

11/01808/FUL: CHANGE OF USE FROM RESIDENTIAL TO MIXED USE AS A RESIDENTIAL AND TEACHING ESTABLISHMENT FOR ARABIC AND RELIGIOUS INSTRUCTION ON WEEKDAYS ONLY (RETROSPECTIVE) AT 9 EXETER ROAD, MILLFIELD, PETERBOROUGH

VALID: 14 NOVEMBER 2011

APPLICANT: MR MAKHTAR

AGENT:

REFERRED BY: HEAD OF PLANNING

REASON: IMPACT ON CHARACTER, NEIGHBOURING AMENITY AND HIGHWAY IMPLICATIONS

DEPARTURE: NO

CASE OFFICER: MRS J MACLENNAN

TELEPHONE: 01733 454438

E-MAIL: janet.maclennan@peterborough.gov.uk

---

---

## **1 SUMMARY/OUTLINE OF THE MAIN ISSUES**

The main considerations are:

- Impact on the character of the area and the residential amenity of neighbouring properties
- Highway implications

The Head of Planning Services recommends that the application is **REFUSED**.

## **2 PLANNING POLICY**

In order to comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 decisions must be taken in accordance with the development plan policies set out below, unless material considerations indicate otherwise.

### **Development Plan Policies**

**Key policies highlighted below.**

#### **The Peterborough Local Plan (First Replacement) 2005**

**CF10 Places of Worship and Religious Instruction** – Planning permission will only be granted provided the development would allow safe and convenient access by foot, cycle and public transport and would be sufficiently well related to its catchment population; noise and disturbance would not be detrimental to neighbouring occupiers and would not result in unacceptable congestion or hazard to road safety.

**T10 Car and motorcycle parking requirements** - Planning permission will only be granted for development outside the city centre if it is in accordance with approved parking standards.

#### **The Adopted Peterborough Core Strategy DPD**

**CS14 Transport** - The transport strategy for Peterborough is to: (i) reduce the need to travel, especially by private car; (ii) deliver a sustainable transport package capable of supporting a bigger and better Peterborough; (iii) support our UK Environment Capital aspirations; and (iv) assist in improving the quality of life of people.

**CS16 Urban Design and the Public Realm** - High quality and inclusive design will be required for all new developments as part of a strategy to achieve an attractive, safe, healthy, accessible and sustainable environment throughout Peterborough. Design solutions should take the following principles into account ....: New development should not result in unacceptable impact on the amenities of occupiers of any nearby properties.

**Material Planning Considerations**

Decisions can be influenced by material planning considerations. Relevant material considerations are set out below, with the key areas highlighted:

Planning Policy Guidance Note (PPG) 13: Transport

**3 DESCRIPTION OF PROPOSAL**

The application seeks permission to use part of the dwelling house as a teaching establishment for Arabic and religious instruction on weekdays only. This is a retrospective application as the use commenced in May 2010. The use operates Monday (including Bank Holidays) to Friday providing two sessions between 4.00 pm and 5.00 pm and 5.30 pm to 6.30 pm. The maximum number of children attending each session would be 10.

**4 DESCRIPTION OF SITE AND SURROUNDINGS**

The application site contains a two storey detached dwelling which has been extended with a two storey side extension and single storey rear extension. To the rear is an enclosed garden which abuts the rear gardens to properties in Cecil Road and Dogsthorpe Road. The site is close to the entrance of the street on the north side of Exeter Road and the immediate vicinity comprises an established residential character comprising predominantly two storey detached and semi detached properties with in curtilage parking provision. There is space to the front of the property for two vehicles to park clear of the public highway.

**5 PLANNING HISTORY**

Application Number	Description	Date	Decision
08/00265/FUL	Two storey side and single storey rear extension	21.04.2008	REF
08/00867/FUL	Two storey side and single storey rear extensions - revised	05.08.2008	WDN
08/01305/FUL	Two storey side and single storey rear extension and demolition of garage and conservatory	16.01.2009	PER
09/01380/DISCHG	Discharge of Conditions C2 and C3 of application 08/01305/FUL - Two storey side and single storey rear extension and demolition of garage and conservatory	08.02.2010	COM
09/01452/FUL	Demolition of garage and conservatory and construction of two storey side and single storey rear extensions - retrospective (as built)	03.02.2010	PER
09/01453/FUL	Demolition of garage and conservatory and construction of two storey side and single storey rear extensions - retrospective (Revised)	03.02.2010	WDN
10/01111/FUL	Change of use from residential to mixed use as a residential and teaching establishment - retrospective	11.11.2010	REF

**INTERNAL**

**Head of Transport and Engineering – Recommend Refusal** - The Local Highways Authority (LHA) would reiterate comments made previously from planning application 10/01111/FUL. The LHA recommend refusal due to insufficient space within the curtilage to provide parking which would result in the parking in unsafe locations which would be detrimental to highway safety.

**EXTERNAL**

**Millfield and New England Regeneration Partnership – objection** - Exeter Road is a residential street, with the properties having covenants preventing them from being used for commercial purposes. There have been various applications to use parts of properties for business purposes. There is already another Madrassa in Exeter Road, which has proved to be a major inconvenience to residents with each day numerous vehicles picking up and dropping off children, causing a nuisance to residents with blocked roads and pavements and the noise of cars and car doors. The number of children would increase and there would be disregard to any conditions laid down. The claim that the children will all arrive by methods other than cars is nonsense. The opening times would cause nuisance to residents, in particular as this is at a time when residents are returning home from work, as well as other people driving down the road during what is effectively the rush hour as most people leave work through part of this period. This Madrassa is a business and not just something for family and friends as alleged. On their own figures there are 2 classes a day with 10 children per class, which makes 20 children, which is clearly a business, as well as the fact the parents are required to sign an application and agreement form. This is a commercial business.

**NEIGHBOURS**

2 letters of objection have been received raising the following issues:

- No 9 is the first house along Exeter Road and the corner is extremely busy, particularly as it is close to All Saints School, the proposal could impact on the junction with Dogsthorpe Road
- Limited parking within the site and already a number of vehicles parked on the road
- My garage lies adjacent to the site and I have difficulty getting my car out of my garage
- Already sufficient educational establishments nearby including, All Saints School, a Buddhist Centre and Islamic teaching establishment in Exeter Road
- I live next door to a Madrassa and have had to endure years of noise, cars parked across my drive
- The fact the use is operating shows the application process is being ignored
- The majority of children arrive in cars

1 letter of support has been received stating that her child lives nearby and walks to and from the class

**7 REASONING****a) Introduction**

The application is a resubmission of a similar proposal submitted last year (ref. 10/01111/FUL) which was refused due to the number of vehicle movements generated by the use and subsequent intensification of a use which would adversely impact upon the general character of the immediate area. The application was also refused because of insufficient space within the site curtilage to provide parking facilities for the combined residential occupancy of the dwelling and the children's teaching establishment resulting in parents delivering and collecting children attending the school having to park within the public highway that would block, by way of parking in unsafe locations, the free flow of traffic within Exeter Road. This is detrimental to highway safety. The previous application proposed the use of a large lounge to the rear of the property to be used for teaching/religious instruction between 5.00 pm and 6.00 pm Monday to Friday and the remainder of the time would be used as a family room. The number of children attending would have been between 10 and 15 at any one time.

The application under consideration again proposes the lounge to be used in the manner indicated in the above paragraph. However, at the site visit the Case Officer was advised that it was the room formerly used as a garage that is being used for teaching/religious instruction, and not the lounge.

#### Planning History relevant to the application

Temporary planning permission was granted in 2002 (ref. 02/00410/FUL) for the erection of a dayroom for use as a Madrassa at 41 Exeter Road and a permanent consent granted in 2004 (ref 04/01418/FUL). This site lies a few houses to the west of the application site. The permission restricted the use to no more than 10 children at any one time and limited the hours of use to between 3.00 pm to 8.00 pm Monday to Friday and between 9.00 am to 12.00 pm, and 3.00 pm to 8.00 pm on Saturday. A minimum of 15 minutes shall elapse in between a class finishing and the subsequent class commencing.

In 2011 an application was submitted to vary condition 3 of planning consent 04/01418/FUL) to enable up to 25 children to attend the Madrassa at any one time and to remove the 15 minute limit between each class. The application was refused as the proposal would have resulted in a significant increase in the number of children present on the site at any one time and the increase to 25 pupils and removal of the fifteen minute break between classes would result in up to 50 children visiting the site and congregating in the rear garden area of No. 41 Exeter Road, giving rise to an unacceptable level of noise disturbance to nearby residential properties. In addition the increase in pupils would have resulted in additional vehicles visiting the site and would impede the free flow of traffic on Exeter Road.

#### **b) Impact on character and neighbouring amenity**

The surrounding character is predominantly residential and the use of the dwelling for teaching/religious instruction for up to 10 children over two sessions would result in a number of comings and goings to the property over a two and a half hour period. It is considered that the use would generate a level of activity which would materially change the general character of the property and would be harmful to the amenity of the occupiers of neighbouring properties in the immediate vicinity.

In addition there is already a Madrassa in close proximity to the site at number 41 Exeter Road. It is considered that the use of an additional dwelling for teaching/religious instruction in such close proximity would further erode the residential character of the street and, through the cumulative impact, significantly increase the adverse impact on residential amenity of the occupiers of properties in this residential street through the general activity of people arriving at and leaving the site and the subsequent increase in vehicular traffic. Hence the proposal would therefore be contrary to policy CF10 of the Adopted Peterborough Local Plan (First Replacement) 2005 and policy CS16 of the Adopted Peterborough Core Strategy DPD.

#### **c) Highway implications**

There is parking provision for up to two vehicles within the site. Whilst the application states that the children attending the class will walk, use public transport or cycle, it is likely that most children attending the site would arrive by car. This is substantiated by the case officer dealing with the previous application who, from a site visit, witnessed that the majority of children were indeed dropped off by car. This resulted in a large number of vehicles to be parked on the adjoining highway. It is the view of the Local Highways Authority that the proposal would result in vehicles to be parked in unlawful/unsafe locations which would impede the free flow of traffic and create safety issues to all highway users. Hence the proposal is contrary to policy T10 of the Adopted Peterborough Local Plan (First Replacement) 2005 and policy CS14 of the Adopted Peterborough Core Strategy DPD.

#### **d) Other Matters**

An objector has stated that the properties along Exeter Road have covenants preventing them from being used for commercial purposes. Members will be aware that the issue of restrictive covenants is not a material planning consideration.

## 8 CONCLUSIONS

The proposal is considered unacceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- The proposed use of the dwelling for teaching/religious instruction would materially change the residential character of the immediate area, particularly when taken with the existing Madrassa in Exeter Road, and would have a significant adverse impact on the amenity of the occupiers of neighbouring properties
- The proposed use would result in an increased number of vehicles waiting on the adjacent public highway which would impede the free flow of vehicular traffic to the detriment of users of the public highway and create a highway safety hazard.

Hence the proposal is contrary to policies CF10 and T10 of the Adopted Peterborough Local Plan (First Replacement) 2005 and policies CS14 and CS16 of the Adopted Peterborough Core Strategy DPD.

## 9 RECOMMENDATION

The Head of Planning Services recommends that this application is REFUSED for the following reasons:

**R 1 The use of the dwelling (retrospectively), in part as a children's teaching establishment, would by virtue of the number of children attending and the subsequent level of activity that would be generated, along with the associated number of vehicles accessing the property, adversely impact upon the general character of the immediate area that is dominated by dwelling houses, particularly when taken with the existing Madrassa in close proximity, and would be detrimental to the amenity of the occupiers of those properties. Hence the proposal is contrary to policies CF10 and T10 of the Peterborough Local Plan (First Replacement) 2005 and policy CS16 of the Adopted Peterborough Core Strategy which state:-**

CF10 Planning permission for the development of land, or change of use of an existing building, to provide a new place of worship or religious instruction will be granted, provided that:

- (a) the development would provide a safe and convenient access by foot, cycle and public transport, and would be sufficiently well located in relation to its intended catchment population to offer a reasonable prospect of a substantial number of trips by these modes;
- (b) the noise and disturbance likely to be caused by the use of the premises would not be unacceptably detrimental to the amenities of occupiers of nearby properties; and
- (c) the vehicular traffic and pedestrian activity likely to be generated would not be unacceptably detrimental to the amenities of occupiers of nearby properties or be likely to result in unacceptable congestion or hazard to road safety;
- (d) any associated car parking to be provided would not be unacceptably detrimental to the character or appearance of the area.

T10 Planning permission will only be granted for car and motorcycle parking outside the City Centre if it is in accordance with the standards set out in Appendix V. Car and motorcycle parking in the City Centre will be assessed against policy CC15.

CS16 High quality and inclusive design will be required for all new developments as part of a strategy to achieve an attractive, safe, healthy, accessible and sustainable environment throughout Peterborough. Design solutions should take the following principles into account:  
[...] New development should not result in unacceptable impact on the amenities of occupiers of any nearby properties.

**R 2 There is insufficient space within the site curtilage to provide parking facilities for the combined residential occupancy of the dwelling and the children's teaching establishment. This results in the vehicles of the parents delivering and collecting children attending the school having to park within the public highway that would block, by way of parking in unsafe locations, the free flow of traffic within Exeter Road. This is**

**detrimental to highway safety. The proposal is therefore contrary to policies CF10 and T10 of the Peterborough Local Plan (First Replacement) and policy CS14 of the Adopted Peterborough Core Strategy DPD which state:**

- CF10 Planning permission for the development of land, or change of use of an existing building, to provide a new place of worship or religious instruction will be granted, provided that:
- (a) the development would provide a safe and convenient access by foot, cycle and public transport, and would be sufficiently well located in relation to its intended catchment population to offer a reasonable prospect of a substantial number of trips by these modes;
  - (b) the noise and disturbance likely to be caused by the use of the premises would not be unacceptably detrimental to the amenities of occupiers of nearby properties; and
  - (c) the vehicular traffic and pedestrian activity likely to be generated would not be unacceptably detrimental to the amenities of occupiers of nearby properties or be likely to result in unacceptable congestion or hazard to road safety;
  - (d) any associated car parking to be provided would not be unacceptably detrimental to the character or appearance of the area.
- T10 Planning permission will only be granted for car and motorcycle parking outside the City Centre if it is in accordance with the standards set out in Appendix V. Car and motorcycle parking in the City Centre will be assessed against policy CC15.
- CS14 The transport strategy for Peterborough is to: (i) reduce the need to travel, especially by private car; (ii) deliver a sustainable transport package capable of supporting a bigger and better Peterborough; (iii) support our UK Environment Capital aspirations; and (iv) assist in improving the quality of life of people.

[...all new development should demonstrate that appropriate and viable opportunities have been taken to achieve (or assist in achieving) the following aims:

Reducing the need to travel, especially by private car ...Supporting proposals to develop and enhance the City Centre and District Centres in order to improve connectivity and reduce the need to travel, especially by private car

Copy to Councillors P Kreling, J Shearman, J Peach