

**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.