
Report of the Head of Strategic Investment**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 04-Oct-2018****Subject: Planning Application 2017/94255 Demolition of existing building and erection of Place of Worship/Faith Centre Al Hikmah Centre, 28, Track Road, Batley, WF17 7AA****APPLICANT**

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DATE VALID

14-Dec-2017

TARGET DATE

15-Mar-2018

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: Batley East

Yes

Ward Members consulted

RECOMMENDATION: REFUSE

1. Given the sites location within the curtilage of a listed building the impact of the proposal on the setting of the listed building is of prime importance. The impact in terms of its scale, siting, and the demolition of a curtilage building and extensive stretches of the boundary wall result in more than substantial harm to the setting of the listed building. It is not considered that the level of public benefit facilitated by this application outweighs the harm caused. The proposal would be contrary to Policy PDLP 35 of the Kirklees Publication Draft Local Plan and to the guidance contained in of Chapter 16 of the National Planning Policy Framework” Conserving and enhancing the historic environment”.

2. It has not been demonstrated that sufficient mitigation to off-set the impacts of the loss of deciduous woodland priority habitat can be achieved. Furthermore, it is highly unlikely that sufficient mitigation can be achieved within the site boundary. To approve the proposal would be contrary to Policy PLP20 of the Kirklees Publication Draft Local Plan and Chapter 15 of the National Planning Policy Framework “Conserving and enhancing the natural environment”

3. The proposal would result in the loss of protected trees in order to accommodate the development. As such, the proposal would not protect the viability of the mature trees within the application site, contrary to the aims of Policy NE9 of the Kirklees Unitary Development Plan and Policy PLP33 of the Kirklees Publication Draft Local Plan.

4. The proposal by virtue of its scale, and siting will result in an overly dominant effect on Track Road, and a building out of scale and keeping with the domestic scale surroundings. As such the proposal would be contrary to Policies BE1 and BE2, of the Kirklees Unitary Development Plan, Policy PDLP 24 of the Kirklees Publication Draft Local Plan, and the guidance contained in Chapter 12 of the National Planning Policy Framework “Achieving well-designed spaces”.

1.0 INTRODUCTION:

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor Shabir Pandor, who believes the Heavy Woollen Committee should be given a chance to consider the impacts and mitigation / amendments submitted for itself.

- 1.2 The Chair of the Sub-Committee has confirmed that Councillor Pandor's reason for making this request is valid having regard to the Councillors' Protocol for Planning Sub Committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of 0.21 ha and is located within the existing Al-Hikmah Centre off Track Road, in Batley. The site fronts onto Track Road, with a frontage extending from the main access to the Al-Hikmah Centre, to the southern edge of the curtilage for the existing stone dwellings that fronts onto Track Road, currently used as a caretaker dwelling.
- 2.2 The Track Road frontage comprises a traditional stone boundary wall, together with the stone dwelling. To the rear and the north are a substantial number of mature trees which are protected By a Tree Preservation Order. On the opposite side of Track Road are domestic 2 no storey dwellings.
- 2.3 As stated this application site is part of the large Al- Hikmah Centre that includes a number of more modern buildings including a gymnasium, sports hall and business and community centre.
- 2.4 Immediately to the east of the application site is no 28 Track Road, which is a Grade 2 listed building, and the main building for this site. This is currently identified as a Business/Enterprise Centre. There is a substantial parking area for the whole complex sited in the north-west corner of the site at the junction between track road and Springfield Avenue.
- 2.5 There is a drop across the site west to east, with the level on Track Road, being approx. 3m higher level than that of the Grade 2 listed building.

3.0 PROPOSAL:

- 3.1 Full permission is sought for the demolition of the small caretaker dwelling and the adjoining stone wall, and the erection of a purpose built Place of Worship/Faith Centre.
- 3.2 The new development would be three storeys in height, plus a dome roof, and would incorporate the following accommodation.
- Lower ground floor- Multipurpose hall; Offices; Welfare Centre and toilets;
 - Upper ground floor- Multipurpose hall, toilets, boiler room entrance lobby; reception and waiting rooms;
 - First Floor Prayer Hall; Library; Trustees meeting room; caretaker's room; private room and store.
- 3.3 The building will have the appearance of two storeys with a roof as viewed from Track Road, and a three storey structure when viewed from within the Al-Hikmah Centre particularly in relation to the Grade 2 listed building. The building would be of traditional mosque design, incorporating ashlar stone panels. The proposal includes a domed copper roof.

- 3.4 The building is sited so that the principle elevation, and the main entrance to the faith centre faces onto Track Road, and its frontage is located very close to the back edge of the pavement. The finished height of the building as measured from the pavement on Track Road would be approx. 13.0m to the top of the dome.
- 3.5 The proposal would involve the removal of the majority of the mature trees on this site.
- 3.6 The application is accompanied by a Transport Statement that indicates the existing parking area would be used for the Faith centre, and that cars would use the existing car park and then worshippers would walk to the main entrance, a new pedestrian path is annotated on the plan linking towards the car park. Also the new building frontage is proposed to be completely open to Track Road, no boundary treatment are proposed and pedestrian access from there is also provided.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2017/90768 - Demolition of existing buildings and the erection of a Place of Worship / Faith Centre- Withdrawn.
- 4.2 2017/90768 Outline application for 2 no dwellings – on land adj 26 Track Road, Batley- Approved.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 2016/20003 - Pre application enquiry for the construction of a place of Worship / Faith Centre
- 5.2 2017/930768 - This application was withdrawn following concerns raised regarding the scale of the building , the impact on the street scene and setting of the host listed building, the loss of the trees, and lack of highways justification.
- 5.3 The scheme has evolved during this process, initially the proposal was to be sited within the curtilage facing inwards with no demolition of the curtilage listed building. The principle changes Track Road, and the demolition necessary to facilitate that. The size of the building has been reduced, but given the reorientation the proposal is much more prominent in the street scene.
- 5.4 Taken in isolation the design as a Faith Centre, the materials used and features, has always been of a high quality.
- 5.5 During the processing of this information, the applicants have submitted additional information regarding transport/ traffic information and a Travel Plan; also additional measures have been incorporated into the scheme regarding secure by design matters, and concerns raised by the Police Architectural Liaison Officer.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). 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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 48 of the National Planning Policy Framework (2018). 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 (2018), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **D2** - Unallocated
BE1 - Design Principles
BE2 - Quality of Design
BE23 - Crime Prevention
NE9 - Trees
G6 - Contaminated Land
T10 - Highway safety
T19 - Parking
EP11 - Ecological landscaping
C1 - Community Facilities
C2 - Special Community Facilities

- 6.3 Kirklees Publication Draft Local Plan:

PLP1 - Presumption in favour of sustainable development;
PLP3 - Location of new development;
PLP20 - Sustainable travel
PLP21 - Highway safety and access
PLP22 - Parking requirements
PLP24 - Design
PLP28 - Drainage
PLP30 - Biodiversity and geodiversity
PLP32 - Landscape
PLP33 - Trees
PLP35 - Historic Environment
PLP48 - Community facilities and services
PLP53 - Contaminated and unstable land

6.4 National Planning and Policy Framework

Chapter 8 - Promoting healthy and safe communities

Chapter 9 - Promoting sustainable transport

Chapter 10 - Meeting the challenge of climate change, flooding and coastal change

Chapter 12 - Achieving well designed spaces

Chapter 15 - Conserving and enhancing the natural environment

Chapter 16 - Conserving and enhancing the historic environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 This application has been publicised by site notice and neighbour letters.

7.2 3 letters of objection have been received the main concerns being:

- The site when currently hosting events results in substantial amounts of extra traffic parking not just on Track Road, but surrounding streets also;
- The provision of an additional mosque facility will make this situation worse, particularly on track road, which has a number of dwellings opposite the site, which need to park on street. The main access to the building faces onto Track road. This will result in vehicles stopping and dropping off worshippers, on a road that is not wide enough for that purpose.
- The existing car parking is insufficient, when the site is in full use, the Scheme makes no provision for extra parking ergo it can only park on the surrounding streets.

7.3 Cllr Pandor – Supports the scheme. Feels that the alterations that have addressed Officers concerns and the building will be an asset to the community.

7.4 Cllr Marielle O'Neill- Supports the application, believes it would be beneficial to the public and can foresee no major concerns.

7.5 Cllr Habiban Zaman - Supports the scheme and believes it should be presented to Heavy Woollen for consideration.

7.6 Cllr Gwen Lowe- Supports the scheme. Whilst in Batley East it is a vital asset that will benefit the wide community. Believes that public benefits outweigh any adverse impact.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management - Additional information was requested. The additional information is still incomplete. As such Highways are unable to carry out an assessment, at this time

8.2 Non-statutory:

KC Conservation and Design - Object to the proposal. The siting and the loss of the cottage building result in more than substantial harm to the setting of the main listed building. This harm is not outweighed by any public benefit. (NB: This advice is consistent with previous applications and the pre-application enquiry)

KC Arboricultural officer – The trees on the site are covered by TPO 46/95. The proposal results in the loss of a large number of protected trees which are of significant visual amenity value. The scale of the development leaves no space around the building for any meaningful mitigation. Object to the proposal as contrary to Policy NE9 of the UDP, and PLP 33 of the Emerging Local Plan.

KC Ecology - The trees to be removed are of value in terms of the habitat they provide, and their removal reduces the options for any enhancement in biodiversity terms. Recommend refusal as being contrary to Policy PLP 30 of the Emerging Local Plan.

KC Environmental Health - No objections recommend conditions in the event of approval.

KC Lead Local Flood Authority - The Drainage strategy submitted by the applicants is an old strategy that does not adequately consider the ramifications for the site wide scheme should this application be permitted. Drainage Strategy submitted is not satisfactory.

Police Architectural Liaison Officer - No objection in principle but given the nature of the use, needs to express concerns regarding security of worshippers, and the level of security measures provided to protect worshippers at the most vulnerable times (ie large numbers congregating to attend prayers outside the main entrance door, which is onto Track Road). Additional security measures have since been incorporated into the scheme (see assessment).

9.0 MAIN ISSUES

- Principle of development
- Urban design/Heritage Issues
- Residential Amenity
- Highways/Traffic issues
- Ecological/Trees issues
- Environmental Issues (noise, remediation)
- Drainage Issues
- Crime Prevention

10.0 APPRAISAL

Principle of development

- 10.1 The provision of Community facilities or “Special Community facilities is the subject of policy C1 in the UDP and PLP 48 within the Emerging Local Plan. Both of these policies indicate that such facilities should be located within accessible locations which minimise the need to travel by car. Easy access by foot or cycling or public transport is preferred. This site is not within a district or local centre, but is within a larger complex of diverse facilities that serve a community purpose ie: the facilities known as the Al Hikmah Centre.
- 10.2 As such whilst not in a local centre there is no objection to the principle of a Faith Centre to augment the existing facilities within the existing complex, subject to satisfying other policies within the Unitary Development Plan and Emerging Local Plan.

- 10.3 Paragraph 92 part 8 of the NPPF “Promoting healthy and safe communities”, indicates that planning policies and decision making should plan positively for the provision and use of community facilities, including cultural buildings and places of worship, to enhance the sustainability of communities and residential developments, and also take into account and deliver improved health, social and cultural well-being for all sections of the community.
- 10.4 The existing Al Hikmah complex clearly provides a valuable range of facilities and advice for the community. The applicants indicate that the proposed Faith Centre, is not a new facility, as there is a Prayer Room in the listed building, but it is of a limited size. When larger events are taking place eg weddings) the capacity is insufficient, and users leave the site to pray at neighbouring mosques, before returning, to the site. This causes problems regarding traffic movements etc at these events. The provision of this Faith Centre would enable such events to be hosted entirely within the Al Hikmah complex, thus delivering an improved community facility. When the building is not in use for prayer, the applicant’s indicate” the centre would be used for providing state of the art facilities for Women and Children”.
- 10.5 In determining an application affecting the setting of a listed building, where substantial harm is caused to the setting of the listed building, the level of public benefit needs to be assessed against the harm, and outweigh that harm,

Urban Design/Heritage Issues

- 10.6 The proposed new building is within the curtilage of a Grade 2 listed building, currently in the centre of the site and used as the Al Hikmah Business and Enterprise Centre. The protection afforded to the listed building extends to the entire curtilage of the building and includes curtilage listed buildings.
- 10.7 In accordance with the guidance contained in the National Planning Policy Framework, Chapter 16 “Conserving and enhancing the historic environment”, and the significance of the heritage asset affected should be described and considered in order to assess the level of impact a proposal will have on that asset and any loss or harm or destruction of that asset should require clear and convincing justification, and substantial harm or loss to Grade 2 listed buildings should be exceptional. Where a proposal would lead to substantial harm to a designated heritage asset local planning authorities should refuse consent unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefit that outweighs the harm.
- 10.8 The proposal involves the demolition of a curtilage listed building and an extensive area of stone walling along Track Road that are an integral part of the setting of the listed building. The proximity and scale of the proposed Faith Centre relative to the host listed building is unsatisfactory resulting in the new building being overly dominant relative to the listed building, and in this case resulting in the host listed building being subservient to the proposed Faith Centre as opposed to remaining the dominant element within the setting. As such it is in the opinion of officers that the proposal results in more than substantial harm to the designated heritage asset.

- 10.9 In addition to the effect on the listed building and its setting the effect on the street scene outside of the site should also be considered. Notwithstanding the identified heritage issues, this proposal for a landmark building is inappropriately sited in relation to the street scene, which is on a relatively narrow road, currently characterised by a stone wall and trees, domestic lodge building which is opposite semi-detached and terraced housing. The large buildings within the Al Hikmah complex are in fact largely concealed from view along Track Road, until the entrance and then set well back from the road at a substantially lower level than Track Road.
- 10.10 As such it is considered that the scale and location of the building proposed are harmful to the street scene, and contrary to Policies BE1 and BE2 of the Unitary Development Plan, Policy PLP24 of the Emerging Local Plan and Chapter 12 of the National Planning Policy Framework.

Ecological/Trees issues

- 10.11 The proposals will require the loss of several mature trees, which are included in an area identified within Natural England's priority habitat inventory as deciduous woodland (Natural England, 2013). The priority habitat inventories describe the geographic extent and location of habitats of principle importance for conserving biodiversity.
- 10.12 The list of habitats of principle importance (also known as priority habitats) is issued by the Secretary of State for the Environment under section 41 for the Natural environment and Rural Communities [NERC] Act 2006. The list is intended to inform the duty under section 40 of the Act of public authorities, including local authorities, to have regard to biodiversity conservation. Policy PLP 30 of the PDLP goes further and states that priority habitats and species will be protected from development unless the benefit of the development outweighs the biodiversity interest of the habitat, in which case mitigation is required.
- 10.13 Mitigation requirements would need to be informed by the quality of the existing habitat and extent of proposed habitat loss, and may include habitat creation off-site or management of retained habitats on-site to increase biodiversity, or a combination of these.
- 10.14 In this case, the Council's Ecologist can see no means that this mitigation can be achieved. However, as no ecological information has been provided this assessment is not informed by a knowledge of the biodiversity value of the habitat present within this site.
- 10.15 In all, it has not been demonstrated that sufficient mitigation to off-set the impacts of the loss of deciduous woodland priority habitat can be achieved. Furthermore, it is highly unlikely that sufficient mitigation can be achieved within the site boundary. To approve the proposal would be contrary to Policy PLP20 of the Kirklees Publication Draft Local Plan and Chapter 15 of the National Planning Policy Framework.

- 10.16 The application plan indicates the removal of a number of mature trees, and also the replacement and retention of some to the eastern edge of the site. Given the scale and siting proposed it will not be feasible to retain the trees that are shown as being retained, and there is no opportunity to provide any meaningful replacements. As such the development will result in the loss of protected trees contrary to Policies NE9 of the UDP and PLP 33 of the Emerging Local Plan

Highway issues

- 10.17 A number of the assumptions made in the Transport Assessment need justification, and this information is awaited from the applicants. The Al Hikmah complex already provides an area of parking within the site however, this application generates a need for a significant amount of additional parking beyond that which is currently available.
- 10.18 This matter is exacerbated by the orientation of the building with the maintenance facing Track Road. As such the likelihood of substantial vehicle and pedestrian use is great. The applicants have indicated that should this be an issue they would be happy to fund a Traffic Regulation order, to restrict parking on track road.
- 10.19. As part of the negotiation process (see paragraph 5.3) additional highways information was requested. The. Additional information received was incomplete, and as such currently insufficient information is available to enable Highways DM assessment of the scheme. The applicants have undertaken to provide the additional information in ample time for the Highways DM to assess, before the committee date. The up to date situation will be reported Members at the Committee.

Residential amenity

- 10.20 The new development would fundamentally affect the aspect of existing dwellings on the opposite side of Track Road. Whilst it is considered the scheme is out of scale and detrimental to the street scene, it is not considered that there would be any overshadowing or loss of privacy from the building, and the applicants have accepted that there will be no call to prayer.
- 10.21 The principle risk to residential amenity relates to the assembly and entry of people attending prayer and accessing off Track Road. This matter would need to be satisfactorily addressed by parking restrictions or travel plan monitoring to avoid unacceptable levels of nuisance, especially as a number of the existing dwellings on Track Road rely on on-street parking.

Environmental Issues,

- 10.22 The site is capable of being remediated and made fit to receive the new development and this is a matter that can be dealt with by conditions.
- 10.23 In terms of potential noise nuisance the use of the building for worship will not cause undue disturbance and the applicants have confirmed that there will be no call to prayer

Crime Prevention

- 10.24 Given the nature of the use (ie open to public use with groups of people accessing, egressing and accumulating/mingling outside the entrance), and the orientation of the building with the main entrance facing onto Track Road, concerns were raised regarding the security of the scheme and safety for potential users. The applicants have agreed to revisit the security arrangements on the scheme- as they have done on other similar projects), and have submitted list of crime prevention and security measures, including appropriate lighting, CCTV, and gating and fencing to the front of the site, which should address these concerns. In the event of an approval, the implementation of these measures, together with a Travel Plan (covering the management of arrivals and departures from the Faith Centre, should be conditioned, in the interests of safety for users of the Faith Centre.

Representations

- 10.25 Three letters of objection have been received. The main concerns are summarised below, along with officers response:
- The site when currently hosting events results in substantial amounts of extra traffic parking not just on Track Road, but surrounding streets.
Officer response: Dependent upon Highway response to the additional information that was submitted.
 - The provision of an additional mosque facility will make this situation worse, particularly on Track Road, which is has a number of dwellings opposite the site, which need to park on street. The main access to the building faces onto Track Road. This will result in vehicles stopping and dropping off worshippers, on a road that is not wide enough for that purpose.
Officer response: As above
 - The existing car parking is insufficient, when the site is in full use, the Scheme makes no provision for extra parking ergo it can only park on the surrounding streets.
Office response: As above

Planning obligations

- 10.26 If the application is approved a financial contribution will be required towards Travel Plan monitoring of the development, when it is operational. This would be £15,000 (ie £3,000 per annum for a 5 year period). This contribution would be secured through a Section 106 Agreement. There is a possibility that a Traffic Regulation Order may also need to be funded, but this is dependent upon the Highway DM assessment, following the receipt of full information.

11.0 CONCLUSION

- 11.1 Given the sites location within the curtilage of a listed building the impact of the proposal on the setting of the listed building is of prime importance. The impact in terms of its scale, siting and the demolition of a curtilage building and extensive stretches of the boundary wall result in more than substantial harm to the setting of the listed building. It is not considered that the level of public benefit facilitated by this application outweighs the harm caused.
- 11.2 In addition the impact of the building on the streetscape, ie as viewed from Track Road, including the removal of all the TPO'd trees, is harmful and out of scale with the surroundings. This location is not considered an appropriate location for the landmark building of this type.
- 11.3 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.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

12.0 REFUSE

Background Papers:

Application and history files.

Website link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f94255>

Certificate of Ownership – Certificate A signed and dated 14/12/2017