

# Agenda Item 8



<b>Planning Committee Date</b>	7 <sup>th</sup> September 2022
<b>Report to</b>	Cambridge City Council Planning Committee
<b>Lead Officer</b>	Joint Director of Planning and Economic Development
<b>Reference</b>	19/1453/FUL
<b>Site</b>	Shah Jalal Mosque, 107 Darwin Drive, Cambridge, CB4 3HQ
<b>Ward</b>	Arbury
<b>Proposal</b>	<p>(1) A two-storey extension with single storey projecting bay for a Mimbar pulpit.</p> <p>(2) Increase in the total number of occupants permitted at any one time for the community use of the ground floor of the premises on:</p> <p>(i) Sunday to Thursday between 09:00 hrs and 23:00 hrs with up to a maximum of 29 occupants;</p> <p>(ii) Friday between 09:00 hrs and 12:00 hrs with up to a maximum of 29 occupants and;</p> <p>(iii) on Friday between 12:00 hrs to 16:00 hrs with up to a maximum of 37 occupants and;</p> <p>(iv) on Friday between 16:00 hrs and 23:00 hrs with up to a maximum of 29 occupants.</p> <p>(3) (i) The community use on the ground floor of the premises between 09:00 hrs and 23:00 hrs Monday to Sunday inclusive</p> <p>(ii) A 30 minute opening for morning prayer between 02:50 hrs and 07:00 hrs, Monday to Sunday inclusive, with up to a maximum of 29 occupants and</p> <p>(iii) during the period of Ramadan only between 23:30 hrs and 02:30 hrs the following day, for up to 2 hours, Monday to Sunday inclusive, with up to a maximum of 37 occupants.</p>
<b>Applicant</b>	Shah-Jalal Islamic Centre
<b>Presenting Officer</b>	Jane Rodens
<b>Reason Reported to Committee</b>	Application raises special planning policy or other considerations
<b>Member Site Visit Date</b>	Formal site visit to be arranged
<b>Key Issues</b>	<ol style="list-style-type: none"><li>1. Principle of development</li><li>2. Context of site, design and external spaces</li><li>3. Residential amenity</li><li>4. Highway safety</li><li>5. Car and cycle parking</li></ol>
<b>Recommendation</b>	<b>REFUSE</b>

## **1.0 Executive Summary**

- 1.1 The application seeks full planning permission for an extension to the current building, an increase in the hours of use and the increase in the number of attendants to the community use. The proposal in full appears on the covering page of this report.
- 1.1 An application was previously brought to this Planning Committee on the 1<sup>st</sup> December 2021, which, contrary to the Officer recommendation was approved by Planning Committee. The application was then subsequently quashed through a successful Judicial review. Further detail are covered in the history section on this particular matter.
- 1.2 It is considered that the proposed extension, Part (1) of the description, to the building is acceptable, subject to a condition. There would be no harm to the character of the area and minimal harm to the amenity of the neighbouring properties.
- 1.3 Concerns have been raised by the Environmental Health Officer in regards of the impact on the amenity of the neighbouring properties through the increase in the hours of use in the early hours that are being proposed in Part (3) of the description, also with the amount of occupants that are being proposed at this time of the night part (2).
- 1.4 It is therefore considered that the proposal is not in conformity with Policy 35 of the adopted Cambridge Local Plan 2018 and Paragraph 130 f) of the National Planning Policy.
- 1.5 There are no objections to the application in regards of Highways Impact and other material planning considerations that are covered in this report.
- 1.6 Officer's recommendation is that the Planning Committee refuses the grant of planning permission for the reasons given in this report.

## **2.0 Site Description and Context**

- 2.1 The application site comprises of a semi-detached two storey building, the Shah-Jalal Islamic Centre, at 107 Darwin Drive. It accommodates a community and prayer hall on the ground floor and residential accommodation at first floor for the resident Imam. The site is accessed by car from Darwin Drive, with a hardstanding car and cycle parking and turning area to the side. There is an outbuilding and garden to the rear.
- 2.2 The host building is attached to 105 Darwin Drive (a residential unit) which is to the north-east of the site. To the south of the site is 109 Darwin Drive also a residential unit. To the east of the site is 85 Stretten Avenue, to the west of the site is Darwin Drive, an adopted highway.

2.3 The site is not in a Conservation Area nor is it in the controlled parking zone.

### **3.0 The Proposal**

3.1 This application for full planning permission is for:

*(1) A two-storey extension with single storey projecting bay for a Mimbar pulpit.*

*(2) Increase in the total number of occupants permitted at any one time for the community use of the ground floor of the premises on: (i) Sunday to Thursday between 09:00 hrs and 23:00 hrs with up to a maximum of 29 occupants; (ii) Friday between 09:00 hrs and 12:00 hrs with up to a maximum of 29 occupants and; (iii) on Friday between 12:00 hrs to 16:00 hrs with up to a maximum of 37 occupants and; (iv) on Friday between 16:00 hrs and 23:00 hrs with up to a maximum of 29 occupants.*

*(3) (i) The community use on the ground floor of the premises between 09:00 hrs and 23:00 hrs Monday to Sunday inclusive (ii) A 30 minute opening for morning prayer between 02:50 hrs and 07:00 hrs, Monday to Sunday inclusive, with up to a maximum of 29 occupants and (iii) during the period of Ramadan only between 23:30 hrs and 02:30 hrs the following day, for up to 2 hours, Monday to Sunday inclusive, with up to a maximum of 37 occupants.*

3.2 The description has had a minor amendment to it due to a typing error. This is to remove the second (i) in part (3) and replace it with a (ii) this is for clarity.

3.3 Part (1) of the proposal, a two storey extension, will be 6.8m in height and 4.7m deep from the rear elevation of the host building and 5.4m wide. The single storey element (Mimbar pulpit) will be 1.4m deep and 2.9m in height and 2.1m wide.

3.4 The extension is to provide, on the ground floor, a ladies' prayer area, a gent's prayer area, a library and a community meeting area, including a disabled toilet, lobby and Mimbar pulpit. On the first floor it will provide two bedrooms, a bathroom, study and living/kitchen area for the resident Imam.

3.5 Part (2) of the proposal is for an increase in the number of occupants to the community use on the ground floor from planning permission reference 06/0473/FUL, (the 2006 Permission) to twenty-nine from twenty (the 2006 Permission) for most of the time and days. This is proposed to be increased to thirty-seven occupants between 12:00 and 16:00 on a Friday reverting to twenty-nine occupants for the remainder of the opening hours on a Friday, from twenty (the 2006 Permission).

- 3.6 There is an error in the description where Saturday (between 09:00 and 23:00) is not included and therefore this would revert back to the 2006 permission where the restriction was 20 occupants. It would not be possible to increase this through a condition as this would go beyond the level of the description this report will go into more detail.
- 3.7 Part (3) (i) of the proposal is for the hours of the community use to change from the 2006 Permission planning this is to 09:00 hrs and 23:00 hrs Monday to Sunday.
- 3.8 Part (3) (ii) is for an additional 30 minute prayer Monday to Sunday between the hours of 02:50 and 07:00, with the same twenty-nine occupants.
- 3.9 Part (3) (iii) will only come into effect during the months of Ramadan, the community use be permitted to be open between the hours of 23:30 and 02:30 for 2 hours with a maximum of thirty-seven occupants.
- 3.10 The 2006 permission allowed for the following opening hours, 09.00 and 21.00 Monday to Sunday and 09.00 and 22.30 Monday to Sunday throughout the months of June and July.
- 3.11 A Table in Appendix 1 of this report gives a visualisation in the form of a table of the proposed opening hours and attendees as proposed, including the error detailed above (Saturday not being included).

#### **4.0 Relevant Site History**

<b>Reference</b>	<b>Description</b>	<b>Outcome</b>
06/0743/FUL	Change of use from single family residential space to community house for the Bangladeshi community, including residential space for key worker.	Approved
07/1458/FUL	Part single, part two storey side and rear extension to incorporate first floor 2 bed flat	Refused
09/0731/FUL	Two storey rear extension and single storey side extension to community house and first floor flat (key worker).	Refused
10/0730/S73	Removal of condition 5 of planning permission 06/0473/FUL to allow occupancy of more than 30 people at any one time, and 50 people at Friday prayer time	Withdrawn
18/0272/FUL	Two storey rear extension with single storey projecting bay for a Mimbar pulpit, increase in the maximum number of attendees for the community use to 37 (Friday afternoon only), and extension to the opening hours	Withdrawn

#### **Quashed Decision**

4.1 A challenge against the Council's decision to grant planning permission (under reference number 19/1453/FUL) was brought on three grounds in advance of a claim for a Judicial Review of the Council's decision, namely:

Ground 1: unfairness by reason of a failure to include in the Planning Officer's report a complete or accurate history of breaches of planning control;

Ground 2: bias, or in the alternative, apparent bias by reason of an independent site visit undertaken by some Members of the Planning Committee and,

Ground 3: the granting of permission would lead to loss of amenity for neighbouring residents, contrary to development plan and national planning policy.

4.2 None of these grounds were accepted by the Council as having any merit. However, a material error with regard to the conditions. Specifically, condition 6, was considered to go beyond the description of the development, a point which was accepted by the Council leading to it agreeing to quash the permission on that basis.

4.3 As a direct consequence of the quashed decision this application must now be determined as *a fresh application* in the light of the information now submitted and consulted upon. This report assesses the application afresh on that basis. Members will note that, as a consequence of the judicial challenge, the description of development has been refined to more accurately describe the nature and extent of the proposal.

## **5.0 Policy**

### **5.1 National**

National Planning Policy Framework July 2021

National Planning Practice Guidance

National Design Guide 2019

Local Transport Note 1/20 (LTN 1/20) Cycle Infrastructure Design

Circular 11/95 (Conditions, Annex A)

EIA Directives and Regulations - European Union legislation with regard to environmental assessment and the UK's planning regime remains unchanged despite it leaving the European Union on 31 January 2020

Conservation of Habitats and Species Regulations 2017

Environment Act 2021

ODPM Circular 06/2005 – Protected Species

Equalities Act 2010

## **5.2 Cambridge Local Plan 2018**

Policy 35: Human health and quality of life

Policy 58: Altering and extending existing buildings

Policy 73: Community, sports and leisure facilities

Policy 80: Supporting sustainable access to development

Policy 81: Mitigating the transport impact of development

Policy 82: Parking management

## **6.0 Consultations**

### **6.1 County Highways Development Management**

6.2 No significant adverse effect upon the Public Highway should result from this proposal, should it gain benefit of Planning Permission.

### **6.3 Waste Officer**

6.4 None received

### **6.5 Environmental Health**

6.6 “Summary

I have fully reviewed the details relating to this application alongside previous applications for the premises. There are existing planning conditions in place (under planning permission 06/0743/FUL) controlling the number of visitors allowed to the premises and also controlling the allowable hours that the premises can be open to members of the public. When considering this application, we have taken into account the supporting information / documents submitted and the existing noise climate in what is a quiet residential area. The original conditions controlling number of visitors to the premises and the hours of use were recommended to ensure protection of local residential amenity from noise and disturbance, especially at the more sensitive times of the evening (21.00hrs – 23.00hrs) and during the night-time hours (23.00hrs – 07.00hrs). From an Environmental Health perspective, these considerations have not changed over the years.

We have no objection in principle to the proposed rear extension. However, this new application also seeks to increase the number of visitors to the premises and to extend the hours of access to the premises into the evening and night-time periods on a permanent and daily / nightly basis. Given the potential for adverse impacts on local amenity to arise (particularly the potential noise and disturbance that may be caused by

people arriving at / departing the premises and / or gathering outside at night-time / in the early hours of the morning), it is our view that the original conditions included on planning permission 06/0473/FUL were recommended for good reason and remain relevant. To this end, we cannot support this application in its' current form.

Please see detailed commentary with full justifications for our recommendation below.

### **Background information/additional comments:**

#### **Original Planning Consent (06/0473/FUL)**

Planning Consent was granted for the “*Change of use from single family residential space to community house for the Bangladeshi community, including residential space for key worker*” at 107 Darwin Drive, Cambridge in July 2006. The Consent incorporates two Conditions which were imposed in order to protect residential amenity in the locality. These are:

Condition 5:

*The community house shall not be occupied by more than 20 people at any one time, unless otherwise agreed in writing by the local planning authority.*

Condition 7:

*The ground floor of the premises shall only be in operation between the hours of 09.00 and 21.00 Monday to Sunday and 09.00 and 22.30 Monday to Sunday throughout the months of June and July unless otherwise agreed by the local planning authority.*

#### **Previous Applications**

Two similar applications have been submitted in the past, specifically: 09/0731/FUL – “*Two storey rear extension and single storey side extension to community house and first floor flat (key worker)*”. The Environmental Health Officer at that time had no objection in principle to the extension but recommended that the conditions on approval 06/0473/FUL relating to hours of use and maximum number of people able to use the site remain in place.

- In addition to this, we also consider that Condition 2, restricting occupation of the first floor residential use to persons associated with the ground floor community use should also be retained.
- 18/0272/FUL – “*Two storey rear extension with single storey projecting bay for a Mimbar pulpit, increase in the maximum number of attendees for the community use to 37 (Friday afternoon*

*only), and extension to the opening hours".* The Environmental Health response to this application sought clarification on the acoustic assessment submitted but also concluded that whilst there was no objection in principle to the extension, the conditions on approval 06/0473/FUL relating to hours of use and maximum number of people able to use the site remain in place.

There are currently no planning conditions that allow the use of the premises outside the hours stipulated in Condition 7 and as such, temporary variations are submitted for approval during the month of Ramadan to allow extended hours during this month.

### **Latest Application (19/1453/FUL)**

This latest planning application builds on the previous applications mentioned above and requests an extension to the building, an increase in the number of users / occupiers and increase in the hours of use of the premises (including use during the night-time hours). The description specifically details the hours applied for. I am aware that at present during the month of Ramadan, the Shah-Jalal Islamic Centre is open between the hours of 12:30 – 03:30 which is permitted by the Planning Department on an annual basis when applied for. These temporary Permissions extend only for the hours of use of the premises during Ramadan and at no other time of year.

Within this recent application, a variety of extended opening hours has been applied for, most notably the following permanent hours:

- A 30-minute opening for morning prayer between 02:50 hrs and 07:00 hrs, Monday to Sunday inclusive
- During the period of Ramadan only between 23:30 hrs and 02:30 hrs the following day, for up to 2 hours, Monday to Sunday inclusive

In terms of noise, and in support of the application, the applicant has submitted the following documents:

- "Darwin Drive, Cambridge; Noise Report"; Ref 2184\_FP01.0 V2 (Lustre Consulting, September 2018),
- "Shah-Jalal Islamic Centre, 107 Darwin Drive; Acoustic Memo – Addendum to Noise Impact Assessment"; Ref 2184\_AC\_2.0 (Lustre Consulting, 4<sup>th</sup> May 2022)
- "Management Plan" (Shah-Jalal Islamic Centre, June 2022).

In providing this commentary, I have considered the residential location / setting of the premises, the evidence provided by the applicant (including the acoustic assessment and addendum) and the existing procedures for the extension to hours during Ramadan.

On review of the supporting documents relating to noise, I can confirm that:

- The noise report provides details on the internal activities within the Centre that may create noise. It is confirmed that human voice will



- be the only source of noise, no amplification is required and further to this, only the Imam will speak during recital of the Quran,
- All assumptions used in the calculations are evidenced / clarified,
  - Calculations have been provided for noise break-out from the premises due to the internal activities and are shown to be of negligible significance, and
  - All relevant acoustic parameters have been provided in the time-history graphs ( $L_{A90}$ ,  $L_{Aeq}$  and  $L_{AMax}$ ) within the report,

Notwithstanding the above, whilst I have no objection in principle to the rear extension to the premises or indeed extension to hours into less sensitive times of the day / evening (with an increase in numbers), I consider that the original condition controlling the allowable hours of use of the premises remain relevant, especially when considering the night-time period (23:00hrs – 07:00hrs) and it is my view that allowing visitors to descend upon the premises nightly throughout the year and at all hours of the night could quite feasibly result in adverse impact on local amenity, which would be contrary to Policy 35 of the Cambridge Local Plan 2018 – *“Protection of human health and quality of life from noise”*.

For clarity, our concerns are due to the potential for noise and disturbance to arise during the most noise-sensitive times of day / night as a result of people outside the premises whether gathering, arriving or leaving. This has the potential to wake neighbours / disturb sleep and may result in complaints of noise being made to the Council which we are then duty bound to investigate. It should be noted that noise from voices / people in the street is not something that is usually actionable by Environmental Health under the Environmental Protection Act 1990 and therefore, we consider that this is an issue that requires consideration by Planning at the planning stage in terms of potential loss of amenity.

Notwithstanding the above, noise from people arriving and leaving any premises is inherently difficult to quantify. In practice, no one night / morning may be the same as the next in terms of how people behave and it is not possible to accurately predict behaviour from one visitor to the next. I note that the applicant has submitted a Noise Management Plan to aid in the control of such issues. This is welcomed but Noise Management Plans for such scenarios rely heavily on human behaviour, which is difficult to predict, control and manage. As such, the issue of noise from people potentially gathering / arriving at and departing the premises in the early hours of the morning / at night in a residential location becomes more a matter of principle. The Environmental Health stance is that there is potential for significant adverse noise impacts during the night-time period that cannot be accurately quantified at this stage and with no guarantee over control of behaviour of visitors to the premises. Therefore, it remains a proposal that we cannot support in its' current form.”

## **7.0 Third Party Representations**

7.1 Six representations have been received. Four in objection and two in support.

- There is a concern that there would be an impact on the significant additional noise at sensitive hours of the night might easily be caused and result in local people's sleep and rest being disturbed.
- The Environmental Health Officer is supported as there would be harm to the neighbouring properties in regards of noise from the comings and goings of people.
- The occupants of the people attending the community centre will try to be quite, but this is not always possible.
- This disturbance will not be for the odd night, or even the odd month - it will for every night throughout the year.
- Concerns are raised about the reasons why the application was approved previously at Planning Committee.
- The conditions that have been on the previous application have been ignored in the past.
- The previous applications for similar proposals have been refused by the Planning Officers.
- Is there a need for the numbers to be increased to 29 or 37 for the early hours, as the comments on the application state that it would be between 2 or 3 attendees, could this not be at someone's house.
- The Cambridge Local Plan 2018 focuses on the safeguarding of residential uses of dwelling properties.
- This is located in a highly populated area
- The majority of the visitors to the site are by car. There is already a parking concern in this area. The management company will do their best to stop others from attending outside of the are, but this will not be possible.
- Overnight prayers could be carried out in the other mosques and or suitable buildings where parking is not an issue which is not in the centre of a closely built residential area.
- Concerns are that once permission is granted then it would be hard to enforce the conditions.

7.2 Those in support have raised cited the following reasons:

- The increase in facilities, space and opening house is required for the community.
- There are not many people that will attend the early hour prayers
- The disturbance to the surrounding would be minimal.

## **8.0 Petition**

8.1 A petition with 25 signatures, has been submitted objecting to the application on the following grounds:

- There will be noise and disturbance at the most noise-sensitive times of the day and night.

8.2 The above representations are a summary of the comments that have been received. Full details of the representations are available on the Council's website.

## **9.0 Assessment**

### **9.1 Principle of Development**

9.2 Policy 73 of the Cambridge Local Plan 2018 (CLP) states that enhanced community, sports or leisure facilities will be permitted if:

- a. the range, quality and accessibility of facilities are improved;
- b. there is a local need for the facilities; and
- c. the facility is in close proximity to the people it serves

9.3 The application site falls within the definition of a community facility as set out in the supporting text for Policy 73 as listed in Table 8.2 of the Policy, as the use of this building is a place of worship and has a provision for education.

9.4 This is confirmed by the layout plans (107 (02)-01 Issue A) that has been provided and in the submitted Management Plan June 2022 (25<sup>th</sup> July 2022).

9.5 The Use Class Order 1987 has been updated. What was use Class D has been revoked and is now replaced with a new Class F (Local Community and Learning). Therefore, this application as a community facility is captured by the following use Classes.

- provision of education – Class F1(a)
- public worship or religious instruction (or in connection with such use) – Class F1(f)

9.6 Due to the wording of the policy and its supporting text, it is considered that this policy is material to the application.

9.7 Part (1) of the description is to be considered, this is for the extension to the building on the ground floor it is to allow for an extension to the community use providing a ladies prayer area, a gent's prayer area, a library and a community meeting area including a disabled toilet, lobby and Mimbar pulpit. Currently there is one community/prayer hall and washroom. This extension will provide a flexible space for a greater community use.

9.8 The first-floor extension accommodation is proposed for the resident Imam. This residential use is linked back to the community use and the additional space, two bedrooms, bathroom, study and living/kitchen area allowing for greater use of the space and for the resident Imam.

9.9 The Extension is considered to be acceptable in principle and meets the requirements of CLP Policy 73. This extension would be an improvement in the range and the quality of the facilities that are being provided to the

people that it serves. As it would increase the amount of floor space giving greater flexibility to the building and the current use to ensure that a larger section of the community can use it. It has been confirmed by the supporting information that this is a well-used site, and the facility is in close proximity to the people that it serves.

- 9.10 Part (2) of the description refers to the increase in the number of occupants to the community use on the site during the proposed opening hours. This is for twenty-nine attendees, apart from between the hours of 12:00hrs and 16:00hrs on a Friday which will increase to thirty-seven occupants. It will also increase to thirty-seven during Ramadan - more detail is given in Appendix 1 of this report.
- 9.11 The increase in the amount of occupants is in reflection of the extended floor space that is being proposed in part (1). The increase in the number of occupants is considered to be acceptable in principle and in accordance with Policy 73 as the improved facilities would ensure that it is open to the wider community as there is a need for the facilities.
- 9.12 As detailed in paragraph 3.6 above, there is an error in the description where Saturday (between 09:00 and 23:00) is not included and therefore this would revert back to the 2006 permission where the restriction was 20 occupants.
- 9.13 The description of the application is the extent of the application, by increasing the number of occupants to the community use to 29 through a condition would not be acceptable. Therefore, the fallback position is the 2006 application on this matter which would state that only 20 occupants can use the facility. This is reflected in Appendix 1 of the Report.
- 9.14 There is no change in the conclusion in paragraph 9.11 of this report in light of this matter.
- 9.15 The proposed extended hours detailed in Part (3), are to allow for the education use and the prayer use not to clash, allow space between the uses and to accommodate the lunar calendar, which the prayer times are based upon as they will vary throughout the year and at different times of the day.
- 9.16 Part (3) (i) would allow the opening hours for the community use to be between 09:00 hrs and 23:00 hrs Monday to Sunday inclusive. During the summer months the evening prayer, Ish'a, at the latest does not commence until 22:30. In the winter, Ish'a prayers will conclude by 20:00, after which the Centre would not be in use. Having the closing time set for 23:00 allows individuals unable to attend the congregational prayers, due to work and other commitments to have a place to complete their individual prayers.
- 9.17 Part (3) (ii) is for the first prayer of the day (Faj'r) which takes place before sunrise, allowing the Centre to be open for 30 minutes between 02:50 hrs

and 07:00. During this time enabling congregational prayers to be held. During the spring/summer months (April - August), the commencement of the prayer will be between 03:00 – 04:00. In the autumn/winter months (September – March) the start of the prayer will be between 05:00 – 07:00.

- 9.18 Part (3) (iii) is to allow the community use to be used between 23:30 hrs and 02:30 hrs the following day, for up to 2 hours, Monday to Sunday inclusive but only during the month of Ramadan.
- 9.19 All three elements of this third part of the description deal with the opening hours of the community use and the educational provision of the site. This is also considered to be acceptable in principle and in accordance with Policy 73 of the CLP. Allowing for a greater flexibility of the opening hours to meet the requirements of the Luna Calendar and Ramadan it is considered that this would increase the accessibility of the facilities and the range that can be provided by the community use of site.
- 9.20 The principle of the development is acceptable and in accordance with Policy 73 of the CLP. The other material planning considerations and policy considerations are detailed below.

#### **9.21 Amenity**

- 9.22 The impact on the amenity of neighbouring occupiers will be considered below with each different part of the description considered separately.
- 9.23 Policies 35 and 58 of the CLP seek to preserve the amenity of neighbouring and / or future occupiers in terms of noise and disturbance, overshadowing, overlooking or overbearing and through providing high quality internal and external spaces.
- 9.24 CLP Policy 35 states that development will be permitted where it is demonstrated that:
- a. it will not lead to significant adverse effects and impacts, including cumulative effects and construction phase impacts wherever applicable, on health and quality of life/amenity from noise and vibration; and*
- b. adverse noise effects/impacts can be minimised by appropriate reduction and/or mitigation measures secured through the use of conditions or planning obligations, as appropriate (prevention through high quality acoustic design is preferable to mitigation).*
- 9.25 CLP Policy 58 states that:
- Alterations and extensions to existing buildings will be permitted where they:*
- a. do not adversely impact on the setting, character or appearance of listed buildings or the appearance of conservation areas, local heritage assets, open spaces, trees or important wildlife features;*

- b. reflect, or successfully contrast with, the existing building form, use of materials and architectural detailing while ensuring that proposals are sympathetic to the existing building and surrounding area;*
- c. ensure that proposals for doors and windows, including dormer windows, are of a size and design that respects the character and proportions of the original building and surrounding context;*
- d. create altered or new roof profiles that are sympathetic to the existing building and surrounding area and are in keeping with the requirements of Appendix E (Roof extensions design guide);*
- e. do not unacceptably overlook, overshadow or visually dominate neighbouring properties;*
- f. respect the space between buildings where this contributes to the character of an area; and g. retain sufficient amenity space, bin storage, vehicle access and cycle and car parking.*

9.26 Paragraph 130 f) of the NPPF states that there should be a high standard of amenity for future and existing users.

### **Extension**

9.27 Part (1) of the application description, the proposed two storey rear and single storey extension is considered below in light of the relevant policies of the CLP.

9.28 The extension is proposed alongside an existing extension of similar scale and proportions of that to 105 Darwin Drive so would not unduly overshadow or dominate the adjacent dwellings. Two first floor rear facing living room windows are proposed which would face towards the middle rear of the garden of 109 Darwin Drive. There are currently first floor bedroom and bathroom windows facing in this direction. The proposed first floor windows would be closer to the boundary with 109 Drive and serve a living room space.

9.29 The first floor would remain residential. Given the orientation, proximity and continued residential use of the windows to the boundary, officers consider the impact of the extension on the residential amenity of the adjacent neighbours to be acceptable. Some inter-looking between properties is to be expected in this area; views from the proposed new windows would not be significantly harmful in this context.

9.30 A first-floor side window is proposed to serve a study, which would introduce additional views towards the rear patio of 109 Darwin Drive. As this window serves a study rather than a habitable room, it is considered that a condition should be attached to any consent granted to ensure this window is obscure glazed to mitigate any overlooking.

9.31 The proposed extension (on the ground floor) is to increase the floor spaces of the proposed gent's prayer area and to provide a designated area for the Mimbar/Pulpit. In turn this allows for a marginally greater library / community meeting area / ladies prayer area. On the rear

elevation there are proposed to be two vertical glazed windows and a three paned bay window for the pulpit. All the ground floor windows are shown on the plans to be triple glazed and fixed shut. The extension will increase the depth of the rear of the building to a level that is similar to 105 Darwin Drive, which is attached to the building. It is stated in the noise report that the materials of this element would be optimized to reduce the impact to the neighbouring properties. It has been confirmed by the Environmental Health Officer that there is no concern over the impact on the surrounding area through the implementation of the extension.

- 9.32 In regards of the physical and overlooking impacts to 109 Darwin Drive, it is considered that this would be minimal. This application will bring the built form and the use closer to these neighbouring windows. There would be no direct overlooking, it is recommended a condition should be attached to any consent granted requiring the proposed study window is obscurely glazed. It is considered that there would be minimal overshadowing as there is to be a separation distance of approximately 4m between the closest point of the proposed extension and the common boundary with no.109 Darwin Drive.
- 9.33 It is considered that Policy 58 e) of the CLP is applicable to the extension, part (1) of the application. As detailed above there would be no adverse impact on the amenity of the neighbouring properties due to overlooking, overshadowing or visually dominate, subject to the recommended condition above. Therefore, this element of the application is considered to be policy compliant.

#### **Increase in Occupants to the community use**

- 9.34 Part (2) of the proposal is for the increase in the number of occupants for the community use on the ground floor from the original permission, the 2006 Permission, to twenty-nine. This would be on a Sunday to Friday afternoon. This is proposed to be increased to thirty-seven occupants between 12:00 and 16:00 on a Friday reverting to twenty-nine occupants for the remainder of the opening hours on a Friday. During the opening hours for Ramadan it would increase to thirty-seven occupants.
- 9.35 Current restrictions to the site in respect of the occupant numbers and the hours of use are restricted through the 2006 Permission. This gave consent for the "Change of use from single family residential space to community house for the Bangladeshi community, including residential space for key worker".

#### ***Condition 5:***

*The community house shall not be occupied by more than 20 people at any one time, unless otherwise agreed in writing by the local planning authority. Reason: To ensure that there is no intensification in the use of the building in order to safeguard the amenity of adjacent residential properties (Cambridge Local Plan 1996 Policies EO1 and BE2).*

- 9.36 Therefore the current maximum number of occupants (2006 permission) for the community use at any given time is twenty (including Friday) and the opening hours are 09.00 and 21.00 Monday to Sunday and 09.00 and 22.30 Monday to Sunday throughout the months of June and July.
- 9.37 In the supporting information which submitted with the application states that the reason for the increase in the number of occupants to the site is to allow for greater flexibility through the school holidays and the working patterns of the local residents that attend the congregation. There would be management of the attendees to the site through a request to be able to attend, this would be through verbal reminders, locking the door when numbers are reached. Conducting additional classes when numbers increase, inside the permitted opening hours. Also monitoring logs to track the number of attendees per activity. As per the supporting information this would be managed by the Management Committee, as detailed in the Management Plan June 2022.
- 9.38 In regards of the noise impact as a result of the intensification of the use it has been recommended in the submitted noise report that [the] optimal building materials would be used to increase the sound insulation and ensure that windows are closed during potentially noisy activities. Also to limit the use of motorised vehicles for access and egress during the early morning prayer late at night when changes in noise levels are most sensitive. The noise report produced by Lustre Consulting (2184\_FP01.0 V2) and Addendum to Noise Impact Assessment (4<sup>th</sup> May 2022) concludes that [in the mitigation measures,] the adverse impact of the change of hours and extension of the mosque is considered significant. However, the implementation of mitigation measures and a period of monitoring following completion of the extension and change in hours could help to enhance control measures.

#### **Increase in opening hours**

- 9.39 The current restrictions to the site in regards of the hours of use were restricted through the 2006 Permission, granted on the 6th July 2006. This gave consent for the “Change of use from single family residential space to community house for the Bangladeshi community, including residential space for key worker”.

#### *Condition 7:*

*The ground floor of the premises shall only be in operation between the hours of 09.00 and 21.00 Monday to Sunday and 09.00 and 22.30 Monday to Sunday throughout the months of June and July unless otherwise agreed by the local planning authority. Reason To protect the amenity of adjoining residential properties (Cambridge Local Plan 1996 policies EO1 and BE2).*

- 9.40 Part (3) of the proposal is for the hours of the community use to be altered from the 2006 Permission, this is to 09:00 hrs and 23:00 hrs Monday to Sunday.



- 9.41 With an additional 30 minute prayer Monday to Sunday between the hours of 02:50 and 07:00, this is to have the same amount of occupants as the rest of the opening hours.
- 9.42 Only during the months of Ramadan will the community use open between the hours of 23:30 and 02:30 for 2 hours with a maximum of thirty-seven occupants.
- 9.43 There has been a request over the previous years for the increase in opening hours between 00:30 – 03:30 for Ramadan each year which the Council has allowed. Including for these proposed additional hours formally through this application, would ensure it is no longer necessary for similar annual requests.
- 9.44 The management plan submitted with the application refers to methods that will help to protect the amenity of the neighbouring properties. This includes requesting occupants to travel to the site either on foot or by bike and if there is no parking on the site to park elsewhere in the residential street, also the other restrictions detailed above.

#### **Conclusion on Parts 2 and 3 of the application description**

- 9.45 This section will be assessing the impact on the neighbouring properties and uses in regards of noise as they are linked in their impact and the comments from the Environmental Health Officer.
- 9.46 An acoustic assessment (Lustre Consulting (2184\_FP01.0 V2) and Addendum to Noise Impact Assessment (4<sup>th</sup> May 2022)) has been submitted in support of the application. The assessment indicates that noise transmission from inside to outside (or into the adjoining house) and a further addendum to include the Ramadan opening hours. These have concluded that it is likely to be acceptable even with increased capacity and in the early hours of the morning.
- 9.47 Part of the mitigation designed to protect the amenity of the neighbouring properties through the sensitive hours is to keep the windows and doors closed. The ground floor windows are proposed to be fixed shut and this could be conditioned in the event of planning permission being granted framed in such a manner as to not prohibit the doors being opened on humid / hot nights for thermal comfort particularly if there are a large number of attendees to a prayer session.
- 9.48 The following two previous applications have been submitted to the Council: Firstly, 09/0731/FUL (Refused) for a two storey rear extension and single storey side extension to community house and first floor flat (key worker); and secondly, 18/0272/FUL (withdrawn) Two storey rear extension with single storey projecting bay for a Mimbar pulpit, increase in the maximum number of attendees for the community use to 37 (Friday afternoon only), and extension to the opening hours

- 9.49 In both of those cases the Council's Environmental Health Officer (EHO) recommended that the limitations on numbers of visitors and opening hours conditioned in the 2006 Permission, should remain in place at the site due to the overall residential nature of the area and the likelihood of adverse impacts of an intensified use on neighbouring residents during noise-sensitive hours. Concerns were also raised that noise complaints had been received in respect of the permitted use.
- 9.50 The EHO has stated that the conditions included on the 2006 Permission remain relevant, as the fundamental constraint to the site, which is its location within a predominantly residential area, has not changed.
- 9.51 With this particular application there are concerns that it is in a quiet residential area and there are no other noise sources in the immediate vicinity, that is above the residential noises. The original conditions were applied to the application to ensure there is protection of the local amenity. It is considered that these circumstances have not changed. The property was originally built as a semi-detached house for residential use, not a purpose-built place of worship comprising standard residential construction with no consideration of noise outbreak as a consequence of any other uses.
- 9.52 The EHO concern is that by allowing visitors to attend the premises nightly, throughout the year and at all hours of the night could result in adverse impact on local amenity, which would be contrary to Policy 35 of the CLP – "Protection of human health and quality of life from noise".
- 9.53 For clarity, the EHO concern is due to the potential for noise and disturbance to arise during the most noise-sensitive times of day / night as a result of people outside the premises whether gathering, arriving or leaving. This has the potential to wake neighbours / disturb sleep and may result in complaints of noise being made to the Council which its EHO's are then duty bound to investigate.
- 9.54 It should be noted that noise from voices / people in the street is not something that is usually actionable by Environmental Health under the Environmental Protection Act 1990 and therefore, they consider that this is an issue requiring consideration as a material consideration at the planning stage in terms of potential loss of amenity.
- 9.55 Notwithstanding the above, EHO's advise that noise from people arriving and leaving any premises is inherently difficult to quantify. In practice, no one night / morning may be the same as the next in terms of how people behave, thus, it is not possible to accurately predict behaviour from one visitor to the next or one time period from another.
- 9.56 It is noted by the EHO that the applicant has submitted a Noise Management Plan to aid in the control of such issues. This is welcomed

but Noise Management Plans for such scenarios rely heavily on human behaviour, which is difficult to predict, control and manage.

- 9.57 As such, the issue of noise from people potentially gathering / arriving at and departing the premises in the early hours of the morning / at night in a residential location becomes more a matter of principle. The Environmental Health stance is that there is potential for significant adverse noise impacts during the night-time period which cannot be accurately quantified at this stage with no guarantee over the control of behavior of visitors to the premises. Therefore, it remains the proposal cannot be supported in its current form by the Council's EHO.
- 9.58 Therefore, it is considered that the application will not conform to either Policy 35 of the CLP or Paragraph 130 f) of the NPPF as there is identified harm to the amenity of the neighbouring residents of the site that would likely arise. Whilst a proposed management plan has been put forward, it is not considered to be robust and sufficient to overcome EHO policy objections to the application proposal.

#### **9.59 Design, Layout, Scale and Landscaping**

- 9.60 CLP Policies 55, 56, 58 and 59 seek to ensure that development responds appropriately to its context, is of a high quality, reflects or successfully contrasts with existing building forms and materials and includes appropriate landscaping and boundary treatment.
- 9.61 The proposed two storey extension would be located to the rear of the existing property and would mimic the scale and design of an existing two storey rear extension on the neighbouring attached dwelling, at 105 Darwin Drive. The proposed extension would be subservient to the existing building and due to its location at the rear would not be overly prominent in the street scene.
- 9.62 It would be constructed from brick and tile to match the existing materials.
- 9.63 It is considered that the proposed extension would not result in a significant adverse impact on the character and appearance of the area or the existing building and would comply with CLP Policy 58.
- 9.64 Overall, the proposed development is a high-quality design that would contribute positively to its surroundings and be appropriately landscaped. The proposal is compliant with CLP Policies 55, 56, 58 and 59 and the NPPF.

#### **9.65 Highway Safety and Transport Impacts**

##### Highway Safety

- 9.66 No objections have been received from the Local Highway Authority (LHA) on the grounds of highway safety.

9.67 The proposal is compliant with CLP Policy 81.

#### Car and Cycle Parking

9.68 It has been concluded in the supporting information that the majority of the users of the site will travel to the facility by either foot or bicycle. This is not disputed. However, these travel modes are not considered to overcome the noise issues that have been identified and raised by the EHO. A condition requiring all users of the site to arrive either by foot or cycle would be both unreasonable and difficult to enforce - to the point of being unenforceable. Vehicular arrivals, whilst less likely, could not be ruled out, particularly in times of poor weather or for users with mobility needs.

9.69 The management plan submitted as part of the application refers to the cycle parking which is to be installed. The existing cycle parking on site could be conditioned (in the event planning permission is granted) requiring improvement to ensure there is adequate, appropriate cycle parking for the envisaged additional users of the site.

#### **9.70 Planning Balance**

9.71 It is considered that the principle this application presents is acceptable as it meets a community need as demonstrated in the supporting information of the application. This meets the requirements of CLP Policy 73.

9.72 However, concerns have been raised by the neighbouring properties through the application's consultation. Furthermore, the Council's EHO advises if approved the application would impact on the amenity of the neighbouring properties through the noise brought about by the intensification of use resulting from the increase in the number of attendees at any given time and the extended hours of use.

9.73 The proposed mitigation that has been submitted in the application is not considered to overcome the concerns that have been raised.

9.74 Therefore, on balance, it is recommended that this application is refused, due to the noise and disturbance impacts of comings and goings to the mosque that would be likely to be created to the neighbouring properties and in particular such impacts arising at unsociable hours. In coming to this conclusion, Officers recognise the benefits of the mosque in its present form and use brought about since it began operating from the site. However, the site's sensitive location in a residential area with adjacent residential properties and in particular the orientation of habitable windows in 109 Darwin Drive directly towards the mosque's main entrance weighs against the acceptability of the proposal.

9.75 This relationship (i.e. to 109 Darwin Drive) tips the balance of the application to the extent that this conflicting relationship is considered to outweigh any benefits the application would bring about to the community.

9.76 Having taken into account the provisions of the development plan, the NPPF, the views of statutory consultees and wider stakeholders, all other material planning considerations, the proposed development is recommended for refusal as being contrary to CLP Policy 35 and Paragraph 130 f) of the NPPF.

**9.77 Recommendation**

9.78 **Refuse** for the following reason:

1. The application is contrary with Policy 35 of the adopted Cambridge Local Plan 2018 and Paragraph 130 f) of the National Planning Policy Framework due to the intensification of the use of the site and the building within the site brought about by the increase (a) of attendees/occupiers; and (b) the hours of use which would harm the amenity of neighbouring properties. The application site is in a residential area consequently the use of the site and the building is not considered appropriate for any further intensification of their use. The mitigation measures being proposed to overcome harm are not considered appropriate or sufficiently robust to overcome the identified to the amenity of the neighbouring properties

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**Background Papers:**

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- Cambridge Local Plan 2018
- Cambridge Local Plan SPDs

**Appendix 1 – Table of the proposed hours and occupants to the community use as proposed by the application.**

<b>Day</b>	<b>Early Morning Opening Times (Occupants)</b>	<b>Morning Opening Times (Occupants)</b>	<b>Afternoon Opening Times (Occupants)</b>	<b>Evening Opening Times (Occupants)</b>	<b>Ramadan Only</b>
<b>Monday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (29 Occupants)	12:00 – 16:00 (29 Occupants)	16:00 – 23:00 (29 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)
<b>Tuesday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (29 Occupants)	12:00 – 16:00 (29 Occupants)	16:00 – 23:00 (29 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)
<b>Wednesday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (29 Occupants)	12:00 – 16:00 (29 Occupants)	16:00 – 23:00 (29 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)
<b>Thursday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (29 Occupants)	12:00 – 16:00 (29 Occupants)	16:00 – 23:00 (29 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)
<b>Friday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (29 Occupants)	12:00 – 16:00 (37 Occupants)	16:00 – 23:00 (29 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)
<b>Saturday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (20 Occupants)	12:00 – 16:00 (20 Occupants)	16:00 – 23:00 (20 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)
<b>Sunday</b>	02:50 – 07:00 30 minutes only (29 Occupants)	09:00 – 12:00 (29 Occupants)	12:00 – 16:00 (29 Occupants)	16:00 – 23:00 (29 Occupants)	23:30 - 02:30 2 hours only (37 Occupants)