



<b>Application Reference:</b>	<b>P0450.21</b>
<b>Location:</b>	<b>148a Chase Cross Road</b>
<b>Ward:</b>	<b>Havering Park</b>
<b>Description:</b>	<b>Variation of condition no. 8 of planning permission P0729.99 dated 07/08/1999 to extend hours of use to Monday to Friday 12:00-19:30, Saturday, Sunday and Bank Holidays 12:00-17:30</b>
<b>Case Officer:</b>	<b>Habib Neshat</b>

Reason for Report to Committee:

- A Councillor call-in has been received which accords with the Committee Consideration Criteria.

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## BACKGROUND

- 1.1 In recent years there have been two refusal for planning applications seeking to vary a condition which restrict the hours of operation. The first application required to change the hours of use to 6am to 9pm (between October to February) and from 4:30 am to 11:30 pm (between March to September) on any day of the week with the subsequent appeal being dismissed on appeal. A further application to slightly reduce the hours of use between 7am and 9pm (Monday to Friday), 8am to 5:30pm (Saturday and Sunday) and 9am-1pm on Bank Holidays has also been refused.

## THE SUMMARY OF KEY REASONS FOR RECOMMENDATION

- 1.2 This application now seeks to extend the hours of the operation between 12 noon and 7:30, (Monday to Friday) and 12 noon to 5:30pm on Saturday, Sunday and Bank Holidays. It is considered that subject to other conditions curbing the activities of the community centre, the extended hours of use would be acceptable in relation to any impacts upon the amenities of the neighbouring properties and all other respects.

## 2. RECOMMENDATION

- 2.1 That the Committee resolve to GRANT planning permission subject to the suggested planning conditions.

Conditions;

1. The premises shall at all times operate in complete accordance with the Management Plan submitted with the application, which details the activities of the community centre as well as measures to curb any potential antisocial behaviour as follows;
  - Educate the attendees to park responsibly.
  - Distribute flyers of **DOs and DONTs** of parking near dropped kerbs.
  - Nominate parking marshals.
  - The visitor numbers arriving by cars to be monitored (so logged by the venue daily) and reviewed after six then every 12 months thereafter, with a new survey of visitors travel modes.
2. No amplified music or speech shall be relayed on the site including within the building.
3. The premises shall only be used for a place of worship and religious instruction as set out in the Management Plan and no other purpose including uses falling within Class F1 of the Town and Country Planning (General Development) Order 1995 as amended.
4. Until 1 March 2022, the hours of operation of the premises shall be limited to 1200 to 1930 Monday to Friday and 1200 to 1730 Saturdays, Sundays and Bank Holidays. After 1 March 2022 the hours of operation of the premises shall be limited to 0600 to 1500 on a Sunday and from 1800 to 2100 on a Monday, with no operation at all on any other day of the week.
5. Parking for nine cars shall be retained on the site in accordance with drawing numbers 99091.1 and 99091.3 approved as part of planning permission P0729.99. No vehicle parking shall take place other than for those attending the premises during the authorised hours of operation.

## 3. PROPOSAL AND LOCATION DETAILS

- 3.1 Variation of condition no. 8 of planning permission P0729.99 dated 07/08/1999 (Single storey building with car parking and entrance drive for use as meeting

room-detailed) to extend hours of use to Monday to Friday 12:00-19:30, Saturday, Sunday and Bank Holidays 12:00-17:30.

3.2 The applicant's agent has provided the following information as part of the proposal;

1. IECC is a registered charity and offers a long list of facilities and services, not only to promote and teach Islam within the Muslim community but also to offer support and guidance to people in need around them, regardless of their beliefs and liaise with neighbours to address their concerns.
2. The Centre offers many services and facilities to the local community, both Muslim and non-Muslim, including:
  - Family and social support - providing religious and emotional support and guidance in times of crisis, illness and bereavement, including support for elderly people living alone
  - Offering to counsel for those affected by domestic violence, family disputes, etc.
  - Islamic education and teaching children Quran.
  - Participate in the Havering Interfaith Forum - promoting cohesion and religious harmony, enhancing communication between faith communities and other agencies
  - Host local primary school visits to educate children about Islam
3. In respect of IECC's use of the premises, the nature of Islamic worship means five obligatory prayers per day. Although the current proposed timing will not allow to observe five prayers daily, because Prayer times are determined by the position of the sun in the sky, but it would allow to pray any prayer that comes in between the allowed time.
4. Typically each prayer lasts no more than 10-15 minutes. Even allowing time for worshippers (approximately 2 to 20 regular attendees) to arrive and leave, it is unusual for a prayer visit to extend beyond 30 minutes.
5. For Islamic education we will have a 1.5 hour session on Saturdays and Sundays between 2pm and 3.30pm for children aged between 6 and 12. They will be taught reading Quran in Arabic and Cultural manners. There will be between 15 and 20 attendees.
6. The car park at IECC is sufficient for regular daily prayers. IECC have nominated individuals to monitor and control the flow of the traffic during prayers to eliminate traffic problems.

7. The steps taken by IECC to eliminate traffic problems.
  - Educate the attendee's to park responsibly.
  - Distribute flyers of **DOs and DONTs** of parking near dropped kerbs.
  - Nominate parking marshals.

### **Site and surroundings**

- 4.1 The application site is located on the east side of Chase Cross Road on land to the rear of 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 facing brick.
- 4.2 There are car parking spaces on 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.
- 4.3 The building was constructed in the early 90s following the grant of planning permission subject to conditions including one that restricted the hours of operation. The building has been used for religious purposes for a considerable period of time. The building is currently occupied as a place of worship for the Islamic faith.

### **5. Relevant Planning History;**

- 5.1 On 5th August 1991 planning permission (Ref;P0729.99) was granted for the erection of a single storey building with car parking and entrance drive for use as a meeting room 1999. A condition was imposed restricting the hours of the operation between **the hours of 6.00am and 3.00pm on a Sunday and from 6.00pm to 9.00pm on a Monday**. The reason given for the condition is: In order to minimise the impact of the use on the surrounding residential area.
- 5.2 On 27.04.2017 a Lawful Development certificate (E0011.17) was applied for the use of the property as a church on Sundays 6.00 - 21.00, Saturdays 8.00 - 21.00 and Weekdays 12.00 - 21.00. Some evidence was produced to show the long term use of the premises aligned with the above description. However, the application was subsequently withdrawn on 24.July.2017.
- 5.3 On 1<sup>st</sup> October 2019 planning permission (Ref; P0729.19) was refused to extend the hours of operation .to hours of the hours of 06:00~21:30 (October to February), 04:00~23:30 (March to September) for the following reason;

*The cumulative impact of extending the hours of use of the premises which would result a greater intensity and frequency of use, and the location of the existing building, would result in unacceptable levels of noise, disturbance and light pollution associated with vehicles manoeuvring, harmful to the residential amenity of neighbouring properties contrary to Policies DC55 and DC61 of the LDF Development Control Policies DPD and the National Planning Policy Framework.*

- 5.4 The subsequent appeal Ref: APP/B5480/W/19/3243037 to the scheme was dismissed on 14th May 2020.
- 5.5 On 03.02.2021, planning application (Ref P1850.20) was refused for the "Variation of condition no. 8 of planning permission P0729.99 dated 07/08/1999 (Single storey building with car parking and entrance drive for use as meeting room-detailed) to extend opening hours to Monday to Friday 0700-2100, Saturday and Sunday 0800-17:30 and Bank Holidays 0900-1300, for the same reason as with respect to the previous proposal.
- 5.6 On 22.10.2019 a retrospective planning application was submitted for the retention of an air condition unit on the east elevation of the premises. Following negotiation with the applicant, the Air Condition Unit was relocated to the west elevation at the ground level for which planning permission was granted on 14.May.20121.

## **6 Consultation;**

- 6.1 The number of representations received from neighbours, local groups etc in response to notification and publicity of the application were as follows:
- 6.2 Number: Individual responses: 60 that object, 68 that support and 10 Comments.
- 6.3 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 including safety.
- Lack of notification to neighbouring residents and multiple letters sent.
- The site notice was too small and should have been larger.
- Reference to correct name of the charity.

- An alternative site should be sought which is not in a residential area.
- Reference to the air conditioning units.
- Further alterations to the hours will be requested should consent be given.

**Comments in support of the application:**

- Lack of facilities within the borough to worship and growing Muslim population.
- No other place of worship has restricted hours.
- Other places of worship are located close to similar residential settings.
- Community inclusion, food bank and well-being.
- There is no evidence that the extension of hours would have a significant increase in noise or traffic.
- The Centre is within walking distance of many of worshipers
- All other such facilities are located at a significant distance requiring use of private motor car or by taxi.

6.4 The application had also been called into committee by Councillor Ray Best for the following reasons;

- Although the hours have been reduced from the two previous applications, they are still excessive and are now 7 days a week and not as currently stands at Sunday and 3 hours on Monday evening.
  - This will still produce hundreds of traffic movements each day causing excessive parking problems in Chase Cross Road, and all of the surrounding roads.
  - These increased numbers 365 days a year are not suitable in this area with a very limited parking area, and from past complaints from the residents in the surrounding properties, the visitors park wherever they like, over people's drive, and onto pavements as well.
  - Previously the applicant has been challenged by the council for completely disregarding the existing opening times and using the premises as if there are no opening restriction times at all, opening during the week on many occasions. A serious breach of the planning agreement.
  - The council has instructed the applicant to move the outdoor air conditioning unit from one end of the building to the opposite end but this clearly has not been complied with. Another breach of the planning instructions.
  - The complaints about noise coming from the vehicles car doors banging, engines revving and light pollution from the multiple headlights have

been a constant source of complaints over the years. These are from meetings outside the allotted times of opening. Another serious breach of the planning instructions.

- In essence, it appears that the applicant has never abided by the existing opening times they had from 1999, and therefore see no reason to assume that they will ever abide by any other opening times that the council may impose on them.

On this basis I am completely in support of the local residents who are completely against any extension of the existing hours, and recommend refusal of this application. Many thanks.

- 6.5 In response to the above comments, the information submitted has been accepted in good faith. The details of the Iqra Educational & Cultural Centre being a registered charity is not a material planning consideration. The application under consideration is for the changes of hours as on the application form and as described on the notification letters. A separate application with respect to the air conditioning units (P1619.19) is now resolved and the AC has now been relocated to a location agreed by officers and no objections were raised by the local neighbours.
- 6.6 It should be noted that the Local Planning Authority cannot prevent an applicant or agent from submitting a further planning application where there is a material difference between the previously refused scheme and the subsequent application, which is the case in this instance. Any decision that the Council may make is in respect to planning policy and guidance and in addition, to any material consideration such as an appeal decision.
- 6.7 With respect to the comment “no other place of worship is subject to restricted hours”, it should be noted that each planning application is considered on its own merit. It should be noted that other places of worship are not in such close proximity to residential premises as in the case of this site.
- 6.8 In addition, it is noted that the Council's Highways and Environmental Health Department have not objected to the proposal. However, these issues would be further discussed below.

## **7. MATERIAL PLANNING CONSIDERATIONS**

- 7.1 This site is located in a sensitive location. The 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. The main planning issues raised by the application that the

committee must consider are, the impact on neighbouring amenities and highways safety conditions.

7.2 This application is a resubmission of two previously refused schemes which requested a significantly longer period of operation.

7.3 The key issue in this case therefore is whether the revised proposal overcomes the previously stated concerns. The previous applications were refused planning permission for the following reason:

*The cumulative impact of extending the hours of use of the premises which would result a greater intensity and frequency of use, and the location of the existing building, would result in unacceptable levels of noise, disturbance and light pollution associated with vehicles manoeuvring, harmful to the residential amenity of neighbouring properties contrary to Policies DC55 and DC61 of the LDF Development Control Policies DPD and the National Planning Policy Framework.*

7.4 The subsequent appeal to the above decision was dismissed on appeal. In considering the appeal APP/B5480/W/19/3243037 for the refused planning application (P0729.19), the Planning Inspector commented that it is noted "that while worship in the Islamic faith is performed in silence, the premises could also be utilised for worship by a different faith which could result in different impacts". The Planning Inspector dismissed the option for a temporary consent for 18 months on the basis as "it would leave residents exposed to noise and disturbance both early in the morning and late at night for the duration of such a permission".

7.5 The Planning Inspector commented that "the early morning and late-night would be times when residents could reasonably expect peaceful enjoyment of their homes. There is a good amount of parking at the site and although many worshippers may travel to the premises on foot, it is likely that some worshippers arrive and leave by car".

7.6 The inspector's chief concern was with respect to the disturbance to the amenities of the local residents appears to be the early and later operation suggested in the scheme i.e. 4am in the morning and 11:30pm in the evening, with the following comments;

*The early morning and late-night would be times when residents could reasonably expect peaceful enjoyment of their homes. There is a good amount of parking at the site and although many worshippers may travel to the premises on foot, it is likely that some worshippers arrive and leave by car.*



*The disturbance is likely to have been greater during the summer months, when residents would be likely to have their windows open, which will have aided noise transferral. The summer months also correspond with the earliest and latest operating hours sought.*

- 7.7 The Council had suggested temporary permission as part of the suggested conditions for the appeal APP/B5480/W/19/3243037 should the application be approved; however, the Planning Inspector commented that " I do not consider that a temporary revision to operating hours on the basis of those sought would be acceptable as it would leave residents exposed to noise and disturbance both early in the morning and late at night for the duration of such a permission or "that conditions relating to noise insulation for the building, the restriction of the number of worshippers on the premises at any one time, or a condition relating to the use of the premises in time slots would mitigate the harm I have identified".
- 7.8 Mindful of the comments above made by the Planning Inspector as part of the appeal APP/B5480/W/19/3243037, although it was noted that the subsequent reduction in hours in the follow up application was an improvement, due to the site's location and proximity to the neighbouring properties, it was considered that the cumulative impact of extending the hours of use of the premises and greater intensity and frequency of use, and the location of the existing building would result in unacceptable levels of noise, disturbance and light pollution associated with vehicles manoeuvring, harmful to the residential amenity of neighbouring properties.
- 7.9 In terms of the latest proposal, officers are content that the hours submitted as part of this application represents a significant improvement on the previously refused applications which were refused and in particular reference to that it was dismissed on appeal. The venue would open at noon and would close at 7:30 pm on Monday to Friday and at 5:30pm on Sundays and Bank Holiday. It is now considered that the proposed opening times as mentioned above do not include the previously proposed "anti-social hours" as part of the earliest scheme or the latter scheme. During these afternoon/early evening hours, the background noise level due to general activities would be higher and disturbance caused by general level of activity, comings and goings to/from the site would likely be less obvious.
- 7.10 Whilst the proposal is for more restrictive and less anti-social hours than previously sought, there is a concern with respect to possible greater intensification of use, combined with the close location of the site to residential properties, could result in unacceptable levels of noise and other disturbance/inconvenience. There has been claims of anti-social behaviour by individual attendees, in particular with reference to unauthorised parking, and

blocking of access-ways. Whilst the alleged antisocial behaviour have not been verified, officers consider that the planning permission should be granted only on a temporary basis to ensure the applicant would adhere to the proposed mitigating measures outlined above and to assess any impact over that period as part of a further application to vary the temporary condition.

Highway issues;

- 7.11 The Highways Department has no objection in respect to the proposal. Furthermore, it should be noted that the Planning Inspector as part of the appeal APP/B5480/W/19/3243037 that "the Council has raised no concern relating to highway safety and I have no reason to disagree".
- 7.12 There are also bus stops very close by and those cycling can leave their bikes inside the building. The venue has an off road bespoke car park that accommodates nine vehicles. However, it is important that the visitor numbers ought to be monitored (so logged by the venue daily) and reviewed after six and then 12 months, with a new survey of visitors travel modes. Hence, it is considered that there would be further reason for granting a temporary permission to test the operation of the site.

8. Public Sector Equality Duty;

- 8.1 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 ('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.
- 8.2 The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3 "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.

8.4 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.

8.5 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.

8.6 As part of the appeal APP/B5480/W/19/3243037 , the Planning Inspector "had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal requests an extension of the operating hours of the premises for the purposes of Islamic

worship, the attendees are persons who share a protected characteristic for the purposes of the PSED".

- 8.7 However in dismissing the appeal the Planning Inspector commented that "the opportunity to worship on the premises would be limited. However, it does not follow from the PSED that the hours should be increased to the extent of those sought. Whilst I note that the National Planning Policy Framework at paragraph 92 states that planning decisions should look positively on the provision and use of community facilities, I must also have appropriate regard to the significant harm to the living conditions of nearby occupiers that I have identified in coming to my decision".

### **Summary and Conclusion**

- 9.1 It is considered that subject to the conditions set above the proposed revised hours of operation would not likely have an unacceptable impact upon the amenities of the adjoining occupiers, subject to a review having enabled a temporary operation of the revised hours.