

Planning and Rights of Way Panel 6th June 2023
Planning Application Report of the Head of Transport and Planning

Application address: 2 Victoria Road, Southampton			
Proposed development: Change of use from retail to a learning centre and religious worship (class F) (Retrospective)			
Application number:	22/01716/FUL	Application type:	FUL
Case officer:	Stuart Brooks	Public speaking time:	15 minutes
Last date for determination:	03.05.2023	Ward:	Woolston
Reason for Panel Referral:	Five or more letters of objection have been received	Ward Councillors:	Cllr Blatchford Cllr Payne Cllr Ugwoeme
Referred to Panel by:	n/a	Reason:	n/a
Applicant: Mr Yonus Yorulmaz		Agent: NA Planning Ltd	

Recommendation Summary	Conditionally Approve
-------------------------------	------------------------------

Reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (2021). Policies –CS3, CS13, CS18, CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP4, SDP5, SDP7, SDP9, SDP10, SDP11, SDP16, L5, REI4, REI5, REI8 of the City of Southampton Local Plan Review (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	List of activities

Recommendation in Full

Conditionally Approve

1. The site and its context

- 1.1 The application site occupies the ground and basement level of the premises and has a floor area of 100sqm, located within a commercial parade forming part of Woolston District Centre. The street is designated as secondary retail frontage under policy RE14 of the Local Plan Review. The site was formerly an off-license business until 2017, when it was converted into a centre for worship and learning, the subject of this retrospective planning application. There is a first floor flat above the premises with its own separate access from Victoria Road.
- 1.2 The district centre is served by public car parks including Woodley Road and Oakbank Road. The district centre has a broad mix of retail, food & drink, and professional service-related businesses. The street frontage glazing of the dentist surgery on the corner of Portsmouth Road (2a Victoria Road) is treated with an opaque film for customer privacy, whilst views inside the adjoining betting shop are obscured by shop window advertising boards.

2. Proposal

- 2.1 This application seeks retrospective permission for use as a centre for worship and learning (use class F) (see **Appendix 2** for a timetable of activities), and has been operating at the premises for the last 6 years. The external works to facilitate the conversion comprised of a minor change to the shopfront window layout, whilst the windows are dark tinted. The pedestrian access route to the rear of the site (from Woodley Road) was recently closed off by the adjoining landowner (Chinese restaurant at no. 4 Victoria Road), so the site is only physically accessible from the shopfront door on Victoria Road. The premises has no off-road parking facilities however visitors have access to local car parks in the district centre.
- 2.2 The premises provides a local centre for religious worship and learning opportunities for children and adults based around the Muslim faith. The applicant has confirmed the opening times between 12:30 to 22:30 Monday to Sunday, however, flexibility could be given to operate and hold community activities earlier in the day (from 10:00) in line with business opening hours in Woolston district centre (see **Appendix 2** for list of daily activities). On this basis the proposed conditions have opened the approved hours to include 10am as a start. The applicant has confirmed there will be a maximum of 40 persons at any one time using the premises (see condition 1). The largest congregation allows for the greater demand during the month of Ramadan in March/April. In contrast, other Mosques in the city, such as the Bashir Ahmed Masjid in Portswood (96-100 Portswood Road), is much larger scale accommodating up to 800 worshippers at any one time. The premises is split over 2 floors with an external staircase to the rear providing access to the basement. There is a small sized kitchen available to prepare snacks and

hot drinks like most community centres.

3. **Relevant Planning Policy**

3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.

3.2 The National Planning Policy Framework (NPPF) was revised in 2021. Paragraph 219 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4. **Relevant Planning History**

4.1 There is no relevant planning history.

5. **Consultation Responses and Notification Representations**

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (expired 07.04.2023). At the time of writing the report **126 representations** have been received including 84 objectors and 42 supporters. The following is a summary of the points raised:

OBJECTION comments

5.2 ***The proposed use is out of keeping with the shopping area and there is a need for more shops to serve the community. The loss of retail frontage will cause a loss of retail vitality and employment. This impact will add to the further decline of the centre given the lack of investment. The preference would be to use the premises as retail.***

Response

The proposed use has operated in the district centre for the last 6 years. There are a mix of typical high street, food & drink, and retail uses within Woolston district centre. The addition of the community use is not considered to significantly or negatively change the vibrancy and economic vitality of the district centre, whilst it attracts visitors to the district centre. This worship and learning centre is a community facility which is available to meet the day to day needs of the local and wider community. Saved policy REI5 of the Local Plan indicates that uses offering a direct service to the

public can be supported in the District Centre.

- 5.3 ***Impact of increased traffic will cause congestion, road safety problems, and parking pressure to roadside/car parks within the district centre and further disrupt the one-way system and displace from resident parking in nearby permit controlled streets, and make accessibility more difficult for people with mobility issues and unloading for businesses by affecting roadside parking in Victoria Road. This will impact will negatively affect retail businesses in Woolston. The recent McDonalds planning application was refused on the basis of parking and traffic impact on the district centre.***

Response

The highways team have raised no concerns regarding highways safety impact. There are public car parks available in the district centre to minimise the use of roadside parking. The centre is limited to a maximum attendance of 40 persons at any one time so this will limit the traffic impact. Given the accessible location, there are alternative sustainable transport options to discourage car travel. The McDonalds drive thru application in 2017 at the housing office site, Portsmouth Road (ref no. 17/00853/FUL), was not refused by the council on highways safety, traffic, or parking grounds.

- 5.4 ***There is not a demand for this population in Woolston and there are other religious centres already available elsewhere in the city. The centre would not benefit the greater need of the local community.***

Response

The planning assessment is focused on the land use issues associated with a place of worship/learning centre. This does not include judgements on faiths or assessment need for the type of worship facilities within the community. This religious and learning centre would form part of a wide range of facilities within the District Centre to meet the needs of the community. The District Centre offers a range of retailing facilities, however its role extends beyond the purely shopping function and diversity of use is required in order to sustain and enhance its vitality and viability.

- 5.5 ***There is no legal right of way for rear service to the premises.***

Response

The applicant does not have a right of way along the private access track from Woodley Road, however, they have served the requisite notice on the landowners affected. Since the submission of the application, the adjoining landowner has blocked the route across their land (no. 4 Victoria Road) removing physical access to the rear of the site from the private track, so there is no longer safety and security issue regarding the access into the premises. The disputes regarding access rights across the neighbouring land is a civil matter enforced outside the planning system and this proposal is acceptable with the single point of entry from Victoria Road.

- 5.6 ***Noise level of children playing the rear area can be excessive. There have been incidences of crowds of men congregating on the footpath outside the premises which felt intimidating and unsafe for passers-by.***

Response

The Environmental Health team have raised no objection to the noise impact of the proposal given the small scale and hours of the use, and they have confirmed no noise complaints have been received in the 6 years it has been operating. The noise impact from the nature and scale of activities associated with the worship and learning centre is appropriate for a commercial unit of this size and the high street context. The 40 person occupancy limit on the number of attendees will limit the noise disturbance impact to neighbouring occupiers in terms of comings and goings and the activities taking place inside the premises. As recommended by the Environmental Health team, a premises management plan should be agreed under condition 3 to manage noise related issues such as dispersal of congregations, keeping windows & door shut, and use of the external area to the rear. The use of amplified sounds will be restricted by condition 4. The noise of children playing to the rear is not considered harmful having regard to the occupancy limits, hours of operation and existing background noise levels and character of the District Centre.

Comments in SUPPORT

- 5.7 ***There is sufficient public parking available in the local area to cater for the demand of the proposed use. Many of the users are local so travel by foot. The local facilities reduces traffic having to go through the city centre to reach centres elsewhere.***

Response

The highways team have raised no concerns regarding highways safety impact. There are public car parks available in the district centre to minimise the use of roadside parking. Given the accessible location, there are alternative sustainable transport options to discourage car travel.

- 5.8 ***Religious centres should not be judged in terms of their faith. The centre would be a positive step for the community, increase the resilience and strength of the community, and promote inclusivity and diversity in the area. It is the only mosque on the eastern side of the city. It offers opportunities for families, children's education, youth programme, and activities for muslim ladies.***

Response

The planning assessment is focused on the land use issues associated with place of worship/learning centre. This does not include judgements on faiths or assessment need for the type of facilities within the community.

5.9 ***The re-use of the vacant building has benefited the local shopping area. The centre has operated for many years without any problems. People visit local shops while they wait for their children and this helps the local economy and businesses. The users are respectful to their neighbours, shops and residents surrounding it.***

Response

The proposed use has operated in the district centre for the last 6 years. There are a mix of typical high street, food & drink, and retail uses within Woolston district centre. The addition of the community use is not considered significantly or negatively change the vibrancy and economic vitality of the district centre, whilst it attracts visitors to the district centre. The worship and learning centre serves members of the local community.

Consultation Responses

Consultee	Comments
Highways Development Management	No objection
Environmental Health	<p>Environmental Health have no major concerns as we have received no noise nuisance complaints. The hours of intended opening are deemed appropriate especially as the attendees will be relatively low in number. As with most of these types of application/use the key is in the management of the activities at the premises - so they will need to have a noise management plan in place to consider closure of windows and doors, volume of any amplified music or voices, and so on</p> <p><u>Officer Response</u> <i>It is recommended that a management plan is secured under condition 3 following further consultation with the applicant to understand their operating model.</i></p>

6.0 Planning Consideration Key Issues

6.1 The key issues for consideration in the determination of this planning application are:

- The principle of development;
- Design and effect on character;
- Residential amenity;
- Parking highways and transport

6.2 Principle of Development

6.2.1 The National Planning Policy Framework (paragraph 93) requires the local planning authority to plan positively for community facilities such as places of worship to enhance the sustainability of the community and service its needs. Policy REI 5 of the Local Plan Review permits a broad range of uses in District centres including the provision of community uses subject to maintaining the vitality and viability of the centre. Policy CS 3 of the Core Strategy highlights the need to safeguard premises for commercial use, however, District centres are intended to meet the 'week to week' needs for their area of the city so this is an appropriate location for community uses including places of worship. Both local plan policies highlight that new uses should be appropriate to the size and role of the centre, (policy REI 4 of the Local Plan Review). As such, the principle can be accepted of using the premises as a place of worship. Whilst officers do not condone the retrospective nature of this application the Panel are reminded that they should focus only on the Planning merits of the use and its associated impacts.

6.3 Design and effect on character

6.3.1 The external alterations to convert the premises comprised changing the shopfront. The shopfront design itself is not out of keeping with the appearance of the street. However, the nature of the use requires a dark tinted window to offer some privacy to the street and as a consequence the premises lacks an active frontage in the street. That said, the adjacent premises including a dentist and betting shop both have limited active frontage along this part of Victoria Road due to the sensitive nature of the use and, therefore, the tinting of the shopfront windows will not be out of keeping with this part of Victoria Road.

6.3.2 The proposed use would not be out of character with the range of uses in this high street context. It should be noted that there are other social and community uses which are non retail in the centre such as the Woolston Social Club. The late evening hours of use are not out of keeping with businesses operating in a district centre.

6.4 Residential amenity

6.4.1 The premises have already been operating as a worship and learning centre for the past 6 years with no noise nuisance complaints received by the Environmental Health team. The proposed use will operate between 12:30 to 22:30 Monday to Sunday with a range of religious and educational activities (see **Appendix 3** for a timetable). The hours of use, even with a 10am start to reflect current practice, are considered to be in keeping with the setting and the existing background noise characteristics of the District centre e.g. the Woolston Social Club in Victoria Road operates till midnight at the latest during the week. The Environmental Health team have raised no objection

with regards to the noise impact given the small scale and compatible hours of the use with the District Centre. In regularising the retrospective use of the premises, the occupancy restrictions and premises management plan can be put in place (see conditions 1 & 3), so the noise impact of the associated comings and goings and activities can be adequately managed without adversely affecting the amenity of the adjoining flats including the one above the premises. As such the scheme is compliant with saved Local Plan policy SDP1(i).

6.5 Parking highways and transport

6.5.1 There is already an existing traffic and parking impact affecting the District centre given the premises has operated for the past 6 years. The traffic related impact will be further minimised by the occupancy restriction (see condition 1). The accessible location within the District centre offers both opportunities for attendees to travel by foot or public transport and to utilise the public car parks locally available. Furthermore, the Council's maximum parking standards as set out in the SCC Parking Standards SPD supports zero off-road parking for businesses in highly accessible locations such as District centres to encourage alternatives modes of travel to the car. That said, where attendees do travel by cars the parking demand can be absorbed by local public car parks to minimise the impacts of overspill street parking in nearby residential streets. The Highways Officer has raised no concerns with regard to the highways safety impact of the proposed use. As such, the parking demand and traffic generation associated with proposed use will not adversely affect road safety or displace residential street parking or commercial loading spaces.

7. Summary

7.1 In summary, the proposed use will provide highly accessible community facilities in the Woolston District centre with a minimal traffic impact and adequate parking to minimise disruption to other businesses and visitors/residents within the centre. The shopfront windows do not maintain an active frontage in the street, however, this does not negatively impact the vitality of the shopping area given the nature of the adjoining premises. Furthermore, the reuse of the premises for non-commercial use does not negatively affect the viability of the District centre which has a broad range of commercial high street uses to serve the 'week to week' needs of the local area. The use has operated for the past 6 years without noise complaints being received by the Council. As such, the continued use of the premises as a place of worship and learning centre with the additional noise safeguard measures to be put in place would not adversely affect the local area. In this instance it is considered that the above assessment, alongside the stated benefits of the proposal, suggest that the proposals are acceptable. Having regard to s.38(6) of the Planning and Compulsory Purchase Act 2004, and the considerations set out in this report, the application is recommended for

approval.

8. Conclusion

8.1 It is recommended that retrospective planning permission be granted subject to the conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) 4. (vv) 6. (a) (b)

Stuart Brooks PROW Panel 06.06.23

PLANNING CONDITIONS to include

1. Occupancy limit (Performance)

The use hereby approved shall be attended by a maximum of 40 persons at any one time.

Reason: In the interests of highways safety and residential amenity.

2. Hours of Use (Performance)

The use hereby approved shall not operate outside of the hours hereby set out:

Monday to Sunday including Public Holidays 10:00 to 22:30

Reason: In the interests of existing residential amenity

3. Premises management plan (Regularisation)

Within 2 months of the date of the decision notice, a 'Premises Management Plan' shall be submitted to and agreed in writing by the local planning authority setting out measures to manage the use including, but not limited to:-

- The dispersal of attendees leaving the premises – particularly at closing
- Activities permitted within the internal space and external rear area
- Closure of windows and doors during noisy activities

The use thereafter shall be operated in accordance with the approved 'Premises Management Plan' for the lifetime of the use.

Reason: In the interests of residential amenity.

4. No amplified sound (Performance)

No amplified sound system shall be operated at the premises at any time.

Reason: In the interests of residential amenity.

5. Approved Plans (Performance)

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below.

Reason: For the avoidance of doubt and in the interests of proper planning

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS3	Promoting Successful Places
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP7	Urban Design Context
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP11	Accessibility & Movement
SDP16	Noise
L5	Use of Commercial Premises for Learning
REI4	Secondary Retail Frontages
REI5	District Centres
REI8	Shopfronts

Supplementary Planning Guidance

Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2021)