) for an 18 month period subject to any other relevant conditions brought forward from the previous consent (P0729.99) for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.