

APPEALS AND PLANNING REVIEW COMMITTEE

MONDAY 7 MARCH 2022
7.00 PM

Engine Shed, Sand Martin House, Bittern Way

AGENDA

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Committee Members:

Councillors: Ansar, Barkham, Coles, W Fitzgerald (Chair), Haynes, Hussain, Joseph, S Lane, D Over, B Rush (Vice Chairman) and Simons

Substitutes: Councillors: Ayres

Further information about this meeting can be obtained from Daniel Kalley on telephone 01733 296334 or by email – Daniel.kalley@peterborough.gov.uk

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**MINUTES OF THE APPEALS AND PLANNING REVIEW MEETING
HELD AT 7PM, ON
8 MARCH 2021
VIA ZOOM**

Committee Members Present: Holdich (Chair), Councillors Allen, Barkham, Coles, Dowson, Lane, Over, Sandford, Simons, Yasin, Yurgutene

Officers Present: Nick Harding, Head of Planning Peterborough City Council and Fenland District Council
Stephen Turnbull, Planning Solicitor
Dan Kalley, Senior Democratic Services Officer
Sara Thompson, Passenger Transport Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Ali and Rush. Councillors Yasin and Allen were in attendance as substitutes.

2. DECLARATIONS OF INTEREST

No declarations of interest were received.

3. MINUTES OF THE APPEALS AND PLANNING REVIEW COMMITTEE MEETING HELD ON 8 APRIL 2019

The minutes of the meeting held on 8 April 2019 were agreed as a true and accurate record.

4. MINUTES OF THE SUB-COMMITTEE HEARINGS HELD BETWEEN APRIL 2019 TO MARCH 2021

The minutes of the meetings held between April 2019 and March 2021 were agreed as a true and accurate record.

5. REVIEW OF TRANSPORT APPEALS HELD UNDER THE TERMS AND CONDITIONS OF THE CHILDREN'S SERVICES TRANSPORT POLICIES

The Committee received a yearly update report detailing the outcomes of the home to school transport appeals held during 2020/2021.

The Team Manager, Passenger Transport Operations introduced the report and explained that there was a two-stage appeal process. The first stage of the appeal was dealt with by a member of the transport team and a response was provided to the applicant. If the applicant was not happy, they had the opportunity to move to the second stage of the appeal process, which would involve a hearing. As the schools had been

closed for some periods over the past 12 months there were less appeals received. There were 11 appeals in total, of which two were permitted at the first stage. One appeal had gone to the second stage and there was still one appeal pending.

RESOLVED:

That the Appeals and Planning Review Committee noted the transport appeals held during 2020/2021

6. DEVELOPMENT AND ENFORCEMENT MATTERS

6.1 Application Review 20/01260/WCPP - Masjid Ghousia 406 Gladstone Street Millfield Peterborough

The Appeals and Planning Review Committee received a report in relation to a review of an application for an amplified call to prayer at Masjid Ghousia Mosque.

The application sought to vary condition 8 to allow the amplified call to prayer (The Azan) 3 times per day, every day (early afternoon, late afternoon and sunset).

It is proposed that the duration of each call to prayer would be between 3 and 5 minutes. 4 no. loud speakers would be located on the top of the minaret (tower), at the balcony level at the Springfield Rd / Gladstone St junction end of the building. The speakers would be hidden from view.

Referral to Appeals and Planning Review Committee:

The application was determined by members of the Planning and Environmental Protection Committee on 26 January 2021 and it was resolved to refuse planning permission as per officer recommendation.

Before the refusal was issued, Officers noticed that an incorrect planning application form was posted on the Council's website which may have resulted in people wrongly thinking the application was for a new building rather than the proposal to have an amplified call to prayer and may have wrongly decided not to comment on the application.

Members of the Committee were notified of the situation and subsequently a successful request was made to have the application determined by the Appeals and Planning Review Committee.

A further consultation has been undertaken (to correct the mistakenly published document) with neighbouring occupiers and anyone who has previously made comments on the application. Site notices have been erected and the application has been advertised in the Peterborough Telegraph.

The Head of Planning introduced the report and update report.

Councillor Ali, Ward Councillor addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- People in the local community had a lot of respect for one another and welcomed the different backgrounds that people had.
- The mosque had been in existence for over 35 years, the purpose built mosque was built 21 years ago. When the mosque was built it never applied to have the call to prayer in use.

- There had been positive feedback from people living in the area on the impact that it would have on them.
- There was an understanding on the reservations that people held over the call to prayer, however the addition of the call to prayer will be a celebration of the diversity of cultures in Peterborough.
- The Mosque Management Committee were prepared to work with planning officers and the Council to come to an arrangement. The area that the call to prayer affected was predominantly of Muslim faith.
- Some of the objections that had been made, although having reservations over the call to prayer, were not strong enough to warrant refusing the application. There was nothing in any of the planning policies that outlined reasons for refusal.
- The sound of the call to prayer was serene and not overbearing as had been stated in some of the objections.
- There had been examples of people who had disliked the sound at first but had grown to enjoy it over time. This had been stated by Liam Neeson at a recent filming location in Turkey.
- The Mosque Management Committee were prepared to come to an arrangement if necessary and would consider the possibility of having a temporary permission and this being reviewed at a later date.
- The reason the call to prayer was not requested when the purpose built mosque was erected was down to the management committee feeling that getting the building built was a more important challenge at that time.
- Although there were five calls to prayer a day the Management Committee felt that some of these were not appropriate, due to the times of day, and instead opted to request three calls to prayer a day, with the last being held at sunset.
- During each call to prayer the verses were repeated twice. These lasted no more than three minutes.
- Many people had fed back that because they had not heard the call to prayer before that they were unable to comment on it.
- The view of the Management Committee and local residents was that the call to prayer was better served over the use of technology to inform people about the call to prayer.
- It was proposed that the sound would travel as far as Lincoln Road to the east and Bourges Boulevard to the west. Most of the households in this area were predominantly Muslim.
- It was stated that the mosque was willing to reduce the number of calls to prayer a day and the times that these were made, as long as this was done in consultation with the Council.
- The latest in summer that a call to prayer would be called, was around 9.30pm sunset.

Edward Trickett, Objecting, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The Adhan being played through an amplified system with properties in proximity to the Mosque. Whereby residents may not be from that faith is untenable and this is chiefly due to the noise generated by such a practice.
- Upon reviewing the associated paperwork regarding this variation request, there had been 78 objections constituting 63.4%, constituting a majority of the community objecting to the Adhan being publicly broadcast as per the originally agreed upon planning application.
- Since the Mosque has been used in its current form for almost 20 years now, the Adhan hadn't been used in public broadcast without issue.
- The preclusion of public broadcasting of the Adhan hadn't negatively affected the religious practices or beliefs of the Islamic community that use the Mosque.
- There was already technology and provisions in place regarding the Adhan and its relevance to the practice of Islam, these included: Masjid radios, apps, alarms and the

Islamic community itself as people car shared or attend Mosque together. Therefore a public broadcasting of the Adhan was simply not necessary.

- There was no reference regarding provision of volume control or any mitigation regarding such an issue, the noise generated by 4 loud speakers positioned high up in a minaret will project the Adhan a considerable distance and would be audible to people who had already lodged their objection to the Adhan being public
- There was legitimate concern that if Mosques in any given locale are granted permission to have the Adhan publicly that this will have a cascading effect within that community and the UK as a whole, a cursory search of Peterborough and listed Mosques, shows there were around 9 such properties listed as a Mosque or Islamic centre all within approximately 1 mile radius of Masjid Ghousia.
- If the Mosque was granted permission to have the Adhan as a public broadcast, this could lead these other properties and any subsequent property that may be permitted to be constructed/converted to also have the Adhan in public form.
- This would further exacerbate the issue expressed by residents regarding noise pollution and could well lead to unnecessary tensions within the community as a result.
- The main objection was down to noise pollution. People were living within diverse communities and equality and diversity was about more than just one side overcoming another. The Adhan was not necessary in public form and there were other ways of getting the call to prayer message out to the community.
- A trial period would potentially allow other mosques to request a temporary trial. In addition if people heard the call to prayer had been allowed on a temporary basis they may not register their objections at the end of the trial period and the call to prayer would continue.

Mohammed Iqbal and Nazim Khan on behalf of the applicants, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- In the absence of having no policies on the issue there had been two recommendations. Firstly the noise pollution team have stated that the call to prayer could be accommodated as long as this was conditioned. However the planning officers had put forward the recommendation for refusal. It was disappointing that more potential recommendations were not put forward to committee members, such as the refusal, or potentially granting the application with certain condition attached.
- As there was no policy it was difficult for the Management Committee to ascertain the appropriate noise levels. Without the option of a trial period it was difficult to see how officers could recommend refusal.
- The Management Committee were advocating a trial period, if people were not happy then this could be stopped or not proceeded with. Officers had made assumptions on the noise level.
- There was an understanding of why people were nervous about something new, but this was not a reason to refuse.
- It was suggested that a trial period be introduced for the call to prayer once or twice a year. It was intended that this was worked through with officers from the Council.
- When the mosque was originally built there was opposition from within the Management Committee to not pursue having a call to prayer. The main interest at that time was to get the mosque built. The younger generation were the main reason for wanting the call to prayer.
- There were a number of mosques in Bradford, however in the whole city there was only one mosque that had a call to prayer. If any other mosque was to apply for the call to prayer they would have to go through the planning process in order to get this approved. If there was a trial period in place then the Management Committee would have to ensure the rules of the temporary granting were adhered to. No call to prayer would last longer than five minutes and in most instances would last no more than three minutes.

- A live call to prayer was preferable to a recorded call to prayer, this could be looked at if temporary arrangements could be agreed.
- If people who lived within the locality of the call to prayer made a complaint to the mosque or local authority this would be deemed an objection to the call to prayer. This was the only way to monitor whether people were happy or not.
- Different cities had different policies when running the call to prayer. There was no feedback on how the public had responded at other locations to the call to prayer.
- It was not necessary to engage with a sound engineer, it was more important to seek the views of local residents as to whether they wanted to have the call to prayer.
- There was no recollection to the request or allowance for the call to prayer for one mosque during the last lockdown.

The Appeals and Planning Review Committee debated the report and in summary, key points raised and responses to questions included:

- Members were informed that they could only consider this application as there were no other mosques in Peterborough who had the call to prayer.
- There was no national or local policy that covered every single type of application that an authority might receive. There were a number of generic policies which could be applied to a wide variety of proposals. This could include over bearing noise aspects. In terms of this application there was a degree of subjectivity, if applying the noise levels as suggested by Leicester City Council they considered it would not have an adverse impact, however at Peterborough it was officer's views that this would have an adverse impact against the backdrop of the area in question. It was noticeable and different to the usual noises in the area.
- The development fell within North Ward, in this area the Muslim community as at 2011, was around 16% and 54% were Christian. This was close to Central Ward, which had a Muslim population of 42% and Christian population of 34%. To the east of the site, the Muslim population was 15% and the Christian population was 54%. As the site sat at the crossroads of the Wards it was difficult to ascertain exact figures around the mosque.
- Members were informed that planning officers were duty bound to put forward a positive recommendation for members to decide on. However the committee could disagree with the recommendation and could agree to grant a temporary consent and make restrictions as appropriate.
- The Environmental Health team referred to the noise level that was utilised by Leicester City Council and in the absence of best practice, then this noise level would be looked at to be imposed on this application.
- As the condition to prohibit the call to prayer was attached to the original granting of planning permission for the mosque, did not mean that an application to vary the condition would be automatically refused. The officers had to look at the proposed scheme and whether it would have a detrimental impact on neighbours.
- What needed to be applied was planning policy and guidance, the amplification of music and noises in the original application was not allowed and what was suggested then still applied at this point. It was felt that this would be intrusive to the general background noise. There also needed to be a consideration of human rights in this application. Article 8 in terms of right to private life could be disturbed by this application, even in a temporary scenario.
- As a committee it was important to take into account national and local planning policy, in particular LP17, which commented on general over bearing and noise pollution. If the application was refused the applicant was entitled to appeal to the planning inspectorate who would take account of national policy. There needed to be substantial evidence that the noise that would be caused by the application would give rise to a detrimental impact on resident's lives. The only way to find out if it was over bearing was to trial the application.

- If there was a trial period this needed to be for an extended period of time, in order to get more data to make a formal decision on.
- The call to prayer was loud in its nature and it was questionable as to whether this would allow peaceful occupation for residents in their homes who lived nearby. In terms of a trial the call to prayer might increase in volume over time before anyone was aware of what was happening.
- Reaction to noise was a subjective matter and the views of residents needed to be taken into account. There was no means to sample those who might object to the application.
- There was a lot of comments on what might happen if the application was granted, on that basis it would be worth having a trial to see what the feedback was.
- It was difficult to set a volume as this needed to be thought through before being taken into account.

The Appeals and Planning Review Committee considered the report and representations. A proposal was seconded that a temporary consent for the call to prayer be **GRANTED** as set out in the application (the noise level to be set as per the guidance from Environmental Health, three calls to prayer a day, not lasting more than three minutes and finishing no later than 9.33pm) for a period of 12 months. On a vote this **DEFEATED** (5 for, 6 against).

A second motion was proposed and seconded to **REFUSE** the application as per officer's recommendation. The Committee **RESOLVED** (6 for, 5 abstain) to **REFUSE** the planning permission.

REASONS FOR THE DECISION

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given.

**MINUTES OF A MEETING OF THE APPEALS SUB-COMMITTEE
PETERBOROUGH ON 1 DECEMBER 2021**

Members Present: Councillors Coles, Over and Rush

Officers present: Lyn Hull, Appeals Clerk
Bryony Wolstenholme, Team Manager Passenger Transport Operations

1. Apologies for Absence

There were no apologies for absence received.

2. Declarations of Interest

There were no declarations of interest.

3. Exclusion of Press and Public

In accordance with Standing Orders, Members agreed that agenda item 4 contained exempt information, as defined by paragraphs 1 and 2 of Schedule 12A of Part 1 of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information, therefore the press and public were excluded from the meeting.

4. Transport Appeals

4.1 Appeal for SA, NA, MA

The transport appeal was allowed.

Chairman
10.00am to 11.00am

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APPEALS AND PLANNING REVIEW COMMITTEE	AGENDA ITEM No. 5
7 March 2022	PUBLIC REPORT

Report of:	Charlotte Black, Executive Director People and Communities	
Cabinet Member(s) responsible:	Councillor Lynne Ayres Cabinet Member for Education, Skills and University	
Contact Officer(s):	Bryony Wolstenholme - Team Manager - Passenger Transport Operations	Tel. 01733 317453

REVIEW OF TRANSPORT APPEALS HELD UNDER THE TERMS AND CONDITIONS OF THE CHILDREN'S SERVICES TRANSPORT POLICIES

R E C O M M E N D A T I O N S

FROM: *Team Manager - Passenger Transport operations*

Deadline date: *N/A*

It is recommended that the Appeals and Planning Review Committee:

1. *note the transport appeals held during 2021/2022 and comment as appropriate.*

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Committee by the Team Manager, Passenger Transport Operations as part of the Committee's terms of reference.

The report is submitted on an annual basis.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to enable the Committee to scrutinise, or review, the outcomes of the transport appeals held during 2020/2021 under the terms of the School Transport Policy and Post 16 Transport Partnership Policy.

2.2 This report is for Planning and Appeals Committee to consider under its Terms of Reference No. 2.1.2

“to review the outcomes of appeals on an annual basis”

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. **BACKGROUND AND KEY ISSUES**

4.1 The Council is required to have in place a policy for home to school transport for those children aged 4-16 and for those children attending a school or college for post 16 education.

4.2 The main transport policy for those children aged 4-16 was reviewed and consulted upon and implemented in June 2019.

4.3 The policy for post 16 is required to be reviewed annually, the current policy has been in place since September 2021.

4.4 Appeal procedure in both policies (4-16 and post 16) includes a 2 Stage process.

4.5 Any parent who has been refused assisted school/college transport may appeal to the Appeals Committee (Service Issues) if they wish to challenge:

- (1) the refusal is not in line with the policy
- (2) the transport arrangements offered
- (3) that there are exceptional reasons to depart from the policy

4.6 **Stage One: Review by the Team Manager, Passenger Transport Operations**

A parent has 20 working days from receipt of the home to school transport decision to make a written request to the Team Manager, Passenger Transport Operations asking for a review of the decision.

The written request should detail why the parent believes the decision should be reviewed and give details of any personal and /or family circumstances the parent believes should be considered when the decision is reviewed.

Within 20 working days of the parent’s written request the Team Manager, Passenger Transport Operation will review the original decision and send the parent detailed written notification of the outcome of their review, setting out:

- The nature of the decision reached;
- How the review was conducted
- Information about other departments and /or agencies that were consulted as part of the process (if applicable);
- What factors were considered;
- The rationale for the decision reached;
- Information about how the parent can escalate their case to stage two (if appropriate)

4.7 **Stage Two: Review by an independent appeal panel**

A parent has 20 working days from receipt of the Team Managers stage one written decision notification to make a written request to escalate the matter to stage two.

Within 40 working days of receipt of the parents request an independent appeals panel made up of Councillors will consider written and verbal representations from both the parent and officers involved in the case and gives a detailed written notification of the outcome (within 5 working days), setting out:

- The nature of the decision reached;
- How the review was conducted;
- Information about other departments and /or agencies that were consulted as part of the process (if applicable);
- What factors were considered;
- The rationale for the decision reached;
- Information about the parent's right to put the matter to the Local Government Ombudsman (see below)

4.8 Local Government ombudsman – parents have a right of complaint to the Local Government Ombudsman, but only if there is evidence of a failure by the council to comply with the procedural rules or if there are any other irregularities in the way the appeal has been handled. If the complainant considers the decision of the independent panel to be flawed on public law grounds, the complainant may also apply for a judicial review.

One of these reasons must be set out in the application for appeal.

4.9 **1ST STAGE APPEALS AND OUTCOMES DURING 2021/2022**

Month	Number of 1st stage appeals	Number of appeals approved and transport awarded
April 2021	2	0
May 2021	2	0
June 2021	1	1
July 2021	0	0
August 2021	3	1
September 2021	6	0
October 2021	1	1
November 2021	2	2
December 2021	4	1
January 2022	2	0

February 2022	1	
March 2022		
Total	11	2

4.10 **CASES HEARD (2ND STAGE APPEALS AND OUTCOMES DURING 2021/2022)**

Month	Number of Appeals	Reasons for Appeal	Withdrawn	Allowed	Dismissed
December 2021	3	Exceptional circumstance, parental preference of schools	0	0	3
March 2022	1 pending	Transport provision – parental mileage withdrawn due to space on existing route being available			

5. CONSULTATION

5.1 N/A

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 N/A

7. REASON FOR THE RECOMMENDATION

7.1 To ensure that the Committee is informed and kept up to date with the outcomes of transport appeals made under the policies in place at the time.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 There are no alternative options to be considered.

9. IMPLICATIONS

9.1 Financial, Legal and other officers all had input into the initial policy review. Impact on any specific community groups were also addressed as part of the policy review.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 School Transport Policy for pupils aged 4 to 16 years

Peterborough Post 16 Transport Partnership Policy

(These policies themselves refer to statutory guidance and legislation relating to home to school transport and other local transport policies).

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APPEALS AND PLANNING REVIEW COMMITTEE	AGENDA ITEM No. 6
7 MARCH 2022	PUBLIC REPORT

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Fitzgerald, Leader of the Council	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer	Tel. 296334

APPEALS AND PLANNING REVIEW COMMITTEE START TIME 2022/23

RECOMMENDATIONS	
FROM: <i>Director of Law and Governance</i>	Deadline date: March 2022
<p>It is recommended that the Audit Committee:</p> <p>1. Agree and recommend to Council the start time for all Appeals and Planning Review Committee meetings for the Municipal Year 2022-23.</p>	

1. ORIGIN OF REPORT

1.1 This report is submitted to the Audit Committee meeting following the Full Council decision on 24 July 2019 to allow Committees to decide their own start times for the Municipal Year 2020-21.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to allow the Appeals and Planning Review Committee to discuss and agree the start times for meetings from the beginning of the Municipal Year 2022-23.

2.2 This report is for the Audit Committee to consider under Council Standing Order section 4.4.1

The timings of normal committee meetings will be agreed by the committee for the next municipal year in January of the preceding municipal year (or as near to this time as possible).

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

4.1 At the Constitution and Ethics Committee on 8 July 2019 the Committee agreed by majority to recommend to Council that all Committees can agree their start times for the Municipal Year 2020-21. This was again agreed by majority at the Full Council meeting on 24 July 2019.

- 4.2 The Council standing orders have been updated to reflect this decision and gives Committees the opportunity to decide their own start time.
- 4.3 In order for the start times to be incorporated into the draft meeting schedule it is important for the Committee to make a decision on this before the January Full Council meeting. This is the only opportunity for the Committee to make this decision as the next meeting is after the January Council meeting.
- 4.4 Council standing orders allow the Committee to agree its start time every Municipal Year, thereby allowing the Committee to change the start times if it is felt that the start time was not suitable or working.
- 4.5 The Committee will need to decide the best start time and will need to weigh up attendance at meetings and the impact on the Council and members of the public.
- 4.6 The Committee has met at 7pm. For the municipal year 2020/21 all meetings were held virtually due to the ongoing Pandemic and due to the uncertainty over this meeting times for 2021/22 have been kept at the same time.

5. CONSULTATION

- 5.1 Consultation on the start times for the committee is being presented to members at this meeting along with any suggestions with regards to meeting frequency. Any recommendations will be presented to Full Council as part of the meeting schedule report.

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 It is anticipated that the Committee will agree a start time for meetings for the Municipal Year 2022-23 and this will be proposed as part of the draft meeting schedule.

7. REASON FOR THE RECOMMENDATION

- 7.1 The recommendation allows the Appeals and Planning Review Committee to debate the start time of the meeting and make recommendations following debate.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 N/A

9. IMPLICATIONS

Financial Implications

- 9.1 There are none.

Legal Implications

- 9.2 There are none.

Equalities Implications

- 9.3 There are none.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Minutes of the Constitution and Ethics Committee 8 July 2019
Report to Full Council 24 July 2019

11. APPENDICES

11.1 None.

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