
Report of the Head of Strategic Investment

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Dec-2017

Subject: Planning Application 2017/91139 Erection of place of worship and associated car park and landscape works (within a Conservation Area) 10, Oxford Road, Dewsbury, WF13 4JT

APPLICANT

A Vania

DATE VALID

31-Mar-2017

TARGET DATE

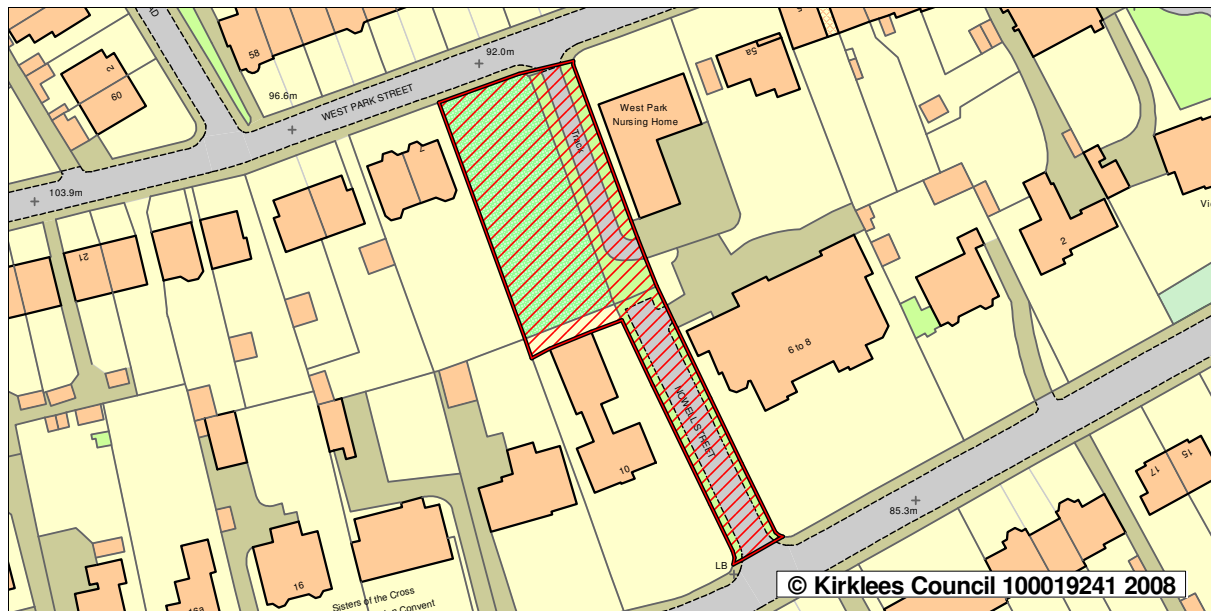
26-May-2017

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Dewsbury West

Yes

Ward councillors consulted

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 This application is referred to the Heavy Woollen Planning Sub-Committee following deferral at Committee on the 29th June 2017. The application was deferred to allow officers to seek further information in respect of a Transport Assessment. The application is presented to Members due to the high level of representations, both in support and in opposition, received in response to the periods of publicity associated with the application. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is located on the corner of Nowell Street and West Park Street and encompasses the derelict land to the rear of the existing Mosque building extending to West Park Street in addition to the inclusion of Nowell Street from the main site to Oxford Road.

2.2 The application site and land to the east is relatively level. West Park Street rises more steeply from east to west from the application site such that the site is around 2 metres lower than the gardens associated with nos.7-9 West Park Street. Nowell Street is an unmade/unadopted road linking West Park Street and Oxford Road.

2.3 There is a single mature tree that is subject to a Tree Preservation Order (TPO) located along the eastern boundary. The remaining area of the site is very much unkempt in appearance with limited vegetation or greenery. The area to the rear of number 7 and 9 is overgrown with a number of mature trees.

2.4 The site lies within the Northfields Conservation Area. The surrounding area is characterised by a mixture of large houses which are a combination of terraced and semi-detached properties of Victorian appearance. There is a more recent block of flats to the east, existing two storey flat roofed mosque to the south, and large Victorian properties to the north and west.

3.0 PROPOSAL:

- 3.1 The application has been significantly revised following negotiations with officers and now seeks full planning permission for the erection of a place of worship. The building proposed would be located to the front of the site in line with existing residential development on West Park Street. The building is shown to provide accommodation over three floors but has been designed to retain the domestic scale and appearance of neighbouring buildings.
- 3.2 The footprint of the building appears similar to that of a pair of semi-detached properties neighbouring the site and also occupies roughly the same position as the dwelling that was approved in 2014 (application reference 2011/92932).
- 3.3 Access is to be provided from Oxford Road via Nowell Street which is to be upgraded to adoptable standards. The road would then be closed just beyond the point of access to the car park. Car parking for 22 vehicles would be provided within the site to the rear of the Mosque.
- 3.4 The protected tree located within the site is shown to be removed, with replacement tree planting (1 "mature" tree) shown to the street frontage and detailed on the site layout. The plan also shows an area of landscaping to the front of the Mosque.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2015/92627 – Erection of place of worship and educational centre - Withdrawn
- 2011/92932 – Erection of single dwelling and garage – Approved in 2014
- 2008/93703 Erection of 10 apartments and studios – Withdrawn
- 2007/91345 Erection of 10 no. flats with basement garaging – Refused on grounds of visual amenity, impact on Conservation Area, impact on residential amenity, highway safety and insufficient information in respect to protection of trees on site.
- 2005/93484 Erection of 4 no. dwellings – Refused on the grounds of highway safety, impact on protected trees, impact on Conservation Area and overlooking of adjacent property.
- 2001/90608 Renewal of previous unimplemented permission for erection of 10 no. flats with basement garaging – Approved
- 1995/90733 Erection of 10 no. flats with basement garaging – Approved
- 1993/04301 Erection of 4 no. town houses – Refused

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Extensive discussions took place during the progression of the previous submission application 2016/92627. Following it being withdrawn the agent engaged further with Officers and resubmitted.

- 5.2 Whilst considering the current application the proposals have been further revised with the removal of the education block from the development. In addition the site location plan has been updated to include the access to the adopted highway at Oxford road within the red line and remaining ownership in the blue line.
- 5.3 The application is for the erection of the Mosque only with access along Nowell Street to Oxford Road.
- 5.4 The applicants have submitted a Travel Plan and Transport Assessment. The original documents were received on the 21st September 2017 and readvertised to allow a period of 21 days for public comment. The documents were examined by KC Highways DM and further updated following comments. The revised documents were received on the 21st November 2017 and uploaded to the internet. It has not been considered necessary to further readvertise as the comments related to points of clarification and not to the content or conclusions of the findings. These documents have been taken into account as part of the assessment of the proposals.

6.0 PLANNING POLICY:

- 6.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 6.2 The Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is located within the Northfields Conservation Area on the UDP proposals map.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.3 **BE1** – Design principles
BE2 – Quality of design
BE5 – Preservation/enhancement of conservation areas
BE6 – Infill sites
BE11 – Materials
BE12 – Space about buildings
C1 – Community facilities
C2 – Community facilities
T10 – Highway safety

T19 – Parking standards
NE9 – Retention of mature trees
EP4 – Noise sensitive development

National Planning Guidance:

- 6.4 **Chapter 7** – Requiring good design
Chapter 8 – Promoting healthy communities
Chapter 11 – Conserving and enhancing the natural environment
Chapter 12 – Conserving and enhancing the historic environment

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

The site is without notification of the draft local plan.

Policies:-

PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP30 – Biodiversity and geodiversity
PLP33 – Trees
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP53 – Contaminated and unstable land

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application as originally submitted was advertised by press notice, site notice and neighbour notification letters. 115 representations supporting the proposals were received, in addition to 2 petitions with 446 and 32 names respectively. 29 representations against and 1 general comment were also received.
- 7.2 Since re-advertising the reduced scheme, relating to the erection of the Mosque only, there have been 4 representations in support and 15 against.
- 7.3 In view of the various periods of publicity it is considered appropriate, in this instance, to include a summary of comments submitted to the original scheme, as well as the amended proposal. These are summarised below and are subdivided into support and objections:

The Objections are as follows:

Heritage & Amenity:

- Removal of trees cause significant harm
- Octagonal drum out of character
- Loss of open space in the street scene
- Nearby buildings have apexed dormers unlike that proposed
- Windows are modern arrangements and do not blend in
- The octagonal part has a flat roof and is out of character
- The development is within a Conservation Area and takes no account of the building vernacular.

- The proposed development will adversely affect the street scene from Oxford Road and West Park Street.
- The development neither enhances nor preserves the Conservation Area.
- Contrary to the NPPF as it does not sustain or enhance or make a positive contribution to the local character.
- It does not enhance or reveal the significance of surrounding buildings.
- The development is out of style, scale and character with existing Victorian buildings.
- Contrary to the notion of preserving the green space and trees (now removed) which contributed to the original Conservation Area, proposed as a car park and has been garden grabbing which the Government is keen to curtail.
- The roof lines of buildings on Oxford Road and West Park Street step down responding the changes in land levels.
- Conflicting styles include asymmetric roof gable, windows and minaret.
- The design and scale of the mosque is out of keeping and conflicts with the buildings in the Conservation Area.
- The minaret will be out of keeping.
- Overbearing
- The site has been subjected to fly tipping and has become unsightly.

Highways:

- Evidence that there are insoluble problems of traffic flow and parking
- UDP saved policy T10
- The car parking and speed assessments undertaken were outside term time
- The Transport Assessment does not cover peak hours of concern (sunset changes results in prayer times being slightly earlier thereby overlapping school dispersal times)
- Design and Access Statement suggests the majority of the congregation and students will walk to the site. This is not realistic. There would be an overflow in the area.
- Unsafe visibility. The transport assessment refers to this. The junction (Nowell Street does not comply with MFS
- Traffic flows on Oxford Road and parking problems on West park Street have worsened since the last time a valid assessment was presented. West Park Street residents will face the brunt of increased drop-offs due to there being no parking restrictions and due to the location of the building
- Local traffic matters should be taken into account in the assessment
- The application does no promote safety. The assessment uses a lower speed limit for calculations to the statutory one.
- Nowell Street/Oxford Road junction is unsafe (recent accident evidence submitted)
- The development will attract constant traffic
- Intensification of use and parking in addition to the two local schools
- The proposals represent a serious highway concern.
- Previous road usage/safety assessments have set a precedent on this street due to the restrictive nature of the West Park Street and Nowell Street junction.
- The road usage and parking problems on West Park Street have worsened.
- Congestion/the proposed site use would aggravate the present situation further.
- The car parking spaces are not sufficient for the intended uses.
- The proposal relates to the removal of all the existing parking spaces.
- The area is a car park and not currently vacant.

- Gritting cannot take place in the area as the vehicles cannot get access.
- Independent traffic surveys carried out by local residents have been submitted – the surveys are appended in full at the end of this report.

Other:

- Policy C2 has its provisos
- The car park should be suitably landscaped with the inclusion of SUDS provision
- Air quality will deteriorate
- No ecological report submitted
- The visualisations are misleading
- Number 7 West Park Street contains a number of windows and the building will be too close to these.
- Inadequate distance from proposed windows to those contained in West Park House
- Replacement tree shown on the plans would be too close to the footway
- Only 1 stairwell, is a fire escape planned
- There are covenants on the land which would not allow the development.
- Noise from the site (vehicles and call to prayer) which is not recognised in supporting statements
- Opening hours are specified as unknown however the agent has provided information that suggests that hours are known. In addition the applicants should be aware when the classroom will be used.
- There are plenty of existing mosques that can be used.
- The area was formerly a habitat for wildlife until it was spoilt by the present and preceding owners. All trees have been removed and TPO trees have not been replaced.

The application is supported for the following reasons:

- The proposed building will complement and enhance the surrounding environment.
- The community has outgrown the existing facility and the new facility will provide adequate space and dedicated classrooms in an upgraded environment.
- The existing facilities are poor.
- The road/car park is not adequate.
- Currently no separate women's WC and prayer area.
- Landscaping of the area will be an improvement.
- The new building is sympathetic to the conservation area.
- Improved parking facilities.
- Existing site is an eyesore.
- Improved access for all.

7.4 Following the re-advertisement of the reduced scheme, the comments are summarised as follows:

Objection:

- Proposed building will not fit in with the surrounding architecture in a Conservation Area
- Traffic increase and demand for parking
- Numerous mosques already

Support:

- Needed facility
- Delays and unjustified objections
- In keeping
- Adequate and improved parking
- Engaged with the community
- New building will be built to current regulations and standards

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management – No objections.

Historic England – No objection to the erection of the Mosque.

K.C. Strategic Drainage – No objection.

8.2 Non-statutory:

K.C. Environmental Services – No objections subject to conditions.

K.C. Conservation and Design – No objections to the revised proposals.

K.C. Arboricultural Officer – Object to the loss of the TPO'd tree.

K.C. Ecologist – No objections subject to condition.

9.0 MAIN ISSUES

- Principle of development
- Urban design and heritage issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The National Planning Policy Framework (NPPF) identifies places of worship as community facilities and states that planning decisions should “plan positively for the provision and use of community facilities to enhance the sustainability of communities and residential environments”.

- 10.2 Policy C1 of the UDP states that community facilities should be provided in accessible locations which will usually be in, or adjacent to, town and local centres.
- 10.3 In this instance, whilst not located within a town or local centre, the site is within an established area of residential development within a diverse community. Proposals to provide a facility separate from existing centres should be considered in relation to the needs of the community it is intended to serve. Such proposals will, however, need to be capable of accommodation without giving rise to problems of disturbance for occupiers of adjacent premises or prejudicing highway safety.
- 10.4 It is recognised that the development would be located within, and serve a part of, the community in which it is located. The erection of the mosque should therefore be assessed in respect of highway safety and impact on nearby occupants.
- 10.5 Whilst the provision of a community facility in a sustainable location accords with the overarching aims of the NPPF, this should not be to the detriment of heritage, visual and residential amenity, or highway safety.

Urban Design and Heritage issues

- 10.6 The site is within the Northfields Conservation Area which was designated in 1978. The Conservation Area does not have the benefit of an up to date appraisal but one exists from the date of designation. The Conservation Area is a residential suburb of Dewsbury built in the latter half of the 19th century and completed, in the main, around 1890.
- 10.7 The character comes from the layout of the streets, the unity of styles and building materials; the styles are of typical two storey buildings of large Victorian villas constructed of stone. The roof space of some of the buildings leads them to be three storeys in height with use made of traditional dormers.
- 10.8 It is accepted that the land to the east of nos. 7-9 West Park Street is untidy and does little to enhance the character of the Conservation Area and could benefit from development. To the south of the site is a two storey flat roofed building that equally makes no contribution.
- 10.9 In terms of the proposed mosque permission has been granted previously for a large detached dwelling in the same location so the principle of a building sighted as proposed has been established. In terms of the design, it is considered that the proposed building successfully blends into the style of building on West Park Street; the style is that of a Victorian villa. The elevation of the mosque facing onto West Park Street has been redesigned to reflect better the architectural style of the surrounding buildings. The inclusion of bay windows provides greater articulation in the façade. Due to the design changes, and taking into the previous permission for a dwelling on the site, Officers are of the view that the mosque itself will not harm the significance of the Conservation Area. It is considered that the erection of the building does not in itself cause harm to the character of the Conservation Area.

- 10.10 The proposal requires the loss of a protected mature tree; concerns in respect of the impact on the tree have been raised by the Council's Arboricultural Officer in addition to those raised in relation to aspects of heritage. It is considered that the tree contributes positively to the amenity of the area and character of the Conservation Area. In order to ensure the development retains the character and appearance of the Conservation Area the location of the building was revised to the front of the site. This inevitably results in the loss of the protected tree. The loss of the tree will be detrimental to the character of the Conservation Area. Any harm of the development to the character of the Conservation Area should be assessed against paragraphs 133 or 134 of the NPPF, where paragraph 133 relates to substantial harm and paragraph 134 is less than substantial harm. Paragraph 134 states that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."
- 10.11 In this case it is considered that the harm is less than substantial as there is no exceptional harm to the Conservation Area as a whole. Where less substantial harm occurs the harm has to be weighed against the public benefits the proposal brings. It is considered that the public benefit is of sufficient merit to override concerns regarding the loss of the protected tree. Furthermore replacement planting and landscaping is considered to add weight the balance in favour of the proposed development. It is also worth noting that the residential property approved would threaten the longevity and continued viability of the tree and therefore adds further weight that the loss of the tree is unfortunate but would allow for structured replacement within the site.
- 10.12 The residential development in the area is characterised by large residential dwellings set within long narrow plots with large back gardens. There is minimal 'backland' development in the immediate area meaning the open spaces to the rear of dwellings have been retained. The development retains the open space between the buildings by providing parking for 22 vehicles. The car park, in effect, retains the prevailing character of the area and whilst it will be surfaced and upgraded this will improve the general appearance of the area and as such is supported. The site layout shows areas that could be utilised to provide landscaping thereby improving its contribution. Comments received from the Biodiversity Officer reiterate that ecological enhancement should be delivered.
- 10.13 It is considered, on balance, by officers that the merits of the proposed development and wider community benefits would outweigh any concerns and loss of the remaining protected tree within the site and as such would be in accordance with Policies BE5, BE1, and BE2 of the UDP as well as chapters 7, 11 and 12 of the NPPF.

Residential Amenity

- 10.14 The application site is located within an established residential area and is therefore located in close proximity to existing dwellings.

- 10.15 The proposed Mosque occupies a similar position to the dwelling that was approved in 2014. It is of a scale and height that is considered proportionate to existing development located on West Park Street. The elevation to West Park Street is shown to step down from its neighbour with accommodation being provided in an octagonal shaped area to the rear. Due to the scale and position of the building it is not considered to be overbearing to any nearby occupant. It is noted that there are windows proposed in the Nowell Street elevation which would be approximately 11 metres from the windows in the side elevation of residential accommodation opposite. In order to ensure the privacy of the occupants is retained it is considered appropriate to recommend that the windows within the east elevation are obscurely glazed. There are windows in the gable end of number 7 West Park Street which would be 3.5 metres from the proposed side elevation of the mosque. The windows are not likely to serve habitable accommodation. The location of the building would not have a greater material impact than the residential dwelling proposed. The space between the existing and proposed buildings is not dissimilar to the gaps repeated along West Park Street. It is not considered that there will be a material loss of amenity to the occupants. The distance between the principle elevation and the existing dwellings opposite is in excess of 25 metres and will not result in any loss of amenity to the occupants opposite. As such it is considered by Officers that the proposed building will not materially result in any detriment to the amenity of nearby occupants in accordance with Policy BE1, BE2 and BE12 of the Unitary Development Plan.

Noise & Land contamination

- 10.16 The application form does not include any details of hours of operation but it is understood that the buildings would be used in to the evenings. In view of the use and proximity to existing residential development, Environmental Services have been consulted. They raise no objections to the development but recommend conditions regarding land contamination and time and noise level restrictions on call to prayer. It is therefore considered that matters of amenity due to the potential for nuisance arising from noise are adequately mitigated and as such the development is considered to be in accordance with Policy EP4 of the UDP as well as chapter 11 of the NPPF.
- 10.17 To summarise, it is considered by officers that the development will not result in any loss of amenity to surrounding occupants through loss of privacy, being overbearing or from nuisance arising from noise and as such is considered to be in accordance with the NPPF and UDP policies.

Landscaping Issues

- 10.18 The remaining protected tree within the site is to be removed to allow for the erection of the Mosque. The revised scheme does not allow for its retention. The plan shows a replacement tree as mitigation. It is acknowledged that the replacement of mature trees by new planting to accommodate development is usually less acceptable than the retention of existing trees because of the time required for replacement trees to mature and provide an equivalent level of amenity. However, taking into account the community benefit that the building will provide in addition to the mitigation measures proposed the development is considered, on balance, acceptable.

10.19 The amended proposals exclude areas to the west of the site and as such there is no significant loss of semi-natural habitat. There are no structures to be demolished and as such it is not necessary for an ecological assessment of the site. Chapter 11 of the NPPF requires development to deliver ecological enhancements where opportunities exist. It is recognised that the site offers opportunities to enhance the existing site. As such, it is considered that ecological enhancement can be addressed through the imposition of a condition to provide adequate mitigation to ensure the development is in accordance with Chapter 11 of the National Planning Policy Framework.

Highways

10.20 The application site is situated in an established residential area of Dewsbury, on the corner of Nowell Street and West Park Street.

10.21 Nowell Street is an un-made/un-adopted road linking West Park Street and Oxford Road. There is a point closure mid-way between West Park Street and Oxford Street preventing through vehicular traffic allowing only a pedestrian link between the two sections of the street. West Park Street and Oxford Road are both part of the adopted highway. Other than double yellow lines around the junction of West Park Street and Halifax Road, there are no on streets parking restrictions on West Park Street.

10.22 Parking is restricted on Oxford Road by permit parking zones and double yellow lines around the junction of Halifax Road and along the northern side of the carriageway.

10.23 High levels of on street parking on both sides of the carriageway does occur on West Park Road and can result in access difficulties for all vehicles. Visibility from Nowell Street onto West Park Street and Oxford Road is restricted by the height of adjacent boundary walls and hedges.

10.24 The applicants have now submitted revised proposals which remove the previously proposed education block and provide a three storey mosque with 22 off-street parking spaces.

10.25 The proposed Mosque building consists of an entrance hall, conference room and ablutions area to the lower ground floor, prayer hall to the upper ground floor and mezzanine library to the first floor. It is proposed to upgrade Nowell Street to adoptable standards from Oxford Road to the proposed site access. The existing point of closure is to remain and Nowell Street will not become a through road as a result of this application.

10.26 With reference to the submitted Transport Statement and Travel Plan dated September 2017, updated Transport Statement dated November 2017, submitted speed data prepared by Bryan G Hall Consulting Engineers (BGH).

10.27 Highways Development Management (HDM) confirms that the Transport Statement follows the agreed scoping brief set out below:

- 1) Catchment area of the users of the proposed Mosque and Madrassa
- 2) The existing and proposed peak days/hours of use on the site in relation to pedestrian and traffic movements, and parking demand...

27/10/2017							
1230 - 1400hrs							
Prayer Time: 12:55							
1315 – 1330	43	0	59		14	0	28
1330 – 1345	3	42	20		4	25	7
10/11/2017							
1145 - 1300hrs							
Prayer Time: 11:55							
1200 - 1215	14	0	15		13	3	11
1215 - 1230	34	1	48		16	1	26
1230 - 1245	1	40	9		0	17	9
16/11/2017							
1700 – 1930hrs							
Prayer Time: 17:50							
1830 – 1845	0	0	4		1	2	5
1845 – 1900	6	2	8		5	1	9
1900 – 1915	7	23	-8		9	8	10
1915 - 1930	7	4	-5		4	4	10
22/11/2017							
1545 – 1930hrs							
Prayer Time: 16:05 & 1745hrs							
1645 – 1700	21	5	14		5	4	3
1700 – 1715	5	4	15		2	4	1
1830 – 1845							
1845 - 1900							
1900 – 1915							
1915 - 1930							
1830 – 1845	3	0	10		1	0	0
1845 - 1900	6	2	14		4	0	4
1900 – 1915	5	28	-9		9	6	13
1915 - 1930	7	8	-10		2	1	14

Table 3. Pedestrian and Vehicle Movements Associated with **West Park St.** Note: The pedestrian and vehicle accumulation takes into account count periods running up to the peak periods.

HDM Survey Dates & Peak Times	Peak Ped Arr	Peak Ped Dep	Pedestrian Accumulation on site	Peak Veh Arr	Peak Veh Dep	Vehicle Accumulation
29/09/17						
1330 - 1430hrs						
Prayer Time: 13:02						
1345 – 1400	10	2	10	1	0	1
1400 – 1415	0	1	9	4	0	5
1415 - 1430	0	8	1	0	4	1
13/10/17						
1330 - 1430hrs						
Prayer Time: 12:58						
1300 – 1315	3	3	0	2	0	2
1315 – 1330	18	0	18	0	0	2
1330 -1345	0	17	1	0	2	0
1345 - 1400	0	7	-6	0	0	0

Table 4. Pedestrian and Vehicle Movements Associated with Oxford Rd and Nowell St.							
Note: The pedestrian and vehicle accumulation takes into account count periods running up to the peak periods.							
HDM Survey Dates & Peak Times	Peak Ped Arr	Peak Ped Dep	Pedestrian Accumulation on site		Peak Veh Arr	Peak Veh Dep	Vehicle Accumulation on site
6/10/17 1245 - 1400hrs Prayer Time: 13:00							
1300 – 1315	12	0	12		1	0	6
1315 – 1330	0	0	12		12	0	18
1330 - 1345	0	9	3		0	4	14
1345 - 1400	0	3	0		0	13	1

10.32 HDM site observations of on-street parking and the use of the existing mosque car park (circa 15 spaces) generally agree with the BGH findings in that the car park is well used up to its current capacity, and that there is available on-street parking space on West Park Street albeit oversubscribed around its junction with Nowell Street.

10.33 Table 5 below shows the average observed on-street parking accumulation associated with the mosque West Park Street: 5 Friday surveys (29/9/17; 13/10/17; 20/10/17; 27/10/17; and 10/11/17).

10.34 However, HDM's internal consultee Highways Safety do have reservations relating to associated on-street parking on West Park Street and controlling the number of worshippers to 100 to be on site at any one time.

10.35 In terms of on-street parking complaints and permit parking requests, 28 have been received over past 10 years, 19 relating to inconsiderate parking on footways, and causing obstructions. No evidence is available to who the issues relate to i.e. residents and/or the mosque, schools in the area etc.

10.36 Of the combined HDM surveys, on 2 occasions (20/10/17 and 27/10/17) the recorded number of worshippers was 'up to' and 'over' the proposed 100 worshippers to be at the mosque at any one time. Note: This takes into consideration that a number of the cars had observed multiple occupancy.

10.37 In terms of the Nowell Street junction with Oxford Road the available unobstructed sight line to the right from the junction is 2.4m x 26.5m. 85%ile wet weather speeds have been recorded at 29.5 mph which taking into account the downhill gradient approach would require a sight line of 2.4m x 47.5m. This cannot be achieved due to the presence of trees and hedge within the front garden of no.10 Oxford Road.

Table 5. West Park St.	1230 - 1245	1245 - 1300	1300 - 1315	1315 - 1330	1330 - 1345	1345 - 1400
Car ARR	1	0.5	2.3	2	1.25	0.5
Car DEP	0	1	0.6	0.25	4.25	1.25
Car ACC	1	0.5	2.2	3.95	0.95	0.2

- 10.38 However, HDM concur with the BGH Transport Statement that improvements to the sight line could be achieved by the removal of the hedge to provide an element of see through along Oxford Road, which set against the existing and proposed regulated use of the mosque (no more than 100 worshippers), there is no evidence to indicate that the junction would operate in manner detrimental to highway safety.
- 10.39 With regard to recorded road traffic injury accidents within the vicinity of the site and associated road links and junctions with Oxford Road, West Park Street, North Park Street, and Reservoir Street. Over the past five years thirteen injury accidents have been recorded. Of these, four accidents involved pedestrians (one on Oxford Road and three on Halifax Road), and four vehicular accidents involved turning movements in or out of a junction. From the review of the recorded accidents HDM consider that there are no particular type/trend of accidents in a concentrated area or highlighted contributory factor other than where the users of the highway have failed to look properly and not taking into account driving conditions.
- 10.40 With respect to the submitted Travel Plan, HDM consider this document should be treated as a Framework Travel Plan at this stage to be conditioned for a site Travel Plan to be submitted and approved before the development is brought into use. An important element of the Travel Plan would be to include an attendee register and monitoring/reporting regime.
- 10.41 In summary, HDM notes local resident and Highways Safety concerns with the proposal, however in light of the evidence submitted and collected, HDM considers that, on balance, the proposed development is acceptable subject to robust measures being in place to restrict and control the number worshippers attending the mosque to no more than 100.
- 10.42 Officers consider that taking into account the provision of a community facility set within the community it is to serve the proposals are considered, on balance, to be acceptable from a Highways perspective, complying with the aims of Policy T10 of the UDP.

Representations:

- 10.43 Officers responses to the matters raised in the representations received as set out below:-

10.44 **Support**

The community has outgrown the existing facility and the new facility will provide adequate space and dedicated classrooms in an upgraded environment.

Officer Response: It is accepted that demands for a new/replacement madrassa and mosque are high and would provide local community benefit.

The existing facilities are poor.

Officer Response: It is accepted that there are benefits in terms of a new/replacement madrassa and mosque.

The road/car park is not currently adequate.

Officer Response: It is recognised that there are inadequacies with the operations of the existing site. The erection of a new facility with improved parking and access arrangements would be beneficial and has been assessed by highways.

Currently no separate women's WC and prayer area.

Officer Response: It is recognised and accepted that there are benefits in the provision of a new/replacement Madressa and Mosque.

Landscaping of the area will be an improvement.

Officer Response: Ecological enhancement and replacement tree planting would be conditioned.

The new building is sympathetic to the Conservation Area.

Officer Response: The proposals have been assessed by officers in K.C. Conservation & Design and it is considered that the scale, location and design would not cause harm to the Conservation Area. The loss of the tree would be harmful and thereby this element would fail to comply with Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 and paragraphs 138 and 134 of the NPPF.

Improved parking facilities.

Officer Response: The application will provide improved parking and access facilities which would be an improvement when compared to the existing situation on site.

Existing site is an eyesore.

Officer Response: The site has been left in a very untidy state and detracts from the wider area. Although this is not justification for allowing a development it is recognised that there will be benefits in terms of improving the appearance of the site.

10.45 **Objections:**

Heritage & Amenity:

- The removal of the trees will result in significant harm as recognised by the Historic England.
- The facades of the octagonal drum are modernistic. The octagon is flat roofed contrary to all the surrounding Victorian buildings.
- NPPF obligation to ensure the optimum use of a heritage asset. The proposal is neither a best outcome, nor offers improvements in amenity to the residents in general. An optimum solution should pay attention to the longstanding open aspect and views the general public have. A non-residential use does not fit the criteria.
- The development is within a Conservation Area and takes no account of the building vernacular.
- The proposed development will adversely affect the street scene from Oxford Road and West Park Street.
- The development neither enhances nor preserves the Conservation Area.
- Contrary to the NPPF as it does not sustain or enhance or make a positive contribution to the local character.
- It does not enhance or reveal the significance of surrounding buildings.

- The development is out of style, scale and character with existing Victorian buildings.
- There is a large combined bulk to the two connected buildings.
- The roof lines of buildings on Oxford Road and West Park Street step down responding the changes in land levels.
- The mosque façade and minaret are too high.
- Conflicting styles include asymmetric roof gable, windows and minaret.
- The design and scale of the mosque is out of scale and conflicts with the buildings in the Conservation Area.
- The minaret will be out of keeping.

Officers response to the points above where they may have not been addressed in the report: The proposals have been assessed by officers in Conservation & Design and it is considered that the scale, location and design of the mosque is acceptable and as such would not cause harm to the Conservation Area.

The scale, design and location of the mosque is considered acceptable. The loss of trees should be weighed against the benefits of the development. It is acknowledged that the loss of the trees would be harmful to the Conservation Area and this is reiterated by Historic England. It is an unfortunate consequence of the development proposed and as such the harm should be weighed against the benefits of the development and provision of community facility. Whilst very much balanced, Officers have concluded that the tree to the site frontage would likely have been lost should the 2011 permission have been implemented. This adds weight to the considerations and balance of benefits of the development. Taking into account the history of the site, in so far as what has received approval, in addition to the provision of a community facility it is considered, on balance, that the benefits outweighs the harm thereby complying with Section 72 of the Planning (listed Buildings and Conservation Areas) Act 1990 and paragraphs 138 and 134 of the NPPF.

The proposed development would improve the visual amenity of the area by tidying up the site and introducing a building that is considered of a scale and character that would contribute positively to the area. The site is already used as a mosque and madrassa and the development proposed would improve the facilities on the site.

The design of the building and inclusion of octagonal area to the rear is as a result of concerns being raised in relation to design. The removal of the dome and mihrab has resulted in redesigning of the rear elevation. The agent has sought to include architectural features found in the locality including the large arched window to the rear. It is the view of Officers that the design is acceptable and would not detract from the Conservation Area. The flat roofed element is subservient to the main building which is more domestic in scale and design. Both Conservation & Design and Historic England have been reconsulted and raise no objections in respect of the design of the development.

Highways:

- Collection of evidence, in the knowledge of Ward Councillors and the highway traffic officer for West Park Street and Oxford Road that there exist recorded insoluble problems of traffic flow and parking.
- UDP Policy T10
- The proposals represent a serious highway concern.
- Previous road usage/safety assessments have set a precedent on this street due to the restrictive nature of the West Park Street and Nowell Street junction.
- The road usage and parking problems on West Park Street have worsened.
- Congestion/the proposed site use would aggravate the present situation further.
- 24 car parking spaces are not sufficient for the intended uses.
- The proposal relates to the removal of all the existing parking spaces.
- The area is a car park and not currently vacant.

Officers response to the points above: The proposals have been assessed by Kirklees Highways Development Management. The submission of further information includes a Travel Plan and Transport Assessment which have been considered and revisions included where necessary. The supporting information, in addition to the improvements proposed; demonstrate that the site can accommodate the use without detrimentally impacting on matters of highway safety. As such it is considered, on balance, that the development can be accommodated in this location and is in accordance to Policies T10 and T19 of the Kirklees Unitary Development Plan.

With regard to the traffic surveys submitted by local residents (received 04/12/2017) and appended at the end of this report, officers are assessing the information and will provide full comments to members in the update.

Other Matters:

- UDP Policy C2 has provisos that
 - (i) *The development can [only] be accommodated without causing disturbance to the surrounding neighbourhood; and*
 - (ii) *There will be no detriment to highway safety.*

Officer Response: Policy C2 recognises that community facilities can be located in the area where it is in the interests of those who will be served provided that there will be no disturbance to the neighbourhood and no detriment to highway safety. The activities taking place on the site are to be split between the two buildings and are no intended to increase numbers. The activities will continue in this respect. The information and supporting documentation received demonstrate that the activities can continue without causing disturbance and, subject to conditions, will not be materially harmful to highway safety.

- The DAS contains many unsupported and contradictory statements and in arguing for increased capacity quotes different numbers. The AHA (para 4.31) states the present building is *".. a place of congregation for over 100 congregants. However, the current premises are no longer able to meet its requirements."* Yet, at the June 2017 hearing, the need argument itself was countered by the applicant's agreement to a draft Condition of 100 congregants. Therefore, the argument for a new building on this basis should be dismissed.

- **Officer Response:** The original application was submitted with the intention of increasing the capacity of accommodation on the site. At the request of Officers the scheme was reduced and the application then refocussed on improving the existing facilities and provision of a fit for purpose facility. A condition is proposed to restrict numbers.
- The land is not brownfield, nor urban. UDP Policy BE6 is applicable.
Officer Response: The land is described as brownfield which is contended by objectors. Aerial photographs show that the land was formerly green space but has subsequently become hardstanding used for parking associated with the existing use. In later years the area of land has become unkempt. BE6 states that “Development on infill sites will not normally be permitted when it would adversely affect the character or appearance of the Conservation Area”. The loss of the space has already been conceded through the approval of the application for a single dwelling. The approval of the application is a material consideration. Further consideration has been given to the loss of the space and Officers have concluded that the erection of a building in the location shown would retain the established character of the area retaining space to the rear of existing and proposed buildings.
- Loss of open space within the street scene
Officer Response: The principle of the erection of a building within the street has already been established with the approval of 2011/92932 approved in 2014. The building proposed occupies a similar position to the residential property previously approved. Officers in Conservation & Design and Historic England have raised no objections in respect of the proposal. Officers have concluded that the development can be accommodated without compromising the character of the street scene or Conservation Area.
- There are covenants on the land which would not allow the development.
Officer Response: Covenants are not considered material to the determination of the planning application. They are a private legal matter.
- Opening hours are specified as unknown however the agent has provided information that suggests that hours are known. In addition the applicants should be aware when the classroom will be used.
Officer Response: There are no details regarding the hours of operation of the site. K.C. Environmental Services have been consulted regarding the proposals and have raised no objections subject to conditions relating to unexpected land contamination and controls regarding call to prayer. They are satisfied that the development would not result in any harm to residential amenity providing conditions are imposed.
- Bats and owls have been resident in the mature trees in the area the development would impact on these.
Officer Response: Both an Ecological and Arboricultural survey has been requested to inform recommendations for landscaping and mitigation. It is not considered that the conclusions of the reports would prevent development of the site. As such the agent has requested that the reports be produced should Members recommend approval. Taking into account the costs involved in production of the reports, in addition to the likely conclusions of each, it is considered reasonable by officers that these are provided should the decision be taken to approve the application.

- There are plenty of existing mosques that can be used.
Officer Response: The agent has demonstrated that there is the need/demand for an additional facility in the area.
- The area was formerly a habitat for wildlife until it was spoilt by the present and preceding owners. All trees have been removed and TPO trees have not been replaced.
Officer Response: It is not considered that there is sufficient ecological value so as to justify refusal of the application. The principle of development has already been established by a previous permission for residential development and it is not considered that this development differs so significantly in terms of scale and mass and occupation within the site. The development will result in the loss of a protected tree and it is understood that others have been felled. It is an unfortunate consequence that the last protected tree will be lost and the harm is weighed against the benefits of the development. Replacement tree planting and landscaping can be conditioned.
- The site has been subjected to fly tipping and has become unsightly.
Officer Response: It is acknowledged that the site is unkempt and that redevelopment would improve the amenity of the area however this should be an appropriate development in terms of scale and design.

10.46 **To summarise in relation to representations:**

There are members of the community that the development would directly benefit but equally there are a number who consider the proposals to be detrimental to their environment. Affording weight to public benefit is not considered to be a simple process. For the aforementioned reasons Officers consider that the site can accommodate the development proposed with the inclusion of conditions regarding numbers of attendees and also mitigation planting and as such it is considered that any harm is outweighed by the community benefit of the accommodation provided.

11.0 CONCLUSION

- 11.1 The nature and scale of the proposed use would not result in any significant detriment to the amenities of nearby residential properties or highway safety. The proposal would result in a viable use for the building, in accordance with relevant local and national planning policy.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan, the draft local plan, and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Summary list of suggested conditions. The full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment).

1. 3 year time limit
2. Development to be carried out in accordance with the approved plans
3. Submission of landscape scheme (to include replacement trees and wild life attracting species)
4. Obscure glazing to the east elevation
5. Reporting unexpected contamination
6. Call to prayer (noise levels and time)
7. Limit the site to 100 worshippers at any one time
8. Hedge fronting 10 Oxford Road to be removed and maintained clear of planting and/or structure.
9. Construction Management Plan to be submitted and approved
10. Travel Plan to be submitted and approved
11. Scheme detailing construction specification of Nowell Street
12. Materials
13. Restriction of numbers of worshippers on site to 100 at any one time
14. Hours of use of the premises
15. Submission of an Ecological Design Strategy

Background Papers:

Website link to the application details:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91139>

Certificate of Ownership – Certificate D (confirming applicant's Solicitor has conducted searches and advertised in the local newspaper) signed by the agent Hasan Dadibhai and dated 19/05/2017

ADDENDUM

Re: Planning Application 2017/62/91139/E at 10, Oxford Road, Dewsbury.

Dear Sir/Madam,

With regard to my objection to the above planning application, I submit the following independent traffic surveys. I request that these statistics are taken account of by KMC Highways Division, Planning Officers and the Chair of Planning Committee. Please see the data/survey sheets provided.

Independent and individual Traffic Surveys undertaken on Oxford Road at the junction with Nowell Street.

Survey 1. Taken 2.30pm – 5.30pm on Friday 20 October 2017 by Mr K. Fedzin. Shows a total flow of **762 vehicles and 167 pedestrians** in 3hrs.

Survey 2. Taken 7.00am – 10.00am on Monday 30 October 2017 by Mrs J. Devlin. Shows a total flow of **519 vehicles and 49 pedestrians** in 3hrs.

Survey 3. Taken 2.30pm – 5.30pm on Monday 30 October 2017 by Mr John Robinson. Shows a total flow of **709 vehicles and 111 pedestrians**.

These survey figures show that on average, at peak afternoon times, **735 vehicles** pass this steep blind bend junction in 3 hours with **519 vehicles** passing during a typical 3 hour morning period.

Also an average of **139 pedestrians** in the afternoon 3 hour period and **49 pedestrians** in the morning period pass this junction.

These survey periods obviously coincide with sunrise and sunset prayer times for many parts of the calendar year.

The surveys show that in any one 'normal' day during these morning and afternoon periods, when the proposed mosque will be in full use, as many as **1,254 vehicles and 188 pedestrians**, are expected to be passing this junction. It is already fully acknowledged that many of those vehicles will have to travel on the wrong side of the road due to the residents permit parking directly opposite.

The figures in these surveys are directly at odds with the 'Hall Traffic Assessment' figures of 196/201 vehicles (which were acquired during one quiet Friday period around 1.00 – 2pm) and clearly demonstrate the large numbers of vehicles and pedestrians *actually* passing this junction at potential prayer times.

The local residents of the Northfields Conservation Area request that these figures are fully taken account of.

Regards,

Kenneth Fedzin

4 December 2017.

<u>Time Period</u>	<u>Direction of Travel</u>	<u>Count of Vehicles (Black) and Pedestrians (Red)</u>	<u>Period Total Ped's</u>	<u>Period Total Vehicles</u>	<u>Cumulative Total Pedestrians</u>	<u>Cumulative Total Vehicles</u>
<u>08.45 - 08.59</u>	Up		0	20	24	189
	Down SOUTH	 1 11	4	20	15 15	193
<u>09.00 - 09.14</u>	Up		0	19	24	208
	Down	 11	3	26	18	219
<u>09.15 - 09.29</u>	Up	 11	3	12	27	220
	Down		0	16	18	235
<u>09.30 - 09.44</u>	Up	 1	1	22	28	242
	Down	 11	3	15	21	250
<u>09.45 - 10.00</u>	Up		0	7	28	249
	Down		0	20	21	270

Total Vehicular Flow 519

Total Pedestrian Flow 49

Traffic Flow Survey for Oxford Road, Dewsbury at junction with Nowell Street

Time Period	Direction of Travel	Count of Vehicles (Black) and Pedestrians (Red)	Period Total Ped's	Period Total Vehicles	Cumulative Total Pedestrians	Cumulative Total Vehicles
<u>07.00 - 07.14</u>	Up		0	12	0	12
	Down from NS	 	0	14	0	14
<u>07.15 - 07.29</u>	Up	 	4	12	4	24
	Down from NS	 	1	15	1	29
<u>07.30 - 07.44</u>	Up		0	21	4	45
	Down from NS	 	1	30	2	59
<u>07.45 - 07.59</u>	Up	 	5	21	9	66
	Down	 	1	28	3	87
<u>08.00 - 08.14</u>	Up	 	8	35	17	101
	Down Bike	 	0	30	3	117
<u>08.15 - 08.29</u>	Up	 	5	32	22	133
	Down	 	1	42	4	159
<u>08.30 - 08.44</u>	Up	 	2	36	24	169
	Down into NS	 	7	14	11	173

Traffic Flow Survey for Oxford Road, Dewsbury at junction with Nowell Street

1/2

Time Period	Direction of Travel	Count of Vehicles (Black) and Pedestrians (Red)	Period Total Ped's	Period Total Vehicles	Cumulative Total Pedestrians	Cumulative Total Vehicles
14.30 - 14.44	Up	 1 Bus	5	28	5	28
	Down	 	5	20	10	48
14.45 - 14.59	Up	 11 Bus	1	39	11	87
	Down	 	7	31	18	118
15.00 - 15.14	Up	 1 Bus	4	35	22	153
	Down	 	27	42	49	195
15.15 - 15.29	Up		0	44	49	239
	Down	 	36	23	85	262
15.30 - 15.44	Up	 	1	40	86	302
	Down	 11 Bus	14	61	100	363
15.45 - 15.59	Up	 	4	27	104	390
	Down	 	2	33	106	423
16.00 - 16.14	Up	 	2	24	108	447
	Down	 	5	28	113	475

Time Period	Direction of Travel	Count of Vehicles (Black) and Pedestrians (Red)	Period Total Ped's	Period Total Vehicles	Cumulative Total Pedestrians	Cumulative Total Vehicles
16.15 - 16.29	Up	### ### ### ### 	3	21	116	496
	Down	### ### ### ### ### ### ### 	4	37	120	533
16.30 - 16.44	Up	### ### ### ### ### ### 	3	30	123	563
	Down	### ### ### 	1	18	124	581
16.45 - 16.59	Up	### ### ### ### ### ### ### ### ### ### ###	17	38	141	619
	Down	### ### ### ### ### ### ### ### ###	11	31	152	650
17.00 - 17.14	Up	### ### ### ### ### ### ###	7	32	159	682
	Down	### ### ### 	1	18	160	700
17.15 - 17.30	Up	### ### ### ### ### ### 	4	39	164	739
	Down	### ### ### ### 	3	23	167	762

Total Vehicular Flow 762 in 3 HRS

Total Pedestrian Flow 167 " "

Time Period	Direction of Travel	Count of Vehicles (Black) and Pedestrians (Red)	Period Total Ped's	Period Total Vehicles	Cumulative Total Pedestrians	Cumulative Total Vehicles
16.15 - 16.29	Up		4	16	86	462
	Down			20		482
16.30 - 16.44	Up		6	25	86	507
	Down			26		533
16.45 - 16.59	Up		10	38	96	571
	Down		4	26	100	597
17.00 - 17.14	Up		4	31	104	628
	Down		2	12	106	640
17.15 - 17.30	Up		5	42	111	682
	Down		1	27	111	709

Total Vehicular Flow 709
Total Pedestrian Flow 111