



PLANNING COMMITTEE REPORT

TO: Planning Committee (North)

BY: Head of Development

DATE: 4 August 2020

DEVELOPMENT: Change of use from residential dwelling to mixed-use purposes comprising a residential living unit and as a community meeting facility. Demolition of existing structures and erection of part single storey, part two-storey rear extension with associated internal alterations and two-storey meeting hall with glazed link to proposed extension. Alterations to existing access and proposed car parking.

SITE: Stafford House Bonnetts Lane Ifield Crawley West Sussex RH11 0NX

WARD: Colgate and Rusper

APPLICATION: DC/20/0882

APPLICANT: **Name:** Hasnain Mohsin **Address:** Stafford House, Bonnetts Lane Ifield RH11 0NX

REASON FOR INCLUSION ON THE AGENDA: More than 8 letters of representation have been received within the consultation period raising material planning considerations contrary to the recommendation of the Head of Development.

RECOMMENDATION: To refuse planning permission

1. THE PURPOSE OF THIS REPORT

1.1 To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.2 Planning permission is sought in respect of a material change of use, alterations and extensions to Stafford House to form a mixed use residential unit and meeting centre serving the religious and social needs of the Shia Muslim community.

1.3 This application has been submitted following the dismissal of a planning appeal¹ made in relation to a previous refusal of planning permission in respect of application reference DC/18/1584.

1.4 The planning permission sought is identical, in terms of the proposed use, to that previously considered pursuant to reference DC/18/1584. The proposed physical alterations and extensions to Stafford House are similar to those previously considered, comprising of the formation of an Imam's flat at first floor level, a two-storey extension beyond the north-west elevation of the dwelling and a link-detached hall/meeting room.

¹ APP/Z3825/W/19/3226651 - (September 2019)

- 1.5 A lean-to car-port structure beyond the north-east of Staffords House would be removed, together with two detached storage sheds. An existing conservatory beyond the south-east elevation would also be removed; the removal of which was not previously considered in connection with DC/18/2584.
- 1.6 The proposed development would increase the gross-internal area (GIA) of Stafford House to 479m², relative to 176m² at present, and the gross-external area (GEA) to 189m², relative to 111m² at present. The proposal would provide for increased and enhanced community facilities, including three open-plan spaces for meeting, educational and worship purposes, dedicated male, female and disabled WCs, storage spaces, a communal kitchen-space and preparation room for bodies to be ceremonially washed and prepared prior to off-site burial.
- 1.7 The proposal would seek to widen the existing highway access onto Charlwood Road to the south-west, to replace existing hardstand areas (utilised for parking/turning purposes) with tarmac and to introduce 'Terram Geotextile' mesh sheeting infilled with shingle and seeded grass to grassed areas at the south-eastern extent of the site as an improvement to existing parking arrangements. Two metre 'close boarded' fencing is proposed to be provided to the full length of the site perimeter.
- 1.8 The proposal now before the Authority seeks to respond to the reasons for dismissal, providing further commentary as to the methods of acoustic assessment and analysis, in addition to providing clarification as to consideration given to alternative premises. Of note, the submitted information details that attempts have been made to secure alternative premises, along with consideration of an offer to purchase the neighbouring residential property (Daisy Cottage). An additional acoustic report has been commissioned that addresses the Inspectors comments, the existing conservatory to the side elevation is to be demolished and a 2 metre high close-boarded fence is to be erected to the north, east and south boundaries, along with conifers planted to the eastern side of the access, to 'bolster' the existing vegetation to screen the car parking area. In addition, a list of events and maximum attendee numbers in the calendar year for 2018 has been submitted, although this information was provided to the Inspector at the appeal stage.

DESCRIPTION OF THE SITE:

- 1.9 The application site comprises of Stafford House, a detached two-storey property occupying a generous plot situated to the east of the junction between Charlwood Road and Bonnetts Lane. The site benefits from a pre-existing access onto Charlwood Road, with vegetated boundaries (mainly within the highway verge) against Charlwood Road and Bonnetts Lane. A single dwelling (Daisy Cottage) is found to the adjacent north-east of Stafford House, with open-field land to the south and east of the site in addition to opposite across Charlwood Road.
- 1.10 The site is close to the administrative boundary of Horsham District, which lies some ~150m to the south-east, and is found within proximity to the neighbourhood of Langley Green within Crawley Borough. The site is found beyond a defined built-up area, as such, constitutes a countryside location in planning policy terms.

PLANNING HISTORY:

- 1.11 The application site has been subject to several applications in the preceding decade, with a previous use of the site for combined community and residential use considered pursuant to reference DC/11/1350. As outlined within the Committee Report dated 6 December 2011, this application sought permission for the use of the ground floor of the existing residential dwelling for occasional, low-key use, up to three days per week, for approximately 30 people. The supporting statement outlined that, in addition to the normal residential use of the premises (which would consist of the Imam's residence), the weekly events would comprise of Sunday School classes for children between 9am and 12pm one day per week, and two

weekday events for families on Tuesdays and Thursdays between 6pm and 9pm. As described within the supporting documentation, it was stated that an additional meeting may occur during 6pm and 9pm for special events and two one-day events during the months of Muharram and Ramadam within the Islamic calendar.

- 1.12 In connection with application reference DC/11/1350 it was concluded that the site was appropriately located relative to services and infrastructure within Crawley Borough, notwithstanding the remoteness to services and amenities within Horsham District, in a location appropriate to serve the Shia Muslim community. It was recommended, therefore, that permission be granted, subject to a legal agreement restricting the number of events, timing of events and number of attendees. This legal agreement was not signed, however, with the application being withdrawn.
- 1.13 Planning permission was subsequently sought under application references DC/17/1827 and DC/18/1854 for a comparable mixed residential-community use, though, with extensions to Staffords House and increases in the number and frequency of events relative to those considered in connection with reference DC/11/1350. The later of these applications (reference DC/18/1854) sought to overcome the stated reasons for refusal in connection with reference DC/17/1827 through the submission of additional documentation, including the submission of a Noise Survey and Assessment report (NSA).
- 1.14 Planning permission sought in respect of reference DC/18/1854 was refused on the following grounds:
"The change of use of the property as proposed, when considered in totality alongside the proposed extension, would result in an intensification of the use of the site to the detriment of the amenity of occupiers of the neighbouring properties and the rural character and nature of the locality. The proposal would therefore be contrary to policies 2, 25, 26, 32 and 33 of the Horsham District Planning Framework (2015)."
- 1.15 In dismissing the subsequent appeal the Inspector considered that insufficient justification, including the consideration of alternative sites, had been provided for an intensification of use in this location with reference to the limited harm considered to local character (Paragraph 24 of the appeal decision letter). The Inspector, further, considered that there were unresolved issues with judgements made by the appellant from the findings of the submitted Noise Survey and Assessment (NSA), and therefore insufficient justification in relation to noise impact had been provided (Paragraph 46 of the appeal decision letter). Overall, notwithstanding the recognised social and religious benefits to the Shia Muslim community, it was not considered such considerations would outweigh the degree of resultant harm, therefore, warranting the appeal to be allowed. (Paragraph 48 of the decision letter).
- 1.16 Following the dismissal of the appeal made pursuant to reference DC/18/1854, an enforcement notice has been served (reference EN/19/0433) requiring the cessation of the use of Stafford House as a meeting centre and place of worship, together with associated paraphernalia, and the return of the premises to use as a single dwellinghouse.
- 1.17 The proposal now before the Authority seeks to respond to the reasons for dismissal, providing further commentary as to the methods of acoustic assessment and analysis, in addition to providing clarification as to consideration given to alternative premises.
- 1.18 It is recognised that Section 70C of the Town and Country Planning Act 1990 bestows a discretion upon the Local Planning Authority to decline to determine a planning application where the grant of such permission would be in respect of any part of the matters specified within the enforcement notice as constituting a breach of planning control. It is, however, noted that the proposal now before the Authority entails some changes in terms of demolition of an existing conservatory and additional landscaping relative to the scheme previously

considered. Further justification for the proposal in direct response to the comments of the Inspector is additionally available. It is not considered that the discretion bestowed under Section 70C of the Act should operate to preclude the consideration of factors deemed of material relevance to the application previously determined, including in relation to the methods of acoustic assessment and consideration of alternative sites.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

- 2.2 The following Policies are considered to be relevant to the assessment of this application:

2.3 National Planning Policy Framework

2.4 Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 3 - Strategic Policy: Development Hierarchy
Policy 11 - Tourism and Cultural Facilities
Policy 15 - Strategic Policy: Housing Provision
Policy 16 - Strategic Policy: Meeting Local Housing Needs
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 35 - Strategic Policy: Climate Change
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 39 - Strategic Policy: Infrastructure Provision
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities
Policy 41 - Community Facilities, Leisure and Recreation

RELEVANT NEIGHBOURHOOD PLAN

- 2.5 The Pre-Submission Neighbourhood Plan underwent regulation 16 consultation between 24.02.2020 and 27.04.2020. An independent examiner has been appointed to review and test the Pre-Submission plan for soundness, and has recently sought clarification from the qualifying body and Council by way of a note received 29.06.2020.
- 2.6 As the Pre-Submission Neighbourhood Plan has not yet been formally tested for soundness against the National Planning Policy Framework (2019), and unresolved objections remain against individual policies of the emerging plan. It is, accordingly, considered that the relevant policies of the Pre-Submission plan would attract limited weight at this time.
- 2.7 The relevant policies of the emerging Neighbourhood Plan are listed below:-
RUS1 – Spatial Plan
RUS3 – Design

RUS5 – Green Infrastructure and Biodiversity
 RUS6 – Walking, Cycling and Equestrian Routes
 RUS8 – Landscape Character and Local Gaps
 RUS9 – Community Facilities
 RUS11 – Dark Skies
 RUS12 – Promoting Sustainable Transport

PLANNING HISTORY AND RELEVANT APPLICATIONS:

2.8	The most recent and relevant planning history relating to the site is as follows:		
	RS/37/58	Residential development at 2 houses per acre (From old Planning History)	Application Refused on 12.11.1958
	RS/35/93	Erection of annexe Site: Stafford House Bonnetts La lfield	Application Refused on 20.09.1993
	RS/8/94	Erection of 2 polytunnels and a farm store Site: Stafford House Bonnetts La lfield	Application Permitted on 18.05.1994
	RS/72/00	Variation of condition 4 of rs/8/94 to allow a garden/farm shop Site: Stafford House Bonnetts Lane lfield	Application Refused on 06.12.2000
	RS/11/01	Conversion of buildings to dwelling & garage retention of access removal of hardstanding to form paddock Site: Stafford House Bonnetts Lane lfield	Application Permitted on 11.04.2001
	RS/33/03	Double garage and workshop Site: Stafford House Bonnetts Lane lfield	Application Permitted on 27.06.2003
	DC/04/0227	Conversion and extension of building to form dwelling	Application Refused on 22.04.2004
	DC/05/0689	Change of use to HMO (used for rent to low income persons who rent a single room with ensuite facilities together with communal kitchen and eating facilities) and 2-storey extension.	Application Refused on 18.05.2005
	DC/05/1429	Change of use of land to airport parking for 55 cars	Application Refused on 01.09.2005
	DC/05/2353	Change of use from residential dwelling to bed and breakfast	Application Refused on 02.12.2005
	DC/05/2354	Retention of entrance gates	Application Refused on 30.11.2005
	DC/11/1350	Change of use to a mixed use comprising residential unit and meeting rooms	Application Withdrawn on 27.08.2014
	DC/17/1827	Change of use from residential dwelling to mixed used residential unit, religious meeting hall and place of worship. Erection of part single storey part two storey rear extension with associated internal alterations and two storey meeting hall with glazed link to proposed extension. Alterations to existing access and proposed landscaping.	Application Refused on 11.01.2018

DC/18/1584	Change of use from residential dwelling to mixed-use residential unit, religious meeting hall and place of worship. Demolition of various structures and erection of part single storey, part two storey rear extension with associated internal alterations and two storey meeting hall with glazed link to extension. Alterations to existing access and proposed car parking.	Application Refused on 09.11.2018
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3. OUTCOME OF CONSULTATIONS

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

INTERNAL CONSULTATIONS

3.2 **HDC Environmental Health: Comment**

Environmental Health noted that this new submission does not appear to present any new information for Environmental Health to consider. The Local Planning Authority was advised to rely upon previous comments made in connection with ref: DC/18/1584.

Comments made previously in connection with ref: DC/18/1584 are provided below:-

"The former Annex 1 to PPG23 Pollution prevention guidance (withdrawn in December 2015) advised that in respect of pollution (including noise) causing statutory noise disturbance, the test is not fixed, but relies upon consideration of a range of factors including the character of the locality. The granting of planning permission of any type may change the character of the locality, and therefore raise or lower the standard for statutory nuisance in the area. Statutory nuisance is not intended to secure a high level of amenity but is a basic safeguarding standard intended to deal with excessive emissions. Nuisance does not equate to loss of amenity; significant loss of amenity will often occur at lower levels that would constitute a statutory nuisance. It is therefore important for planning authorities to consider properly loss of amenity from emissions in the planning process in its wider context, and not just from the narrow perspective of statutory nuisance.

The Acoustic Assessment submitted, whilst adequate in theory, makes several assumptions and relies heavily on the proposed works being completed and mitigation measures being implemented at all relevant times.

If the change of use is to be approved, the following matters will need to be subject to condition:

- *Hours of construction limited to 08.00 – 17.00 Monday until Friday, 09.00 – 13.00 Saturdays and no activity on Sundays or Bank Holidays.*
- *No live, amplified or recorded sound shall be performed or played in the open air.*
- *Prior to the commencement of the use, full details of measures to ensure the sung/spoken prayers shall not exceed 90dBA within the premises including details of any volume control unit and the design of the speaker array. The information should be prepared by a competent person, and shall be submitted to and approved in writing by the planning authority.*
- *A management plan must be submitted to this authority and approved in writing for the day-to-day activities on site. This must include, but is not restricted to:*
 - *Traffic management*
 - *Limiting to a maximum number of 80 delegates*

- *Ensuring that the recommendations of the Noise Survey and assessment recommendations are adhered to, i.e. keeping certain doors and windows closed during prayer sessions, encouraging people to leave the site quietly.*
- *A management plan must be submitted to this authority and approved in writing for the night time vigils on site. This must include, but is not restricted to:*
 - *Traffic management*
 - *Limiting to a maximum number of 30 delegates*
 - *Ensuring that the recommendations of the Noise Survey and assessment recommendations are adhered to, i.e. keeping certain doors and windows closed during prayer sessions, encouraging people to leave the site quietly.*
- *A management plan must be submitted to this authority and approved in writing for the special activities on site. This must include, but is not restricted to:*
 - *Traffic management*
 - *Limiting to a maximum number of 80 attendees*
 - *Ensuring that the recommendations of the Noise Survey and assessment recommendations are adhered to, i.e. keeping certain doors and windows closed during prayer sessions, encouraging people to leave the site quietly.*
- *The storage of bodies on the premises prior to a funeral will require refrigeration plant which is not detailed in the application or the noise report. Details of any plant to be installed at the property must be submitted to and approved in writing before installation.*
- *A management plan for the storage of bodies must be submitted to, and approved in writing by the Authority."*

3.3 **HDC Environmental Health (Residential Team): Objection**

The Residential Team sought to raise concern regarding the internal arrangement of the imam's flat at first floor level with regard to means of escape and adequate protection from fire with regard to the provisions of the Housing Act 2004, Housing Health and Safety Rating System. It was, therefore, advised that the internal layout of the flat be altered so as to accommodate a compliant means of escape.

A scheme for noise insulation for the first floor flat, so as to limit noise transmittance to an acceptable standard, was further recommended

3.4 **HDC Arboriculture: No comments received.**

OUTSIDE AGENCIES

3.5 **WSCC Highways: No objection**

The Local Highways Authority (LHA) considered that the existing vehicular access was of sufficient geometry to accommodate the anticipated level of vehicular activity, accounting for the minor widening works proposed, with acceptable sightlines of 140m and 131m demonstrated to the west and east respectively.

The LHA considered that it would have been beneficial for more information to be provided in respect of anticipated trip-generation, however, the LHA further noted that the proposal is below thresholds requiring further technical highways assessment in the form of a Transport Statement, Travel Plan and Road Safety Audit. The Green Travel Plan submitted in support of the application was, however, considered concordant with LHA guidance for smaller businesses.

The LHA recognised that the site could accommodate up to the parking of 80 vehicles, with a degree of double-parking, though to an extent which was deemed manageable. The LHA noted that this parking capacity was previously deemed acceptable, and found no reason to reach an alternative conclusion.

In accordance with updated LHA parking standards² and the Government's 'Road to Zero' Strategy, it was considered that 12 active and 48 passive electric vehicle charging points should be provided to the development. Alternatively, justification should be provided for a lesser degree of provision.

Conditions were recommended to secure relevant details and the delivery of cycle parking facilities, access alterations and car-parking in addition to the implementation of the submitted Green Travel Plan.

3.6 Crawley Borough Council: No objection

Crawley Borough Council considered that the proposal would be located in a relatively sustainable location, with most members of the Shia Muslim community residing in Langley Green, a short distance from the application site. Subject to the implementation of a Green Travel Plan, as submitted, and a car-parking strategy the highways impacts of the proposal were considered acceptable in relation to Crawley.

It was, further, considered that the proposed facilities would support the Shia Muslim community, mostly residing within the administrative area of Crawley Borough, and that, therefore, the proposal would provide significant religious and social benefits to Crawley residents. Crawley Borough Council, further, advised that the Council were not aware of alternative sites available and suitable for the proposed use.

3.7 Southern Water: No comment.

PARISH COUNCIL CONSULTATION

3.8 Rusper Parish Council: Objection

On grounds of increased traffic within a rural locality, concerns regarding detrimental effects on neighbouring property, proximity to two-road junction and inappropriateness of development in a countryside location.

PUBLIC CONSULTATIONS:

3.9 235 letters of representation have been received in connection with the proposal, of which 175 sought to support the proposal and 59 sought to object to the proposal. A single letter, neither in objection to or support of the proposal was further received.

The main material comments received in support of the proposal can be summarised as:

- Proposal would support the needs and continued growth of the Shia Muslim community;
- Community has encountered difficulty attaining a permanent community facility for a period of approximately 3 decades;
- No other permanent community facility or place of worship for the Shia Muslim community is available in Crawley as an alternative;
- The proposed facility would be well-located relative to the community it would serve;
- The lack of a permanent facility has placed financial and logistical strains on the Shia Muslim community;
- Other religious facilities, of various faiths and denominations, are already present in the vicinity of the application site;
- The needs of the Shia Muslim community are separate and independent to the needs of the Sunni Muslim community, which is served by pre-existing facilities in the vicinity;
- The proposed facility would benefit education and youth development;
- The proposal would promote social cohesion and increase awareness and understanding of the Shia Muslim faith and community;

² West Sussex County Council – Guidance on Parking at New Developments (August 2019)

- Additional information submitted in support of this application overcomes previous objections;
- Noise mitigation measures are already in place to limit the degree of noise disturbance;
- Traffic management measures in place to regulate parking arrangements and maintain highway safety;
- Majority of members visit the facility by foot;
- Centre is used for worship for a short period throughout the year;
- Cooking and food preparation activities at the site are minimal;

The main material comments received in objection to the proposal can be summarised as:

- Concern regarding the proliferation of religious facilities in the area, of varying faiths and denominations. with regard to the cumulative effect of such development on highway safety/operation, local tranquillity and character;
- Concern regarding the effect of development on the rural qualities and character of Bonnetts Lane and its surroundings;
- Proposal would detrimentally affect the amenities of neighbouring occupiers in terms of overshadowing, overlooking, noise and odour disturbance;
- Insufficient need demonstrated for the proposed facility;
- Concerns regarding potential for external lighting and light intrusion;
- Potential for detrimental effects on local wildlife, protected species and biodiversity;
- Concerns regarding effects of development on local parking conditions, highway safety and operation;
- Concerns regarding noise impact of proposed use;
- Concerns regarding potential for increased pollution;
- Increased pressure on local services and amenities;
- Concerns regarding arboricultural impacts of proposed development;
- Insufficient detail as to flood risk and mitigation;
- Concerns regarding design quality and appearance of proposed built-development;
- Concerns regarding accuracy and reliability of hypothetical model of acoustic assessment;
- Parking layout within application site would appear impractical/impossible;
- No pedestrian footpath on Bonnetts Lane;
- Existing noise activities, including use of percussion, voice and loudspeakers is significant;
- Staggered arrangement of junction between Bonnetts Lane, Ifield Green and Charlwood Road is dangerous;
- Lack of detail on existing attendance numbers and lack of control over future attendance numbers;
- Non-compliance with spatial strategy and countryside protection policies of development plan;
- Few persons currently access site by foot or cycle;
- Impacts on disabled access via pedestrian footway on Charlwood Road;
- Proposal has not overcome previous reasons for refusal;
- Enforcement notice served on premises should be upheld;
- Concerns regarding accuracy and legitimacy of the applicants search for an alternative premises.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

- 6.1 The main issues in the consideration of this application are:
- The principle of development;
 - The effects of development on highway safety and operation;
 - The effect of development on the amenities of nearby occupiers;
 - The impacts of development on local character and appearance;

Principle of development:

Location:

- 6.2 The application site is located beyond a defined built-up area, constituting a countryside location for the purposes of planning policy. Sporadic residential, commercial and community development can be identified to the north and north-west of the site along Bonnetts Lane and Charlwood Road respectively, with an increase in built-development to the near south-east marking the urban-rural transition at the fringe of Crawley.
- 6.3 Policy 26 of the Horsham District Planning Framework (HDPF) seeks protect the countryside against inappropriate development. Proposed development must be essential to its countryside location, and in addition, support the needs of rural enterprise, promote quiet informal recreational use or enable the sustainable development of rural areas. Development proposals must not, either individually or cumulatively, result in a significant intensification of overall activity in the countryside and protect key features and characteristics of its respective landscape setting.
- 6.4 Policy 42 of the HDPF seeks to promote positive measures in support of a socially inclusive and adaptable environment, allowing for users to meet their long-term needs. Particular account will be given to the need to address the specific needs of minority, faith and community groups in addition to the needs of young people.
- 6.5 Policy 43 of the HDPF provides that new or improved community facilities will be supported to meet the identified needs of local communities. Policy 43, further, provides that sites located outside of defined built-up areas will be supported where this is the only practicable option and where a suitable site well-related to an existing settlement exists.
- 6.6 Paragraph 92 of the NPPF provides that planning policies and decisions should positively plan and seek to satisfy community needs through the provision of social, recreational and cultural facilities, including, meeting places and places of worship, in order to enhance the sustainability of communities and residential environments
- 6.7 The application site is remote from services and amenities within Horsham District, however, is proximate to the urban area of Crawley and the respective services and amenities provided within the neighbouring Borough of Crawley. As observed during the Officer's site visit the site is accessible from the neighbourhood Langley Green to the south by means of a metalled and street-lit pavement, where the majority of the centre's existing and expected users are understood to reside. The site is found in proximity to bus stops on Charlwood Road, with the '21 Metrobus' service appearing to serve on a two-hourly basis Monday-Saturday.
- 6.8 It is recognised that the site is located beyond a defined built-up area, though, as previously considered in connection with reference DC/11/1350 and by the Inspector in connection with the appeal pursuant to reference DC/18/1583 (paragraph 15 of the Inspector's decision letter), the proposal would be considered suitably located in terms of sustainable access and in relation to the community it would serve.

Intensity of use – local character and tranquillity:

- 6.9 This application is accompanied by a schedule of events and prayer meetings to be held at Stafford House, based on meeting/events held in 2018. This schedule suggests that the proposed facility would hold weekly prayer meetings on Thursday evenings (18:30-21:00), to be attended by some 75 persons including children, together with Friday afternoon prayer meetings (12:00-14:00) to be attended by not more than 30 persons.
- 6.10 The submitted schedule, further, lists additional events on a more occasional basis in celebration or commemoration with a greater anticipated attendance of 120-175 persons (indicated as approximately 62 events), often between the hours of 19:00 and 22:00 / 23:00, with two events listed as finishing at 00:00 and one event listed as finishing at 02:00. In addition, 7 events are listed on the schedule indicating an anticipated attendance of 250 persons; with timings of between 19:30 and 23:30, although one event is listed as finishing at 02:00.
- 6.11 As clarified within the submitted Design and Access Statement, the proposed facility will not hold daily prayer meetings in line with the core prayer times for Muslims, as would be expected of a Mosque. Furthermore, notwithstanding timings listed on the submitted schedule of events, the Design and Access Statement explains that it is the applicant's intention for the timings listed within the applicants suggested conditions to be considered.
- 6.12 The applicant proposes the use of the facility for community purposes be restricted to the hours of 07:30-23:00 Monday to Friday and 10:00-23:00 on Saturdays, Sundays and Bank Holidays. The applicant, further, proposes use of the premises for two overnight vigils per year, and that the use of the body preparation room not be restricted by means of an hours of use condition.
- 6.13 Relative to the proposal considered pursuant to reference DC/11/1350 the proposal would represent a significant intensification of use in terms of the anticipated number of attendees. The applicant, within the submitted Design and Access Statement, advances that there is no justification for a condition seeking to restrict attendance numbers, as to do so would convey no beneficial environmental effect or preserve the amenities of neighbouring occupants, with reference to the submitted Noise Survey and Assessment and anticipated visual effects of the proposed use.
- 6.14 As considered by the Inspector at paragraph 22 of the appeal pursuant to reference DC/18/1584, however, the increased intensity of use is not abstract and would result in an increase in comings and goings together with a significant number of vehicles parked at the site. The Local Planning Authority would not benefit from control over the upper-limit of attendees, which may or may not increase with time. The Inspector, consequently, considered that the intensity of use together with the visual effects of increased parking would prove uncharacteristic with the rural qualities and character of the application site and its broader setting.
- 6.15 In response to the comments of the Inspector the applicant has sought to reason that parking areas south-east of Stafford House would rarely be at capacity, that the increased number of vehicle movements would prove imperceptible in the context of the highway network and that the visual impacts of parking are overcome through the introduction of enhanced boundary treatments.
- 6.16 It is considered that the nature, frequency and intensity of the proposed use forms an integral part of the proposal to be assessed and directly informs an understanding of its resultant effects on local character. Policies 25 and 26 of the HDPF seek to ensure development takes account of the characteristics of its countryside setting, including tranquillity and sensitivity to change, and to avoid a significant increase in activity.

- 6.17 According to the details of events currently provided by the applicant, the proposed community centre would see regular attendance by up to 75 persons, with not infrequent further events for 120-175 persons often taking place over consecutive days. As the applicant has not ventured a maximum limit as to the number of attendees, true attendance figures could be higher or lower than as anticipated on the submitted schedule of events. The proposed hours of use, furthermore, would not limit the number or frequency of events or meetings, which could lawfully occur at any point during the consented hours of use were permission to be granted. Assuming that the submitted schedule of events is representative of the timing, frequency and anticipated event attendance, the intensity of such a use would be deemed significant.
- 6.18 Notwithstanding the visual impacts of the proposal, which will be discussed in a separate section of this report, it is not considered that the proposed use would prove so inconsequential so as to have no material effect upon the rural character of its setting. The timing of scheduled events would fall outside of 'peak' traffic hours, and likely to give rise to tidal vehicle movements involving the arrival and departure of vehicles shortly prior to and following scheduled meetings and events. While it is recognised that the applicant maintains the majority of expected users would arrive at the site by means other than the use of the private vehicle, and has submitted a Green Travel Plan to promote modes of sustainable transport, the Local Planning Authority would ultimately hold limited control over the chosen mode of transport by attendees. Given the anticipated number of attendees it would, in any instance, be expected that the proposed use would give rise to a significant number of vehicle movements, which would have more pronounced effect on local character during evening hours following 21:00 and 23:00 hours where events often come to a close.
- 6.19 Other than the effects of noise on the living conditions of neighbouring occupants, which will also be discussed in a separate section of this report, the proposal would likely affect some change in the character of the local acoustic environment. Comings and goings associated with the proposed facility, including vehicle movements, the opening and closing of car-doors and outdoor conversations would inevitably arise in connection with the proposed use. Pressure to use the outdoor spaces of the application site for meeting/community purposes may, further, arise during summer months, with it, overall, considered unrealistic that all noise activities would be contained within the built fabric of Stafford House or always mitigated against. As recognised by the Inspector at paragraph 44 in connection with the appeal pursuant to reference DC/18/1583 some recognition must be given to human fallibility, and the extent of mitigations which could be reasonably enforceable (with reference to the provisions of paragraph 55 of the NPPF).
- 6.20 It is, therefore, considered that the proposed use remains of a significant intensity which would result in conflict with policies 25 and 26 of the HDPF, which, *inter alia*, would seek to preserve the rural quality and character of the countryside.

Alternative sites:

- 6.21 In the determination of the appeal pursuant to reference DC/18/1583 the Inspector considered that insufficient substantive evidence had been provided to justify the intensity of use proposed in this location (Paragraph 24 of the decision letter).
- 6.22 In coming to this determination the Inspector recognised the difficulty the applicant had encountered in obtaining bookings suitable for religious adherences, and the inappropriateness of existing facilities catering for the Sunni Muslim community, who observe differing tenets and customs (Paragraph 23 of the decision letter).
- 6.23 Following from the appeal determination the applicant has sought to provide further evidence as to the alternative sites considered. In support of this application the applicant has provided details of a pre-application enquiry with Crawley Borough Council (reference CR/2018/8545/PRA, April 2019) where the neighbouring Authority indicated it would unlikely support a prospective use of an office building at Priestly Way as a meeting/religious meeting centre.
- 6.24 The applicant has, furthermore, provided various email/text correspondence with existing centres available for hire and regarding the acquisition of the neighbouring property, Daisy Cottage.
- 6.25 The response of Crawley Borough Council suggests that the neighbouring Authority is not aware of the availability of any suitable premises. A preceding response from Horsham Council Property Services in connection with reference DC/18/1583 suggested that the Council was unaware of any Council owned property available for the proposed use.
- 6.26 The further details and correspondence now made available to the Local Planning Authority is, however, far from comprehensive. Correspondence with existing off-site venues appears to be in relation to single hires, represents a very limited snapshot of potential correspondence and seems to suggest at least some availability elsewhere.
- 6.27 The submitted Design and Access Statement explains that the continued purchase of Daisy Cottage was considered to be unviable at the asking price sought, though, it is recognised that a representation received from the owners of Daisy Cottage has sought to call into question the accuracy of this version of events. In the absence of agreement the Authority is unable to comment on the reasons informing the breakdown of this process, though, it is considered unlikely that the Authority would come to an alternative conclusion as to the appropriateness of a use of this intensity in relation to the use of an adjacent site in the alternative.
- 6.28 With the exception of a single pre-application enquiry, it is considered that there is limited evidence or commentary available to the Authority to demonstrate the rigorous interrogation of possible sites for a permanent facility in either Crawley Borough or Horsham District in the alternative, including whether sites were discounted for reasons of availability, suitability or viability. Accordingly, it is not considered that the applicant has sufficiently demonstrated that the application site represents the only practicable option, for the purposes of consideration against Policy 43 of the HDPF.
- 6.29 Overall, it is accepted that the proposal constitutes a community facility which would support the needs of the Shia Muslim community. Policy 43 of the HDPF would operate to support such community facilities, though, such support is not unconditional, nor does this policy of the development plan operate to override any other aspect of the development plan, including policies 25 and 26 of the HDPF, which seek to ensure that development is appropriate in intensity, character and scale to its respective setting. Notwithstanding the location and proximity of the application site relative to the community it would serve, the proposal would represent a significant intensification of use, which would be considered detrimental to the

rural qualities and character of its respective setting contrary to policies 25 and 26 of the HDPF.

Visual Impact:

- 6.30 Policies 32 and 33 of the HDPF require development to be of a high standard of design and layout. Development proposals must be locally distinctive in character and respect the character of their surroundings. Where relevant, the scale, massing and appearance of development will be required to relate sympathetically with its built-surroundings, landscape, open spaces and to consider any impact on the skyline and important views.
- 6.31 As observed during the Officer's site visit the site perimeter is largely defined by means of fencing up to an approximate height of 1.8m, though, vegetation within the highway boundary affords a significant degree of screening from both Bonnetts Lane and Charlwood Road, with the site some distance set-back from the metalled highway. The proposal would seek to reinforce boundary treatments through the introduction of boundary fencing to 2m in height.
- 6.32 The proposed extensions to Stafford House are of a domestic character, appearing as a linked-outbuilding and two-storey extension to the main property. These extensions would constitute a significant increase in both the gross-internal area and footprint of Stafford House, though, are capably accommodated within the application site.
- 6.33 While the comments of the Inspector are noted at paragraph 22 of the decision letter in respect to the visual impact of proposed parking arrangements, it is not considered that the proposal would prove of material detriment to the visual amenities of its surroundings in compliance with policies 32 and 33 of the HDPF.

Parking, Highway Safety and Operation:

- 6.34 Policy 40 of the HDPF states that transport access and ease of movement is a key factor in the performance of the local economy. The need for sustainable transport and safe access is vital to improve development across the district.
- 6.35 Policy 41 of the HDPF stipulates that development must provide adequate parking and facilities to meet the needs of anticipated users, with consideration given to the needs of cycle parking, motorcycle parking and electric/low emission vehicles. Development which involves the loss of existing parking spaces will only be allowed if suitable alternative provision has been secured elsewhere or the need for development overrides the loss of parking and where necessary measures are in place to mitigate against the impact.
- 6.36 The proposal would make use of a widened pre-existing access and seek to provide enhanced parking facilities within the site through the provision of tarmacked hardstanding and membrane mesh allowing for the parking of vehicles to the south-east of Stafford House.
- 6.37 A Green Travel Plan has, further, been submitted seeking to encourage sustainable modes of travel to the site and car-sharing. The submitted plans detail the provision of cycle-parking facilities, though, do not detail active or passive provision for the charging of electric vehicles.
- 6.38 The Local Highways Authority (LHA) has reviewed the proposal and has sought to raise no-objection on highways grounds. The LHA considered that the proposal would not unacceptably impact on highway safety or result in a severe cumulative effect on the operation of the highway network. Off-street parking capacity for the proposed development was, further, deemed acceptable. Subject to the conditions as recommended by the LHA, which would secure the implementation and delivery of electric vehicle charging points, a Green Travel Plan and cycle storage, the proposal would be deemed compliant with policies 40 and 41 of the HDPF and considered that the Authority could not substantiate a reason for refusal on highways grounds.

- 6.39 It is recognised that concerns have been raised in respect of the informal parking of vehicles on the highways verge, in addition to the effects of such informal parking on disabled access and amenities of neighbouring occupiers. It is, however, considered that sufficient parking capacity has been demonstrated within the confines of the application site, accordingly, the proposal would be deemed compliant with Policy 41 of the HDPF in this regard.

Amenity:

- 6.40 Policy 33 of the HDPF *inter alia* provides that development will be required to ensure a design that avoids unacceptable harm to the occupiers/users of nearby property and land with sufficient regard to the sensitivity of surrounding development
- 6.41 Paragraph 127(f) of the NPPF provides that planning policies and decisions should ensure development creates places that are safe, inclusive and adaptable, promoting a high standard of amenity for existing and future users.
- 6.42 In dismissing the preceding appeal the Inspector disagreed with appellants argument that the proposal would not result in unacceptable harm to neighbouring occupiers, in terms of noise impact, as a matter of scientific fact (Paragraph 35 of the appeal decision letter).
- 6.43 The Inspector's report considers the submitted Noise Survey and Assessment in detail (paragraphs 25-46), raising individual concerns with the methods and models relied upon within the Noise Survey and Assessment to conclude that the proposal would not adversely influence the living conditions of neighbouring occupants. The Inspector specifically considered that individual and intermittent noise events, not accounted for within 'average' measurements, could result in intrusive noise likely to affect the behaviour of neighbouring occupants (paragraph 36 of the decision), the likelihood of increased disturbance arising in connection with larger events (paragraph 38 of the decision) and the methods relied upon to demonstrate an acceptable level of noise disturbance to occupiers at Daisy Cottage (paragraphs 40-42 of the decision).
- 6.44 In response to the stated reasons of dismissal, the applicant's consultant acoustician has provided a detailed commentary against paragraphs 25-46 of the Inspectors report. This statement seeks to provide additional clarification as to the standards and methods relied upon, though, further seeks to rebut the Inspectors considerations.
- 6.45 Assessment in the manner that he did, with the conclusions reached considered a reasonable and valid interpretation of the data available and of the effects of development on nearby occupiers.
- 6.46 Even were the Authority to find the Inspectors analysis invalid in respect of the calculations reached in respect of relevant daytime and night-time noise levels at the closest façade and within the bedrooms of Daisy Cottage, questions would remain as to the implications of increased numbers of attendees beyond the 70-80 persons in attendance during the survey, and the efficacy and fallibility of mitigation measures.
- 6.47 The proposal does seek to remove a conservatory beyond the eastern elevation of Stafford House in order to limit the escape of noise, and to limit main operational hours from 07:30-23:00 Monday to Friday and 10:00-23:00 Saturdays, with the exception of two overnight vigils per year. As is suggested within the submitted schedule of events the proposed use would likely see celebratory/commemorative events attended by between 120-175 persons on a more than occasional basis up until 23:00 hours, with attendees likely departing the site following this time, and overnight vigils to ~02:00/03:00 hours also anticipating the greatest attendance of ~250 persons. In the absence of certainty regarding attendee numbers it is not considered that conditions requiring the removal of the conservatory and seeking to control hours of use would necessarily mitigate noise impact to an acceptable standard.

- 6.48 The applicant has, further, suggested conditions seeking to ensure that windows within the northern elevation of Stafford House are kept close when the facility is in use for community purposes, and a condition requiring the submission and approval of a scheme seeking to manage the emission of noise such that the proposal would not contribute to the existing sound level. The former of these conditions was suggested to be unreasonable by the Inspector in the preceding appeal determination (paragraph 44 of the decision letter). The later condition is reliant upon the proposal not affecting a change in local sound conditions, which may not prove possible in operation were the development to be permitted.
- 6.49 Overall, while the Noise Survey and Assessment and further commentary received in response to the Inspectors report have been fully considered, it is not considered that the proposal now before the Authority constitutes a sufficient change in circumstance to warrant an alternative conclusion to that previously reached by the Inspector. It remains considered that the proposed development, entailing a significant intensification of use, and its associated noise impact would fail to adequately preserve the amenities of neighbouring occupiers from unacceptable harm, contrary to Policy 33 of the HDPF.

Conclusions and Planning Balance

- 6.50 The proposed development would constitute a community facility and would support the needs of the Shia Muslim community. It is recognised that there is a regional and local demand for such a facility, and it is understood that comparable existing facilities are some distance from the site in London. These considerations do attract positive weight in the planning balance.
- 6.51 The proposal, however, would represent a significant intensification of use, not essential to a countryside location which would detrimentally influence the character of its respective setting and the amenities of neighbouring occupants. It is, further, considered that insufficient justification has been provided to allow for a recognition of the application site as the only practicable option for the proposed use, for the purposes of Policy 43 of the Horsham District Planning Framework (2015). Overall, the proposal is considered contrary to policies 2, 25, 26 and 33 of the Horsham District Planning Framework (2015), with factors weighing in favour of the grant of planning permission not considered to outweigh the identified harm. It is, subsequently, recommended that planning permission be refused for the reasons outlined below.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 6.52 Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.
- 6.53 **It is considered that this development constitutes CIL liable development.** At the time of drafting this report the proposal involves the following:

Use Description	Proposed	Existing	Net Gain
District Wide Zone 1	378.9	145.3	224.6
	Total Gain		224.6
	Total Demolition		9

- 6.54 Please note that exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.
- 6.55 In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

7. RECOMMENDATIONS

7.1 It is recommended that the application is refused for the following reason:

1. The change of use of the property as proposed, when considered in totality alongside the proposed extension, would result in an intensification of the use of the site to the detriment of the amenity of occupiers of the neighbouring properties and the rural character and nature of the locality. The proposal would therefore be contrary to policies 2, 25, 26, 32 and 33 of the Horsham District Planning Framework (2015).

Background Papers: DC/11/1350, DC/17/1827 and DC/18/1584

Appendix 1: Appeal Decision Notice – APP/Z3825/W/19/3226651



Appeal Decision

Site visit made on 10 August 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2019

Appeal Ref: APP/Z3825/W/19/3226651

Stafford House, Bonnetts Lane, Ifield RH11 0NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Hasnain Mohsin of Millat-E-Jaffariya (registered charity No 295830) against the decision of Horsham District Council.
 - The application Ref DC/18/1584, dated 30 July 2018, was refused by notice dated 9 November 2018.
 - The development proposed is described on the application form as the 'use of premises for mixed use purposes comprising a residential living unit and as a community meeting facility for Shia Muslims'.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. There is a detailed planning history to Stafford House, as noted in the Council's officer report associated with application Ref DC/18/1584. I understand that the land associated with it was formerly more extensive, incorporating outbuildings which have subsequently become Daisy Cottage (the nearest dwelling to the appeal site, now in separate ownership). My decision, however, focusses squarely on the acceptability of the development proposed. It does not address whether or not any development undertaken or proposed to date was, or is, authorised. The exception is where that has a bearing on the acceptability of the proposal.
3. The Council explains that application Ref DC/11/1350 made in respect of the site previously was deemed to be withdrawn. I understand that resulted from the failure to agree the terms of an agreement under section 106 of the Town and Country Planning Act 1990 as amended (the '1990 Act') which would have set limits on the number of attendees and timing of the community use then proposed. The Design and Access Statement ('DAS') related to this scheme explains that was as a result of the potential for such restrictions to unduly fetter use of the premises relative to the varying needs of the community. As I understand it the authorised use of Stafford House is as a dwelling, albeit that it has been used for community events.
4. The DAS also advocates that the proposal be allowed 'without undue controls over activity levels and numbers of events etc.'. It would not be appropriate for me to seek to modify the development in such a way that would make it

substantially different from that set out in the application.¹ A condition has however, been advanced that would limit the times that community use and events may occur.² That is to accord with the approach taken in the Noise Survey and Assessment ('NSA').³ I will return to that matter. I note at this stage, however, that no similar limitation on the number of attendees has been suggested as acceptable.

5. I acknowledge some flexibility is necessary to provide for a community centre that would meet the needs of the Shia Muslim community, that the operation of churches may not be limited by planning conditions or obligations, and that there is a role for self-regulation with neighbours. On the first point there is a list of religious observances and community events before me, and the confines of the building would play a role in limiting the number of attendees. Whilst I accept the second point in general terms, no specific examples have been brought to my attention, and many churches and other religious establishments were established before modern planning requirements. Whilst uses often integrate or coexist without recourse to formal processes, the absence of limitations may, in itself, cause friction or poor relations between new and established uses (in the absence of clarity as to what is acceptable, or not).
6. The appellant explains, in counterpoint to some who have made representations, that the proposal is not for a mosque. Whilst both a mosque and the development proposed would likely represent a mixture of use classes D1 and C3, there is a terminological and cultural difference. A mosque potentially suggests a more intensive use, wider catchment area, and differential impacts (for example associated with calls to prayer). I have therefore used the appellants description of the proposed facility in their supporting statement, namely a community centre.

Policy context

7. Each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. Notwithstanding a review underway, in this instance the development plan includes policies of the Horsham District Planning Framework (adopted 27 November 2015, the 'HDPF'). Stafford House falls within the Parish of Rusper, close to the administrative boundary of Crawley Borough Council. The latter aligns with the River Mole a short distance away, around 170 metres to the south.
8. The Parish was, on 18 February 2016, designated as an area for the purposes of preparing a neighbourhood plan. However I understand that work is yet to reach a sufficiently advanced stage such that it may be accorded significant weight. I have also had regard to various other material considerations including the National Planning Policy Framework ('NPPF'), the Planning Practice Guidance ('PPG') and to the provisions of the Equality Act 2010 as amended (the '2010 Act'), notably section 149.
9. Policies in the development plan, and also those in the NPPF, pull in different directions. HDPF policy 42 'Inclusive Communities', criterion 6, sets out that

¹ Planning Practice Guidance Reference ID: 21a-012-20140306.

² Condition 1 of the Supplementary Statement supporting application Ref DC/18/1584.

³ Noise Survey and Assessment, undertaken by Acoustic Associates, Ref J2477, dated 17 July 2018.

particular account will be taken of the need to address requirements stemming from the 'specific needs of faith and other community groups'. HDPF policy 43 'Community Facilities, Leisure and Recreation' also broadly accords in-principle support to the provision of new or improved community facilities. NPPF paragraph 92 sets out how planning should plan positively for community facilities, including places of worship. Religion or belief is a protected characteristic under the 2010 Act, in respect of which steps should be taken to meet associated needs (section 149(3)(b)).

10. Nevertheless such support is not unqualified. HDPF policy 42 is prefaced with support being accorded to 'positive measures', with reference made in NPPF paragraph 92 to community facilities enhancing the 'sustainability of communities'. HDPF policy 43, criterion 2, expresses a preference for community facilities being located within built-up areas (other than where that is impractical), i.e. in line with the spatial hierarchy for the District set via HDPF policy 2 'Strategic Development'. Section 149(1)(c) of the 2010 Act sets out that I must have due regard to the need to foster 'good relations' between those who share a relevant protected characteristic and others.
11. Moreover no one element of the development plan, or of the NPPF, automatically outweighs any other. HDPF policy 2 seeks also to manage development around the edges of existing settlements, including to protect the rural character and landscape. That is amplified and effected via HDPF policies 25 'The Natural Environment and Landscape Character' and 26 'Countryside Protection'. The latter explains that 'any proposal must be essential to its countryside location' and that it should not lead to a 'significant increase in the overall level of activity in the countryside'. In brief HDPF policies 32 and 33 seek to ensure that development integrates appropriately with its surrounding context, visually and in respect of the living conditions of those nearby. As refined via the PPG in respect of noise in particular,⁴ NPPF paragraphs 170 and 127 similarly set out that planning should recognise the intrinsic character and beauty of the countryside and seek to ensure a 'high standard' of amenity for existing and future users.

Main issues

12. The main issues are whether or not it has been demonstrated that (i) the location proposed is justified, with particular regard to the effect of the development proposed on local character and appearance, (ii) the proposal would have an acceptable effect on the living conditions of the occupants of Daisy Cottage in relation to noise. If I find that harm would result in respect of either or both main issues, I will then gauge whether other material considerations are nevertheless sufficient to justify allowing the appeal.

Reasons

Location

13. Stafford House is a substantial detached property which appears turn-of-the-century in origin, or earlier, set within a spacious and broadly level plot of some 0.2ha. The property has been altered and added to over time, including via a conservatory projecting beyond its eastwards side elevation and a lean-to area to the rear extending close to the common boundary with the plot of Daisy

⁴ Notably Reference ID: 30-005-20190722.

Cottage. Stafford House is accessed via Charlwood Road, which to the south becomes Ifield Road (rather than via Bonnetts Lane). The former projects north-westwards into the rural surroundings of Crawley beyond the established extent of the town, broadly demarcated by the River Mole.

14. On account of the proximity of Crawley, and of Gatwick Airport to the north-east above Langley Green, there are various hotels and leisure uses, including other faith centres, relatively nearby. There is a pavement by the appeal site running to Ifield, streetlighting, and two well-served bus stops close by.⁵ However the appeal site is clearly beyond what is recognisably urban, where development becomes more sporadic. Charlwood Road here is flanked by established hedgerows and mature trees and therefore has a semi-rural character. There is an open field opposite the appeal site which, it appeared, is given over to grazing. There are only occasional buildings dotted about nearby northwards of the appeal site along Charlwood Road. Bonnetts Lane is essentially rural in character, being enclosed by vegetation and trees (and does not benefit from the connectivity or amenities of Charlwood Road).
15. I understand part of the rationale for the Council's in-principle support for application Ref DC/11/1350 was on the basis that the appeal site is 'appropriately placed' with reference to proximity to Crawley and in terms of accessibility.⁶ The appellant has also indicated that around 80% of the local Shia Muslim community reside in Langley Green, as opposed to other areas of Crawley.⁷ I note the concerns of nearby residents regarding the intensity of traffic and highway safety. However there is nothing to indicate other than that vehicular access to the site would be safe and suitable, improved access is proposed, and the appeal site is well set-back from the carriageway such that there is good visibility of oncoming traffic.⁸ Notwithstanding subsequent reasoning regarding potential numbers of attendees, the effects of additional vehicular movements associated with a community centre here given the surrounding context would likely be of little significance. In terms of accessibility, the scheme may reasonably be described as suitably located.
16. The proposal would entail significant alterations and additions to Stafford House in order to provide additional and better appointed space and facilities for gatherings, ceremonies and religious instruction. The lean-to area would be removed, as would certain outbuildings. The original building would be extended by way of a two-storey side extension projecting towards Bonnetts Lane. Via a glazed link that extension would connect with a new two storey building set forwards of the principal elevation of Stafford House.⁹ The footprint and ridgeline of the new building would be broadly comparable with those characteristics of the existing property, and would be set at an acute angle to it (responding to the curve of the appeal site by the adjacent junction). Permeable surfacing would be laid to enable around 80 vehicles to be parked on site, access widened, and boundary features and trees either retained or augmented.

⁵ Currently served by Southdown PSV's No 257 service, and Metrobus' No 2 (as detailed in the Green Travel Plan).

⁶ Council statement of case, paragraph 7.8.

⁷ Albeit that the source data for that map is not readily identifiable.

⁸ Plans 1574.3/01 and 1574.3/02.

⁹ I understand that would assume the function of a marquee that has previously been installed on site.

17. Stafford House is well set back within its plot such that it is only partially visible from Charlwood Road. The topography is relatively flat, and the appeal site bounded by mature trees and established vegetation. The extension and new building have evidently been designed so as to reduce their prominence and to tie in with the design of the existing property. They would be tucked towards the north-westerly boundary of the site, and the new building would partially obscure Stafford House as extended.
18. There are a range of property sizes nearby, and a number along Bonnetts Lane have a greater visual presence than would be the case of the development proposed (by virtue of their siting and less substantial boundary features).¹⁰ Whilst HDPF paragraph 9.18 sets out that rural areas of the District are important elements of its overall character, the appeal site is not within a landscape that is formally designated in that respect. On account of the transitory role the area plays relative to Crawley and its surroundings, most views of the development proposed are likely to be fleeting.
19. Nevertheless the proposal would substantially add to the floorspace and scale of Stafford House. The Council gives the extent of that change as from 176 sqm internal floorspace presently to 488 sqm proposed, an increase of some 277%. The appellant contends a more accurate metric is gross external area, which is instead stated to be 239 sqm presently compared to 491 sqm proposed (still more than double, representing an increase of some 105%).
20. That is notwithstanding that I am told that the previous application Ref DC/11/1350 was made on the basis that the ground floor of the premises 'was adequate to serve the needs of the community, and that it was likely that no more than 30 people would use the property at any one time'.¹¹ As the development proposed would project closer to Charlwood Road near a bus stop with widened access, the increased bulk resulting from the scheme is nevertheless likely to be perceptible. That would inevitably reduce the openness of the site, thereby impinging upon the contribution that the appeal site has to the semi-rural character around Crawley. However those physical changes would, in themselves, be slight and are therefore not determinative.
21. Nevertheless the proposal would enable a significant increase in the intensity of use likely to occur here, or to be able to occur. That is whether considered relative to the established use of the site or the proposal in 2011 referenced above. The list of events before me gives attendance typically of around 30 to 75 individuals. However that number rises to 120 in several instances, to 175 in relation to others, and to 250 on a very few occasions. As noted above the appellant has not ventured an upper limit in terms of attendees, and the number of attendees may increase in time (or not).
22. That increased intensity is not solely numerical or abstract. It will result in an increase in comings and goings at a relatively prominent juncture of the highway network, as well as a significant number of vehicles parked within the appeal site at any one time. That will have a visual effect out of character with a rural, or in this case semi-rural, location which is inherently more tranquil; I was unable to identify other sites nearby where such extensive parking is

¹⁰ Including Maxey Cottage, Wester House and Parkholme.

¹¹ Council statement of case, paragraph 7.10.

located as close to a pavement as is proposed here.¹² The other instances of more prominent buildings referred to above along Bonnetts Lane appeared to be dwellings, or originally such, with commensurate levels of parking. The intensity of use combined with visual effects would be uncharacteristic, particularly in contrast to the open fields opposite and nature of Charlwood Road and Bonnetts Lane described above.

23. As set out above HDPF policy 43, criterion 2, expresses a preference for community facilities being located within built-up areas (other than where that is impractical). HDPF policy 25 acts as a counterpoint in explaining that 'any proposal must be essential to its countryside location'. I acknowledge that Millat-E-Jaffariya has searched for some time for a permanent facility, as opposed to renting other spaces with associated difficulties in securing bookings sufficiently flexible to align with religious observances. Notwithstanding the representations of some, I also note that other facilities in and around Crawley cater principally for Sunni Muslims, who hold different tenets and observe differing customs.
24. However there is no substantive evidence before me of the other locations or facilities that have been considered relative to this proposal and discounted for whatever reason (whether that is their practical availability, or financial viability), for example those more centrally located within Langley Green. Aside from brief references in the DAS and supporting supplementary statement, there is no thorough explanation of the actions taken to identify potential alternatives over time. The evidence before me falls short of justifying the intensity of development proposed in this particular location in planning terms with reference to the harm, albeit limited, to local character that would result. I therefore conclude that the location of the proposal conflicts with the relevant provisions of HDPF policies 43 and 26.

Daisy Cottage, noise

25. Any use has the potential to generate noise, however some have greater potential than others. By consequence there are separate provisions for addressing noise which amounts to being prejudicial to health or a nuisance.¹³ The appellant aptly describes such provisions as a 'backstop'. However noise and disturbance may still be adverse without being so severe as to amount to a statutory nuisance, and therefore also relevant to planning.
26. Development plan policy 33 'Development principles', amongst other requirements, sets out that development shall not result in 'unacceptable harm to the amenity of occupiers/ users of nearby property and land', including in respect of noise. Similarly paragraph 170(e) of the NPPF sets out that planning should avoid individuals being subject to 'unacceptable levels' of noise. The PPG explains how noise which affects the behaviour of neighbours in ostensibly minor ways should be mitigated and reduced to a minimum.¹⁴ Industry-standard metrics assist in that respect. However, inevitably, they cannot account for the character of a particular environment. Even relatively small changes in the surrounding context may have a significant perceptive effect.

¹² Generally parking provision is more substantially set back from the highway network, such as at Trivells Hotel to the west or by Crawley Rugby Club to the south, mitigating its effect on character.

¹³ Under the Environmental Protection Act 1990.

¹⁴ Reference ID: 30-005-20190722

27. The nearest facing elevation of Daisy Cottage is some 12.5 metres away from a brick wall topped with close-boarded fencing demarcating the boundary with Stafford House. That would provide for some degree of attenuation. The space between it and Daisy Cottage is largely driveway, with outside space around that property on all sides. The nearest elevation of Daisy Cottage contains no windows, albeit that the appellant's NSA has modelled, theoretically, a window in that location. That is a precautionary approach, noting that there is a casement and vent window serving a living room close by a the south-eastern elevation of Daisy Cottage (from which a line may be drawn at an acute angle to the rear elevation of Stafford House).
28. The NSA indicates that, between 1800 on 8 June 2018 and 1200 on 14 June 2018, the L_{90} background daytime and night time (2300-0700) sound level recorded here was 48 dBA and 34 dBA respectively. The former is relatively high, reflecting in part the surrounding context of Charlwood Road, Bonnetts Lane and Gatwick Airport. Those are averages drawn from 15 minute periods or increments of study; figures two and three of the NSA, however, show that many individual increments were significantly above that level.
29. With reference to British Standard 8233:2014 Guidance on sound insulation and noise reduction for buildings ('BS8233'), the NSA explains that guideline values for noise experienced in living rooms and bedrooms during the day should be 35 $L_{Aeq,16hr}$ (dB), falling to 30 $L_{Aeq,16hr}$ (dB) during the night for bedrooms. The comparable values for acceptable levels of noise in external amenity space are given as between 50 and 55 $L_{Aeq,T}$ (dB). I note that BS8233 figures are averages over a longer, or different, time period than 90 minutes used in the NSA. Therefore the latter gives a more sensitive analysis than indicated by standard metrics.
30. However the figures given above appear to be for 'continuous anonymous noise'. That is noise generated by sources such as road traffic, which inherently draws the attention less than music, speech or intermittent sounds. The community centre would primarily generate the latter. In such circumstances BS8233 recommends that the noise criteria referred to above should be reduced, the NSA adopting a 5 dB reduction in that context. The NSA further states that Annex G of BS8233 suggests that, if windows are partially opened for ventilation, 'the insulation of the building envelopment would be reduced to approximately 15dB'.
31. Within the acoustic study period, Stafford House was used for evening prayers and a shared meal, which included amplified sound. Measurements were taken more frequently during that event in recognition of potential fluctuations in sound intensity, i.e. in five minute increments. Measurements were taken in positions ST1 and ST2 shown in NSA appendix A.¹⁵ NSA section 3.3 gives the results of the short-term survey, whereby the level varies at ST1 between 52 and 54 dBA, with a peak five minute interval reading of between 52 and 56 dBA.
32. The comparable figures for ST2 vary respectively between 47 and 49 dBA with a peak five minute interval reading of between 49 and 52 dBA. Applying the highest five minute interval figures via computer modelling, the NSA explains

¹⁵ Adjusted to be free-field, i.e. to discount the effect of sound reflection from nearby surfaces.

that the closest façade of Daisy Cottage would be subject to noise of around 37 dBA directly resulting from the community use of Stafford House, with the reading at the nearest façade containing a bedroom window being 35 dBA. With 15 dB of attenuation from a partially open window the resultant sound levels experienced within Daisy Cottage are given in section 4.3 of the NSA as $L_{eq,5min}$ 22 dBA and 20 dBA.

33. Those figures are below the 35 $L_{Aeq,16hr}$ (dB) recommended in BS8233, even if adjusted by 5 dB for intermittent rather than anonymous noise. The NSA further contends that because of the differential between the observed L_{90} background daytime sound level of 48 dBA and night-time figure of 34 dBA, any noise resulting from activities in Stafford House would effectively be effaced by that which is already present. Using a logarithmic calculation, the NSA forecasts that the use of the site for parking of 80 vehicles, potentially a rare occurrence, would increase the noise generated by 4 dB at most, thereby resulting in noise at the façade of Daisy cottage of around 41 dBA and 39 dBA.
34. Certain measures to mitigate the potential effects of noise have also been suggested. The development proposed would effectively draw the community use further away from Daisy Cottage, including via removal of the lean-to structure (which I am told is used from time-to-time for food preparation presently). An internal door to the conservatory would be provided, and there would be greater sound attenuation by virtue of the design and location of the hall/ meeting room forward of the principal elevation of Stafford House.
35. The NSA also advances that for the women's meeting room, I understand intended to be within Stafford House as it stands and as extended, additional measures could be taken in respect of requiring speakers to face in a certain direction, limits on sound amplification and that 'doors windows to the northern façade would need to remain closed and only used in the event of an emergency'. Subject to those measures, the appellant contends that it has been demonstrated 'as a matter of scientific fact' that adverse effects would not arise, in terms of noise, to the occupants of Daisy cottage. I disagree.
36. Not unreasonably the NSA is reliant on average noise measurements, whether over 15 or 5 minutes periods. Inevitably that cannot account for episodic noise likely to arise in practice, for example vehicle manoeuvring, entering and exiting vehicles, and conversations within the grounds of Stafford House (all of which have the potential to exceed the observed background sound level of 48 dBA and potentially the highest 5 minute average of 56 dBA recorded at position ST1 in the short term study). As noted in BS8233 intermittent noise, particularly that related to speech, inherently diverts attention. There is no substantive justification before me as to why a noise reduction figure of 5 dB in reflection of those differential qualities is appropriate, as opposed to another figure. Notwithstanding averages, in my view, the proposal has the potential to result in occasional intrusive noise, i.e. that which is likely to affect the behaviour of the occupants of Daisy Cottage.¹⁶
37. To some extent the NSA is also self-referential. As set out in section 3.2, the long-term measurement of baseline noise levels here occurred during a period where events were held at Stafford House. The 'background sound level' of 48

¹⁶ With reference to PPG Reference ID: 30-005-20190722.

dBA therefore appears to take account of noise already arising from community use. It cannot reasonably be argued that the noise generated from the development proposed is inherently justified relative to a background position which already is already subject to some uplift from community use.¹⁷ Moreover the positions for monitoring long-term noise measurements and short term measurements are not the same, such that the figures are not directly comparable.¹⁸

38. The NSA study period included an event attended by some 70 to 80 people, which I am told is typical of numbers. However the list before me detailing the anticipated schedule of events and attendees, indicates that although attendance at regular prayers is predominantly estimated at around 30 to 75 individuals, that number rises to 120, 175 and 250 on certain occasions. Those numbers are inconsistent with the NSA, and I have set out above that the proposal would represent a significant increase in intensity of use, without limit on the number of attendees. The potential for noise and disturbance is likely, although not precisely, to increase in line with the number in attendance.
39. Based on that list, most events would occur between 0630 and 2200, although occasional events would run as late as 0300. Some community use is therefore proposed to occur during the night-time, i.e. outside of 0700 to 2300 as defined in the NSA. The appellant has suggested foregoing community use commencing before 0700, notwithstanding that may fetter the ability to use the facility flexibly (as was unresolvable in respect of the 2011 application). There is some merit in that suggestion, and I acknowledge that fewer individuals would attend events such as vigils extending into the night than other events, thereby moderating the potential for adverse effects to arise.
40. However, within the terms of the NSA, the baseline figure that should be sought of bedrooms during the night is 30 $L_{Aeq,16hr}$ (dB), reduced by 5dB to 25 $L_{Aeq,16hr}$ (dB) on account of the quality of noise that would result. I am told, based on modelling software that with a 4 dB increase resulting from additional parking, the noise at the façade of an elevation containing a bedroom window of Daisy Cottage would likely be 39 dBA. Appreciating that noise is measured on a logarithmic rather than linear scale, within the terms of the NSA the resultant level, even given 15 dB of attenuation from a partially open window, would result in an expected internal sound level in a bedroom of Daisy Cottage of 24 dB. Whilst episodic, that is at the threshold of acceptability, particularly noting my reasoning above regarding the concerns I have with the premise of the NSA (in terms of the numbers of attendees and justification for a 5 dB intermittent noise reduction).
41. Furthermore the 15 dB attenuation provided by a partially open window referenced in Appendix G of BS8233 relates to a worked example, as is indicated by the word reduced 'to' rather than 'by'. The associated footnote explains that circumstances may 'vary significantly depending on the window type and the frequency content of the external noise'. In my view it cannot consequently be applied as prescriptively as the NSA suggests.

¹⁷ In that context, incidentally, the use of the term 'background noise' does not fully reflect that such a measurement will have included intermittent noise as well as continuous autonomous noise.

¹⁸ That may cut both ways as the long term measurement position set out in appendix A of the NSA is furthest from the proposed parking area within the appeal site, but also closer to Bonnetts Lane and therefore likely to be affected by greater noise from passing traffic.

42. I accept that the main area of garden space associated with Daisy Cottage lies other than immediately adjacent the common boundary with Stafford House. Nevertheless peak five minute interval readings for modelling point ST2 next to the boundary between the two properties reached as high as 52 dBA, compared to the assessed baseline of 48 dBA. Whilst the boundary wall, fence and distance would provide some attenuation, when a 5 dB reduction for intermittent noise is applied that level of noise exceeds the 50 to 55 $L_{Aeq, T}$ (dB) recommended for external amenity space (albeit with the recommended time (T) unspecified in that instance).
43. There is some contextual noise from highways and Gatwick Airport; at the time of my site visit planes were taking off broadly east to west, with the flight path tracking close by. However in my view, whilst clearly audible, flights and vehicle movements are part of the baseline auditory context to the site by virtue of their mechanical white-noise quality. They are therefore likely to be less significant than the peaks and attention-directing qualities of noise likely to arise by virtue of the development proposed. I also note that Daisy Cottage falls in the direction of the prevailing wind, which is not the case of Gatwick Airport to the north-east. That may have some differential effects in terms of carrying sound.
44. Mitigation could reduce the potential for adverse effects. However such measures are reliant on a number of actions being taken on a day-to-day basis, many of which are unlikely to be adhered to simply by virtue of accident or human fallibility, others are likely to be unenforceable, and some are unreasonable.¹⁹ In the first category fall actions such as ensuring amplification is directed away from Daisy Cottage. In the second are proposals such as ensuring that the internal door to the conservatory remains shut, and that noise limits in respect of amplification are adhered to. Requiring that all eight north facing windows and both doors in that elevation are closed other than in emergencies would likely be unreasonable, for example by limiting natural ventilation during hot weather.
45. There are various factors that would, or if implemented via appropriately-worded conditions were the development otherwise acceptable, mitigate the potential for adverse effects to result to the occupants of Daisy Cottage in relation to noise. However for the above reasons, given the unquantified intensity that would result from the proposal, and the shortcomings with the evidence before me, it has not been demonstrated that the proposal would ensure a high standard of amenity. By contrast the proposal has the potential to result in intrusive noise which cannot in my view be suitably mitigated or reduced to a minimum based on the evidence before me. I therefore conclude that the proposal would conflict with the relevant provisions of HDPF policy 33 and NPPF paragraph 170(e).
46. The appellant further contends that the Council objected to the scheme on unfounded grounds, or gave scant consideration to NSA, notwithstanding that the onus is generally on the appellant to provide sufficient evidence in support of a proposal.²⁰ That is effectively a challenge to their substantive handling of

¹⁹ Notwithstanding the appellant's position that all comply with the requirements in NPPF paragraph 55.

²⁰ Section 62(3)(b) of the Town and Country Planning Act 1990, subject to section 62(4A).

the case. However inherent in my reasoning above is that there are unresolved issues with the NSA, not intrinsically in its own terms, but in the judgements placed upon its findings in so far as they relate to justifying the development proposed. Similarly the appellant's argument that the proposal is better situated here than in a more close-knit urban location, where there is the potential for adversely affecting a greater number of individuals, effectively argues against the proposition that the scheme would be acceptable. Moreover, as set out above, there is limited evidence before me of the consideration that has gone into alternative locations.

Other matters

47. There are many representations before me attesting to the value of the space proposed and of the work of the Charity since its establishment in 1987.²¹ I accept the practical challenges entailed in securing appropriate facilities, understand that the nearest comparable centre is quite some distance away in south London, and acknowledge that the proposal would clearly be beneficial to the Shia Muslim community in terms of provision to enable religious observances and celebrations. I do not treat those benefits lightly. In theory adverse effects on local character and to living conditions may, on balance, be acceptable in the event that there is robust justification for development being necessarily situated in a particular location.
48. However in this instance, that is not the case. There are shortcomings with the justification for the intensity of the community centre, its potential effects in respect of noise to the occupants of Daisy Cottage, and little of substance before me in respect of alternatives in support of this proposal being essential within the terms of HDPF policy 26. I cannot therefore reach a finding that the other material considerations in favour of the proposal are sufficient to outweigh the harm that would result.

Conclusion

49. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and all other relevant considerations including the provisions of the 2010 Act and the representations made in respect of the proposal, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

²¹ Including from the Prevent Co-ordinator of Crawley Borough Council who refers to there being extremely limited community centre availability in the area.