

Application Ref: 18/00527/FUL

Proposal: Continuation of use as an Education and Spiritual Centre - permanent

Site: Madina Madrassa And Spiritual Centre, 116 Midland Road, West Town, Peterborough

Applicant: Ikram Ul Haq
Darassalaam

Agent: Matrix Planning Ltd.

Site visit: 08.08.18

Referred by: Head of Planning Services

Reason: In the wider public interest

Case officer: Mr M A Thomson

Telephone No. 01733 453478

E-Mail: matt.thomson@peterborough.gov.uk

Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site Description

The site lies within the Railway Station Opportunity Area designated under policy CC04 of the Peterborough City Centre Plan (2014).

The site is a former used car sales site measuring 0.13 of a hectare. There is a brick and concrete tile office/store to the south west of the site, adjacent to the Midland Road boundary. There is a large modular building that extends from the brick structure along the whole of the southern boundary. The rest of the site is laid to concrete in the form of a parking lot.

Surrounding the site to the north is the Network Rail Depot, to the east is the great northern railway track and ancillary areas, to the south is a hand car wash, an office with residential beyond, and a largely residential area, known as West Town, to the west.

Background

In 2014 planning permission was granted for an 'Education and Spiritual Centre' at this site. This involved the change of use of the site from a sui generis car sales site to a religious education and spiritual centre (D1 non-residential institution).

The level of use applied for at that time required 3 on site car parking spaces, which could easily be accommodated, together with some space for drop off and pick up parking spaces. On this basis the Local Highway Authority raised no objections.

A number of conditions were attached to the permission, which allowed no more than 45 students to attend at any time between the hours of 08:00 - 20:00 on any day, and required the use to cease and the modular building to be removed after 2 years (09/10/2016). The reason for this was so that the proposed use would not conflict with the allocated Railway Station opportunity Area (Policy CC04).

Later in 2014 the approved operating hours were changed so that the use could operate between the hours of 08:00 - 21:00 on any day.

Proposal

This application seeks the continued use of the site, but on a permanent basis, as an Education and Spiritual Centre.

The latest proposal also involves an intensification in the use of the site compared to the 2014 permissions, to provide a madrassa for up to 50x children between the hours of 15:30-19:15, as well as prayer 5x per day between the hours of 05:00 and 22:00.

2 Planning History

14/00810/FUL – Proposed Education and Spiritual Centre - part retrospective (Permitted)

14/01979/WCPP - Variation of condition C3 (Hours of operation) of Planning Permission (Permitted)

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2018)

Section 2 – Achieving Sustainable Development

Section 8 - Promoting healthy and safe communities

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Peterborough Core Strategy DPD (2011)

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

Peterborough Planning Policies DPD (2012)

PP01 - Presumption in Favour of Sustainable Development

Applications which accord with policies in the Local Plan and other Development Plan Documents will be approved unless material considerations indicate otherwise. Where there are no relevant policies, the Council will grant permission unless material considerations indicate otherwise.

PP02 - Design Quality

Permission will only be granted for development which makes a positive contribution to the built and natural environment; does not have a detrimental effect on the character of the area; is sufficiently robust to withstand/adapt to climate change; and is designed for longevity.

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

PP16 - The Landscaping and Biodiversity Implications of Development

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

PP20 - Development on Land affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission will be refused.

Peterborough City Centre DPD (2014)**PCC04C - Railway Station Policy Area (c) Station West Opportunity Area**

Development proposals should: deliver predominantly residential development (although office development would also be supported); provide community uses; incorporate the listed railway sheds; safeguard and assist delivery of a foot/cycle bridge over the railway line; and facilitate a new 'west' entrance to the station.

Peterborough Local Plan 2016 to 2036 (Submission)

This document sets out the planning policies against which development will be assessed. It will bring together all the current Development Plan Documents into a single document. Consultation on this Proposed Submission version of the Local Plan took place in January and February 2018. The Local Plan was submitted to the Secretary of State on 26 March 2018. A Planning Inspector has been appointed and the Local Plan is going through the Examination stage to establish whether it is 'sound', taking all the representations into consideration.

Paragraph 48 of the National Planning states that decision makers may give weight to relevant policies in an emerging plan according to:-

- the stage of the Plan (the more advanced the plan, the more weight which can be given)
- the extent to which there are unresolved objections to the policies
- the degree of consistency between emerging policies and the framework.

The policies can be used alongside adopted policies in the decision making process, especially where the plan contains new policies. The amount of weight to be given to the emerging plan policies is a matter for the decision maker. At this final stage the weight to be given to the emerging plan is more substantial than at the earlier stages although the 'starting point' for decision making remains the adopted Local Plan.

LP01 - Sustainable Development and Creation of the UK's Environment Capital

The council will take a positive approach that reflects the presumption in favour of sustainable development within the National Planning Policy Framework. It will seek to approve development wherever possible and to secure development that improves the economic, social and environmental conditions in the area and in turn helps Peterborough create the UK's Environment Capital.

LP06 - The City Centre - Overarching Strategy

Promotes the enhancement of the city centre. Major new retail, culture and leisure developments will be encouraged. It is promoted as a location for new residential development and as a location for employment development including mixed use. Improvements to the public realm will be promoted and the historic environment protected.

LP07 - Health and Wellbeing

Development should promote, support and enhance the health and wellbeing of the community. Proposals for new health facilities should relate well to public transport services, walking/cycling routes and be accessible to all sectors of the community.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP13d) City Centre- All proposal must demonstrate that careful consideration has been given to prioritising pedestrian access, to improving access for those with mobility issues, to encouraging cyclists and to reducing the need for vehicles to access the area.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites- The highest level of protection will be afforded to these sites. Proposals which would have an adverse impact on the integrity of such areas and which cannot be avoided or adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation.

National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP33 - Development on Land Affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission will be refused.

LP47 - Railway Station Policy Area

LP47 General- The council will support and encourage high quality mixed use development which create an attractive and legible gateway into the rest of the city centre.

LP47 Station West Opportunity Area

Development proposals should: deliver predominantly residential development (although office development would also be supported); provide community uses; incorporate the listed railway sheds; safeguard and assist delivery of a foot/cycle bridge over the railway line; and facilitate a new 'west' entrance to the station.

LP47: Station East Opportunity Area

Development proposals should deliver a mixed-use, commercial-led development including office, retail and leisure uses safeguarding land for a foot/cycle bridge over the railway line connecting to the Station West Opportunity Area and incorporate and enhance Carpenter's shop.

4 Consultations/Representations

Network Rail - Eastern

No objection

PCC Peterborough Highways Services

Objection – The Local Highway Authority have objected to the proposal, because a number of issues are required to be resolved. The close boarded fence to the south of the site needs to be removed as it obscures the pedestrian visibility splay in this direction. Evidence needs to be submitted, demonstrating that the access is of sufficient width, and car parking needs to be formally laid out.

The contention contained in section 4d of the Planning Statement that the use of the site is unlikely to generate significantly more traffic at peak hours than the previous car sales use cannot be accepted. A car sales business has only sporadic arrivals by customers who are not constrained to network peak hours.

After school use most certainly is confined to the busy periods and therefore evidence should be provided as to the numbers attending site and arriving by car between 4pm and 5pm (the peak hour). This evidence will need to be verified by the local highway authority, to clarify whether any overspill parking or dropping-off associated with this use in the local streets is resulting in anti-social problems.

Local Residents/Interested Parties

Initial consultations: 19

Total number of responses: 2

Total number of objections: 1

Total number in support: 0

Two letters of representation have been received, one letter of comments and one letter of objection, raising the following matters;

- Vehicles are being parked in dangerous locations, this is particularly bad on Friday lunchtimes. If the centre is to be made permanent, the parking should be addressed;
- Temporary planning was only granted until 2016;
- The land is earmarked as residential;
- Issue of noise late into the evenings;
- The centre opens outside of the hours;
- An external light is often left on overnight;
- Issues of antisocial behaviour with groups of youths hanging about outside all hours; and
- Littering.

5 Assessment of the planning issues

The Principle of Development

Policy CC04 (Railway Station Policy Area) identifies the application site to be within the 'Station West Opportunity Area'. This particular part of the City Centre has been identified as critical to the future success of the City. The overall vision for this Area is to deliver a transformation from part of the City characterised by unused and underused land into one with a range of high quality, modern developments (5.3.14).

Development proposals for the 'Station West Opportunity Area' should;

- deliver predominantly residential development, although office development would also be supported;
- provide community uses;
- Incorporate and enhance the listed railway sheds to the south of the site;
- safeguard land for, and assist delivery of, a foot/cycle bridge over the railway line connection the Station East Opportunity Area; and
- help to facility a new 'west' entrance to the station.

Whilst the application would go towards providing a community use, this proposal seeks to secure a permanent permission for the use of the existing modular and brick built building only. It is understood from the supporting information that the permanent permission would allow for fundraising to take place in order to build a permanent structure, however, as set out above, Policy CC4 seeks to deliver a range of high quality, mixed used and modern development. The proposed permanent change of use does of the existing modular building not meet the requirements of the policy and it would not help to contribute to a comprehensive redevelopment of this opportunity area.

In accordance with Policy CC4, Officers would support the inclusion of a community use should a comprehensive scheme be put forward as part of a wider redevelopment of this opportunity area.

Access and Highways

The Local Highway Authority has objected, advising that the proposed permanent use cannot be likened to the former car sales use of the site, and the numbers attending the site arriving by car, between the peak hour of 16:00 - 17:00 would need to be evidenced. There are also concerns of access width, visibility splays for pedestrians and the amount of off-street car parking the site can actually provide.

When the 2014 scheme was originally considered by Officers it was concluded, on balance, that the level of activity would not give rise to a highway safety hazard. However, the amount of activity is proposed to increase. Moreover, there have been letters of representation which have advised that issues of dangerous on-street car parking associated with the use of the temporary facility, have occurred, particularly on Friday lunchtimes.

As such the proposal could result in vehicles parking in unsafe locations within the public highway, at the detriment of residents, and therefore does not accord with Policies PP12 and PP13 of the Peterborough Policies DPD (2012).

Design and Layout

The character of the immediate area is defined by industrial uses and traditional red brick residential terrace housing to the west.

The character of the site itself is industrial in nature, which has been secured by a palisade fence and does little to lift the character of the area. When the scheme was originally considered in 2014 Officers stated that the modular building was not attractive, however it was to provide a temporary home for a local community group, and given its set back location it was allowed, for a temporary period only.

This application is for the permanent siting of this temporary building, which is not high quality or of modern design, and would only deteriorate further in the fullness of time, thereby detracting further from the character and appearance of the street scene. As such the proposal would be contrary to Policies CS16 of the Peterborough Core Strategy DPD (2011), PP2 of the Peterborough Policies DPD (2012) and CC04 of the Peterborough City Centre Plan (2014).

Neighbour Amenity

When the application was previously considered in 2014 the amount of people it intended to serve and the hours of use were less. It was also stated that the permission would not be renewed if it was found that the use had caused undue detriment to the amenity of the area.

There have been letters of representation received with respect to issues of car parking, particularly on Friday lunchtimes, as well as issues of noise and the centre operating outside of the hours originally specified (08:00-20:00). There have also been concerns of anti-social behaviour raised by residents.

Whilst it is recognised that the amount of activity that could take place on this site would likely be less than the adjoining industrial uses, which could operate 24/7 and include HGVs, there is insufficient information submitted to demonstrate that the increase in activities associated with the use of the site, over and above the temporary consent, would fall within acceptable levels, and therefore could result in unacceptable levels of noise and disruption to residents opposite.

As such the proposal would be contrary to Policies CS16 of the Peterborough Core Strategy DPD (2011) and PP3 of the Peterborough Policies DPD (2012).

Contamination

The Pollution and Environmental Health Officer previously advised that the temporary use of the site to be acceptable, providing that the existing hard standing that covers the site was not disturbed whilst the use occurred.

Given that the proposal is for a permanent use, and there may be necessary alterations to the car park which may necessitate breaking the concrete slab, it is reasonable to take a precautionary approach and seek a contaminated land assessment. As one has not been submitted at the time of writing this report, it is not possible to determine whether there is a risk to the health of future or adjoining occupiers.

As such the proposal is contrary to Policy PP20 of the Peterborough Policies DPD (2012).

Other Matters (Council's response in italics)

- Temporary planning was only granted until 2016 – *Temporary consent was granted until 2016, and this application has been submitted seeking permanent use of the site.*
- The land is earmarked as residential – *The land is allocated for comprehensive residential redevelopment with the City Centre Plan.*
- Issue of noise late into the evenings, and the centre opens outside of hours – *If the premises is operation outside of the permitted hours, this should be reported to our enforcement team to investigate*
- An external light is often left on overnight – *This is a management responsibility, and such concerns should be directed to the manger(s) of the site.*
- Issues of antisocial behaviour with youths hanging about outside all hours, and littering – *there is nothing to suggest that this use would result in increased levels of anti-social behaviour, or littering, however Officers are aware of wider issues within the Ward.*

6 Conclusions

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 below.

7 Recommendation

The case officer recommends that Planning Permission is **REFUSED**

- R 1 The permanent use of this 0.13ha site as a spiritual and education centre, and the retention of the modular building, does not provide a comprehensive redevelopment of the Railway Station Opportunity Area (West) and would result in a piecemeal form of development which would prejudice the future delivery of this Opportunity Area. As such the proposal is contrary to Policy CC4 of the Peterborough City Centre Plan (2014).
- R 2 The modular building is not of high quality or modern design, and would only deteriorate in quality and appearance in the fullness of time, thereby detracting further from the character and appearance of the street scene. As such the proposal would be contrary to Policies CS16 of the Peterborough Core Strategy DPD (2011), PP2 of the Peterborough Policies DPD (2012) and CC4 of the Peterborough City Centre Plan (2014).
- R 3 Insufficient information has been submitted to demonstrate that the increase in activities associated with the use of the site, over and above the temporary consent, would fall within acceptable levels, and therefore could result in unacceptable levels of noise and disruption through the coming and going of visitors, as well as the activities themselves, to residents within the immediate locality. As such the proposal would be contrary to Policies CS16 of the Peterborough Core Strategy DPD (2011) and PP3 of the Peterborough Policies DPD (2012).
- R 4 Insufficient information has been submitted to demonstrate there is sufficient off-street parking to accommodate the proposed use, therefore it could result in vehicles parking in unsafe locations within the public highway during peak hours, resulting in a highway safety hazard, and is therefore Contrary to Policies PP12 and PP13 of the Peterborough Policies DPD (2012).

R 5 The permanent use of this site has not been accompanied by a contaminated land assessment. The permanent use of the site may require the concrete block of the site to be broken, for example to accommodate highway or parking improvements. As such it is not possible to determine whether there is a risk to the health of future or adjoining occupiers, and the proposal is therefore contrary to Policy PP20 of the Peterborough Policies DPD (2012).

Copies to Councillors:

Mahboob Hussain
Amjad Iqbal
Mohammed Jamil

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