

REPORT TO DEVELOPMENT MANAGEMENT COMMITTEE

11 September 2024

REFERENCE: HW/FUL/24/00190

OFFICER: Mick Gavin

APPLICANT: Mr Mumin Ali

LOCATION: 155 Potter Street
Harlow
Essex
CM17 9AN

PROPOSAL: Change of use from use class A4 (Public House) to use class F1 (Multi-faith Cultural Centre) along with the retention of first floor flat and the removal of existing front porch

LOCATION PLAN



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Reason for Committee Referral

The scheme of delegation makes provision for major Planning applications or contentious applications, which officers, in consultation with the Chairman and/or Portfolio Holder, consider are likely to be of significant public interest. Given the significant level of interest in this application, both through letters of support and objection, it has been determined between officers and the Chair of the Development Committee that this application should be referred to the Committee for determination.

Recommendation

The proposal seeks permission for change of use of a vacant public house to a community meeting place for religious use with ancillary meeting, teaching and community activities. The application site is not considered a suitable location for the proposed use, due to the intensity of activity which would result, the restricted size of the building and the residential character of the immediate surroundings. The proposal conflicts with Development Plan policies which seek to preserve highway safety and residents' living conditions. It is therefore recommended for refusal.

Details of proposal

The proposal seeks permission for change of use of a vacant public house to a community meeting place for religious use with ancillary meeting, teaching and community activities. The proposed facility would be open seven days a week. Opening hours were not initially provided but have been confirmed as 10am to 6pm. It is stated that an existing facility at Northbrooks Pavilion is to be redeveloped, and the proposed site would be a replacement, although no detail is given on these circumstances.

The building is proposed to be reconfigured internally, including to create a meeting hall area of 62sqm. with three other smaller meeting rooms. The applicant states the main hall area would have the capacity to seat 50 people. It is further explained that generally, approximately 20 people are likely to use the building on a normal day, but on Fridays between 1.00pm and 2.00pm there will be a larger number of possibly 80 people for the weekly prayer meeting. There would also be the annual Eid festival at the end of Ramadan.

The first floor would remain as now a two-bedroom flat which would be occupied by a site manager.

The application as originally submitted included a parking layout to the front and side of the building showing nine parking spaces. Subsequently it transpired that the area of the site adjacent to the road is owned by the Highway Authority and parking here was therefore deleted resulting in an amended parking layout. Parking now comprises seven spaces which are shown located to the side and rear of the building.

External physical works are limited to removal of the existing porch and siting a new porch on the original front entrance to the building, although this change is not clearly shown on the drawings.

Application site and surroundings

The site is a plot of 0.17ha located on the east side of Potter Street, opposite the junction with Church Road. It is occupied by a two-storey building last in use as a public house. It has a parking area to its front and side and a rear garden. On its south boundary the site adjoins

Harlow Common, which is Green Belt and a Local Wildlife Site. Across Potter Street to the west is residential development along Church Road. To the east of the site is residential development in The Sweyns. To the north is residential development along both sides of Potter Street. Adjoining immediately on the north side is an access giving onto nos.151 and 153 Potter Street.

The building is not listed or local listed. The site is not in a conservation area.

There are no Traffic Regulation Orders on Potter Street, which at this point is relatively narrow and there are no public car parks close to the site.

RELEVANT PLANNING HISTORY

There is no relevant planning history related to this property.

CONSULTATIONS

Internal and external Consultees

Designing Out Crime Officer For E Forest & Harlow

Essex Police have suggested they would like to meet with the applicant to discuss security provisions and how the applicant intends to keep future users safe.

Essex County Council – Highways

The Highway boundary extends to the building line of the pub at the front. This means the car parking shown in that area at the site frontage (bay 6, the disabled bay and bays 7&8 are located on highway). Any parking that encroaches on the highway needs to be removed.

Comment on amended layout plan -

This plan has removed any parking that previously encroached on the highway and from the perspective of the Highway Authority we have no additional comments to make.

Officer comment: See parking and highways section of assessment below.

HDC Environmental Health Services

HOLDING OBJECTION due to the lack of information on how the property will be used. The building is flanked on three aspects by noise sensitive properties. It is unknown if amplified music will be played during religious services at the property and if so, what mitigation measures will be put in place to ensure that amplified or acoustic sound does not interfere with the ordinary enjoyment of noise sensitive properties.

Neighbours and Additional Publicity

Number of Letters Sent: 7

Total Number of Representations Received: 267

Date Site Notice Expired: 22 July 2024

Date Press Notice Expired: 25 July 2024

Summary of Representations Received

At the time of writing (29 August 2024) 129 objections to the application had been received, raising the following material considerations are raised:

Parking/ traffic generation

- Eight parking spaces insufficient for this capacity – over 100 weekly, 80 on Friday and Eid for which no estimate given; Friday a major concern; will worsen parking congestion on a narrow busy road with high speeds and no parking restrictions;
- Overspill parking will occur on both sides of road causing obstruction to residents' driveways and reduced visibility and highway danger for vehicles and pedestrians; obstruct buses, refuse lorries, emergency vehicles including fire brigade; danger for elderly people, school children, people with prams, wheelchair users; dogwalkers using common including entrance next to the building;
- Existing parking congested and this will worsen; church on Church Road and combined traffic will cause extra congestion; junction opposite with Church Street already dangerous; Potter Street would become overflow car park to serve single premises; area can't support a use which would bring this amount of parking;
- Use should be at a more suitable site which can support it with necessary infrastructure;
- No assessments are submitted on traffic, transport, potential attendees; numbers of attendees given are not justified by evidence and could be a lot higher; why is there no comparison with the existing site at Northbrooks which has more space and isn't in a residential area and has parking restrictions on surrounding roads; location close to M11 will bring cars from afar; proposed use of shared vehicles/ minibuses would not be effective;
- Comparison to traffic of previous pub use is erroneous – pub used by people who lived in walking distance and almost no traffic occurred, would be significant intensity of traffic in comparison;
- At least one of the spaces need for the first floor flat; parking would be restricted for Potter Street shops affecting trade;

Impact on neighbours

- Noise, disturbance, disruption for local residents; people coming and going, car engines, car doors slamming, music; loss of privacy; light pollution; have any of these issues been addressed; nearest neighbours 20m away; how would impact be mitigated;
- 7 days a week would give neighbours no respite; no information given on opening hours, will it operate at unsocial hours?; inconsiderate to neighbours;

Character

- Fundamental change in character of quiet residential area; out of keeping;

Description of development

- Description of use is disingenuous and misleading; has there been consultation with local community on opportunities for shared use; already have enough faith buildings in area, no need demonstrated given other faith centres; has option of sharing other existing faith and community buildings nearby been explored;

Biodiversity

- Query impacts on trees and biodiversity; will adversely affect wildlife and Common;
- Adverse affect on Epping Forest SAC.

Additional objections from representative on behalf of objectors

- If traffic at existing Northbrooks site is replicated the effects would be severe;
- Poor visibility at site access and vehicles cannot leave in forward gear;
- Does not provide transport assessment or Travel Plan;
- Policy L2 requires evidence of need and access by public transport , neither provided;
- No comparison to Northbrooks site as to whether this is a multi-faith facility;
- If approved requires appropriate conditions including manager only occupation of first floor and EV charging and cycle parking.
- Certificate of ownership inaccurate;

At the time of writing 139 representations in support of the application had been received, raising the following material planning considerations:

Parking/ traffic generation

- Good location for facility; use will not be as busy as is thought; parking no different to church opposite on a Sunday; parking would be the same as if it became a restaurant; robust parking management will be implemented, volunteers will control and manage parking; staggered scheduling of events to avoid peak traffic times;

Need

- Muslim community is growing and existing Islamic Centre is not sufficient, need more prayer space as number of worshippers growing; we need a large mosque to accommodate large and increasing number of people;

Other

- Construction and operation will create jobs; increased foot traffic will boost nearby businesses; will provide social and educational activities; will reduce anti-social behaviour; will benefit community diversity, inclusivity and cohesion;

It should be noted that where customers have submitted multiple objections or support, they have, for the purposes of this report, been counted as one response. The website notes that in total of 168 objections and 138 letters of support have been received. It is also noted that a large number of responses did not contain comments relating to the application or raised non material matters.

PLANNING POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “*where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise*”.

The Local Plan in this instance is the Harlow Local Development Plan (2020).

Harlow Local Development Plan 2020

Planning law requires that proposals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the site consists of the Harlow District Council (HDC) Harlow Local Development Plan 2020 (HLDP), Essex County Council (ECC) Essex and Southend-on-Sea Waste Local Plan 2017 and ECC Essex Minerals Local Plan 2014.

The part of the Development Plan applicable to the proposal is the HDLP. The HDLP is prepared in the context of the National Planning Policy Framework (NPPF) – see ‘Planning Standards’ below. It is important to note that this is a very recently adopted and therefore ‘up to date’ plan in terms of NPPF Para.12.

Policies of most relevance to the proposal are:

SD1 – Presumption in Favour of Sustainable Development
WE3 – General Strategy for Biodiversity and Geodiversity
PL1 – Design Principles for Development
PL2 – Amenity Principles for Development
PL3 – Sustainable Design, Construction and Energy Usage
PL7 – Trees and Hedgerows
PL8 – Green Infrastructure and Landscaping
PL9 – Biodiversity and Geodiversity Assets
PL10 – Pollution and Contamination
PL11 – Water Quality, Water Management, Flooding and Sustainable Drainage Systems
L2 – The Provision and Loss of Recreational, Sporting, Cultural and Community Facilities
L4 – Health and Wellbeing
IN1 – Development and Sustainable Modes of Travel
IN2 – Impact of Development on the Highways Network including Access and Servicing
IN3 – Parking Standards

Supplementary Planning Documents / Current Planning Guidance

Harlow Design Guide (2011) and Harlow Design Guide Addendum 2021

Harlow and Gilston Garden Town (HGGT) is a designated ‘Garden Community’ under the Government’s Garden Communities Programme.

The following are material planning considerations in the determination of applications and appeals:

National Planning Policy Framework (NPPF) (2023)

The Development Plan is prepared taking account of the National Planning Policy Framework (NPPF) (as extant at the time - the NPPF is regularly updated; currently in its 2023 version) and the associated Planning Practice Guidance (PPG) (first published in March 2014 but also regularly updated with the NPPF). The NPPF is a material consideration in the determination of applications.

HDC Design Guide SPD (2011)

Design Guide Addendum SPD (adopted December 2021).

Essex Parking Standards (2009)

ECC Development Management Policies (2020 - living document with regular updates).

HGGT Guidance

Harlow and Gilston Garden Town (HGGT) is a designated 'Garden Community' under the Government's Garden Communities Programme.

NPPF Para.72 provides the national policy context for Harlow and Gilston Garden Town (HGGT) as a location for larger scale (housing) development. Of particular note is the emphasis on; existing or planned investment in infrastructure, the areas economic potential and the scope for net environmental gains..... plus; clear expectations for the quality of development and how this can be maintained (such as by following garden city principles).

The HGGT (Local Authorities) Partnership has published a series of documents that set the standards expected for developments in the Garden Town and are therefore relevant to this application.

The HGGT Vision elaborates on the HGGT's interpretation of garden city principles and sets expectations for high quality development to accord with the principles.

The HGGT Design Guide requires consideration of design quality in a garden city principles sense and draws attention to specific local issues.

SUMMARY OF MAIN ISSUES

The key planning matters considered relevant to the determination of this application are as follows:

- Principle of development;
- Parking and highways;
- Impact on neighbours;
- Biodiversity;
- Trees;
- Flooding, drainage; and
- Equalities

Principle of Development

The NPPF (2023) states that provision of cultural facilities including places of worship should be approached positively, where the sustainability of communities and residential environments are enhanced (Para.97). It also promotes effective use of land for other uses, where the environment and safe and healthy living conditions are safeguarded and improved (para.123).

Policy L2 of the Local Plan, relevant to provision of cultural and community uses, states that such uses will be supported where the following criteria are met:

(a) there is evidence of a demonstrable need for the use and/or facility or a benefit to the local community;

(b) the use and/or facility is easily accessible by all sectors of the community by both public and private transport;

In terms of (a) above, extensive representations have been made that the facility is required to replace an existing facility at Northbrooks Pavilion, Harberts Road, due to a growing population and a need to cater for increased numbers of worshippers.

In terms of (b) above, as set out below in the assessment, it is considered that the facility would be largely car dependent. No formal assessment is submitted to demonstrate that is not the case.

Overall, while the general principle of reuse of a vacant building for a community facility is supported, in this particular case, for the reasons set out below, the officer view is that there would be harm identified by insufficient parking and harm to residential amenity which have not been overcome through the information supporting the application.

Parking and Highways

Policy IN2 of the Local Plan states requires that development meets the following criteria to be acceptable:

- (a) it would not cause a severe residual cumulative impact on highway congestion and movement;*
- (b) it would not cause a detrimental impact on the safety of all highway users including pedestrians, cyclists and horse-riders;*
- (c) the development provides for adequate, safe and convenient loading and servicing arrangements, access points and drop-off areas and consideration has been given to the movement and turning of emergency vehicles and refuse vehicles*

Policy IN3 further requires that vehicle parking be provided in accordance with the Essex Vehicle Parking Standards. The car parking requirement for the ground floor community space would amount 20 spaces. A further two spaces are required for the two-bedroom first floor flat proposed. 22 spaces are therefore required overall. The amended site layout plan shows seven spaces. Taking account of the parking for the flat, five dedicated spaces would be available for the community facility, a shortfall of 15 on-site parking spaces.

The supporting statement states that *“there will be the opportunity for larger groups to park on the road along the Common, which is adjoining the site, without causing any undue issues for local residents. People coming to use the building will be encouraged to car share and use minibuses to reduce the traffic. This use will be no worse than traffic generated by the original pub use”*.

While these points are noted, it is considered that the potential intensity of use and numbers of people attending would be such that the deficiency in car parking would likely result in significant overspill on-street parking. Potter Street at this point has no parking restrictions and is relatively narrow for a road serving traffic approaching the M11 junction. Overspill parking and resulting on-street obstruction has the potential to cause a severe residual cumulative impact on highway congestion and movement and a detrimental impact on the safety of all highway users including pedestrians and cyclists, in conflict with the requirements of policy IN2 above.

The application suggests that the number of attendees are given as possible 80 on a Friday afternoon and for the Eid festival no estimate is given. It is not considered that the site could cope with parking associated with those numbers without significant congestion. It is also a concern that in giving these estimates no assessment is made against the attendance at the existing site at Northbrooks Pavilion. Comparison with that site should inform an assessment of likely use at the proposed site. There is a concern that numbers could be higher than the estimates given. It is noted that the last planning application relating to the Northbrooks site

(HW/PL/24/00141) showed a meeting hall of 77sqm, compared to the main hall of 62sqm now proposed. Notwithstanding that the proposed hall is smaller than the existing, the submitted Design and Access Statement states that the existing site '*is too small for their use*'. No Transport Statement accompanied the application, to rigorously assess likely traffic generation.

The proposal to encourage shared car use and use minibuses is noted, but no detail is given on that. No Travel Plan is submitted. It is also the case that the site does not benefit from good public transport accessibility and would be largely car dependent. It is not considered that a condition relating to such would overcome the harm identified.

Comparison to the previous public house use is made in support of the application. It is noted that the current parking standard for a public house is higher than for the proposed use (1 per 5sqm as opposed to 1 per 10sqm). However, the public house attracted small numbers of customers who lived locally and walked to the site. The amount of traffic and parking was very limited, which is a common characteristic of public houses at edge of town locations. The two uses are not considered comparable in this respect. Comments in support are made that parking would be robustly managed by volunteers. No further detail is given, but management cannot be effective in a context where parking for overspill vehicles is not available, other than on-street on Potter Street and surrounding roads.

No details are given on servicing, for example on waste and recycling storage and collection. Given the intensity of use, including on-site catering, the space needed for waste and recycling may further reduce the parking area.

In conclusion, it is considered that the likely traffic generation and resulting overspill on-street parking congestion would be detrimental to the safety of all highway users, including pedestrians (an access to Harlow Common is sited immediately next to the building). The proposal therefore fails to comply with policies IN2 and IN3 of the Harlow Local Development Plan 2020.

Impact on Neighbours

Policy PL2 of the Local Plan seeks to protect the amenity of existing residents.

It is considered that the likely intensity of activity at this relatively small site, set at the edge of a residential area, has the potential to significantly detract from neighbouring residents' living conditions. Nos.151 and 153 Potter Street, for example, are directly adjacent only separated from the site by their access. That harm would arise from the resulting traffic and parking, and also in all likelihood from the use of the building itself, given the relatively small ground floor area and the likely intensity of use.

In terms of traffic, noise and disturbance would be occur from the extent of traffic accessing and leaving the premises with attendant doors slamming, engines revving and inconsiderate parking. It is noted that the existing Northbrooks site has a comparatively much larger parking area and that it is set away from the nearest dwellings. To relocate that existing use, for the purpose of accommodating more people, gives rise to concern that traffic and parking would be harmful to residential amenity.

Little detail is given on potential impacts from noise arising from within the building. A wide range of activities are referred to including prayer, teaching, seminars and meetings. Hours of use are stated as 10am to 6pm. No reference is made to opening hours as operate at the Northbrooks site. No assessment of potential impacts and any mitigation that might be required accompanied the application. Given the likely numbers of attendees it is reasonable to assume that activity will take place outside as well as inside the premises. The

Environmental Health Officer objects given that the application provides insufficient detail, for example whether or not amplified music or prayers would occur.

Biodiversity

The application as originally submitted used existing hard surface areas to the front and side of the building for car parking. No biodiversity net gain assessment was required therefore.

The revised parking layout includes parking spaces within the rear garden, where an area of over 25sqm of habitat and a linear habitat including trees over 5m in length would be affected. A biodiversity net gain assessment is therefore required which has not been submitted, in conflict with the statutory requirements and policy PL9 (Biodiversity) of the Local Plan.

Trees

Policy PL7 of the Local Plan seeks to ensure that development protects and enhances existing trees and vegetation, given their importance to the visual character and quality of an area, their value as wildlife habitats and their role in mitigating the effects of climate change, for example by providing shading and reducing the temperature of the local micro-climate.

The revised parking layout includes parking spaces within the rear garden where trees along the boundary of the site could be affected. No Arboricultural Impact assessment was submitted, and it is not demonstrated therefore that trees would not be adversely affected in conflict with policy PL7.

Flooding and Drainage

The site is within Flood Zone 1, the area at lowest risk of flooding. Use of the rear garden as hard surface parking would be detrimental to site drainage but given the scale of development this could be addressed by a condition if the application was approved.

Equalities

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

- “(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The above duties require an authority to demonstrate that any decision it makes is reached “in a fair, transparent and accountable way, considering the needs and the rights of different members of the community and the duty applies to a local planning authority when determining a planning application.” Officers consider that the application does not give rise to any concerns in respect of the above

CONCLUSION

The application site is not considered a suitable for location for the proposed use, due to the intensity of activity which would result, the restricted size of the building and the residential character of the immediate surroundings. The proposal conflicts with Development Plan policies which seek to preserve highway safety and residents’ living conditions.

It should also be noted that the statutory Certificate of Ownership required to accompany planning applications is incorrect in this case. Part of the application site as shown on the submitted location plan is within the ownership of the Highway Authority, not the applicant. Due to this, even if the application were approved the development could not be implemented.

RECOMMENDATION

That Committee resolve to refuse permission for the following reasons:

1. Due to the significant extent of overspill parking which would result from the intensity of the use and the inadequate amount of site parking, the proposal would result in extensive on-street parking which would significantly detract from the safety of all highways users in the area including pedestrian, cyclists and vehicles. It would cause a severe residual cumulative impact on highway congestion and movement. The proposal thereby conflicts with Policies IN2 and IN3 of the Harlow Local Development Plan 2020.
2. The proposed development would result in noise, disturbance and disruption which would significantly detract from the living conditions of the occupiers of neighbouring and nearby dwellings. The proposal thereby conflicts with Policy PL2 of the Harlow Local Development Plan 2020., arising from traffic generation
3. The application was not accompanied by a Biodiversity Net Gain assessment as required under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and in conflict with Policy PL9 of the Harlow Local Development Plan 2020.

INFORMATIVES

1. The Council offers a pre-application service to discuss development proposals and ensure that planning applications have the best chance of being approved. The applicant did not take advantage of this service. The local planning authority has identified matters of concern with the proposal and the report clearly sets out why the development fails to comply with the adopted development plan. The report also explains why the proposal is contrary to the objectives of the National Planning Policy Framework and local plan to deliver sustainable development.