

DELEGATED REPORT

ENFORCEMENT NOTICE

LOCATION:	Land at: The Hippodrome 3 North End Road London NW11 7RP	REFERENCE:	ENF/01134/17
		OFFICER:	Iain Sutherland
		WARD:	Garden Suburb

BREACH OF PLANNING CONTROL:

The use of the land as a cultural centre not comprising use as a church to hold concerts, conferences, drama and dance festivals, in breach of condition 2 of planning permission reference C00222W/07 granted on 9 May 2007.

RECOMMENDATION:

To issue an ENFORCEMENT NOTICE and to serve copies thereof on the owners and occupiers of the premises, in respect of which the planning contravention has taken place requiring:-

Cease the use of the building as a cultural centre and for uses other than as a church to hold concerts, conferences, drama and dance festivals.

Within a period of 6 Months from the date on which the Notice takes effect. That the Notice shall take effect on a date to be specified therein not being less than 34 days from the date of issue.

That the Head of Legal Services to be instructed to take such action as may be necessary, including legal proceedings, to secure compliance with the Notice.

CONSTRAINTS:

Listed Building

REPRESENTATIONS:

None

EQUALITIES AND DIVERSITY ISSUES

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies is set out in Section 149 of the Act. The duty requires the Council to have due regard to the need to eliminate discrimination and promote equality in relation to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

The Centre is an Islamic institution and thus the protected characteristic of religion or belief is directly engaged. The protected characteristic of race is also likely indirectly engaged because of the relationship between Islam and ethnic groups. Furthermore, the Centre acts as a community for facility that provides spaces and services for a range of groups within that community. The report is cognisant that the proposed action may have different impacts on these different groups or sub-groups and that some people may be disproportionately affected.

Communal worship is undertaken at the centre and cessation of the use will interfere with the ability to do so. It is not clear that the community has retained its former premises and it is also acknowledged that alternative premises directly comparable to the Golders Green Hippodrome could not easily be secured. The above should not, however, necessarily be considered as an acceptance by the Council, that in the event that cessation is required, suitable, if not directly comparable, premises could not be found within the urban area or that communal worship according to the conscience of community members could not be conducted elsewhere. The local authority will take reasonable steps to support the Merkaz community in identifying a suitable alternative venue should that be required.

The proposed enforcement action is aimed at remedying a breach of planning control by requiring cessation of the unauthorised use. However, the Council acknowledges that, were the reasons for issuing the enforcement notice to be satisfactorily addressed, and any other planning objections to the existing use removed, the current use of the site could be made acceptable. This would mitigate any impact on protected groups. It should also be noted that if the enforcement notice is appealed, it will be suspended pending the appeal, and relevant equalities issues can also be addressed in evidence as part of the appeal.

On balance, the recommended action does not conflict with the requirements of the Equality Act and nor does it conflict with Barnet Council's equalities policy or the commitments set in its equality scheme.

SITE VISITS:

As Officers Report.

OFFICER REPORT:

The Golders Green Hippodrome is former suburban theatre situated in North End Road. It is within the Golders Green Conservation Area and town centre, opposite Golders Green Underground Station. The bus terminal is located to its Western side and a modest car park for the use by the premises sits to the other. The car park falls outside the Golders Green Conservation Area. The Conservation Area ends with the Hippodrome building itself. The Hippodrome 'bookends' the Conservation Area.

The building was built as a purpose-built music hall and 'theatre of varieties' in 1913 by the architect Bertie Crewe. The building is a Grade II Listed Building, the listed status being awarded in 1973. The Golders Green Parish Church opposite is also a Grade II Listed Building. The Hippodrome building is prominent in terms of its architectural merit, both externally and internally, and also due to its historical interest as a suburban theatre. The size of the building also gives rise to its own quality and prominence. Its importance to the Conservation Area is not its uniformity with other buildings but as a stand-alone building of architectural merit.

The Hippodrome was bought by the BBC in the 1960s and used as concert and rehearsal venue for the BBC Concert Orchestra until 2003. In 2007 it was sold to a church organisation.

On 11 May 2007 the London Borough of Barnet granted planning permission (reference C00222W/07) for the use of the building "as a church to enrich community with schemes for children, unemployed, elderly etc. To hold concerts, conferences, drama and dance festivals." The grant of planning permission was subject to several conditions relating to: travel and transport; public performances, hours of operation and the nature of the use/user. Details required by conditions were submitted and approved.

In 2017 the building was purchased by its current owners and put into use as a 'Shia Islamic Cultural Centre'. At the time of opening the owners were advised that the use as an Islamic cultural centre would be in contravention of the defined user condition and that the specified times of operation might not be suitable for the current use.

On 13 September 2017 the centre made an application under s.73 of the Town and Country Planning Act 1990 to vary conditions of the 2007 permission. The centre was later advised that a full application was the more appropriate mechanism. Although papers for a full application were submitted details sufficient to allow validation were not received.

The Merkaz community use the building as a 'cultural centre' at which communal prayer is a prominent feature. The community observe that the Hippodrome cannot be defined as a 'mosque' as the operation does not meet the exacting standards that such a description would require. There is no evidence that the land is being used to hold concerts, drama or dance and theatrical performances are said by the community to be problematic given the religious nature of the centre. Nevertheless, discussion have been held that suggest some form of public performances may be possible. There is some evidence that the centre has held or organised external events that may constitute conferences or exhibitions. Pastoral care of the community appears to be a focus for the operation.

PLANNING APPRAISAL:

The consideration of formal planning enforcement action is made mindful of Central Government advice and the Development Plan for the area.

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was amended on 24th July 2018. It sets out the Government's planning policies for England and how these should be applied

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The London Plan is currently under review with an examination in public scheduled for January 2019. Whilst capable of being a material consideration, at this stage limited weight can be attached to the Draft London Plan. The weight to be attached will increase as the Draft London Plan progresses through the examination stage and beyond.

Barnet's Local Plan

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPDs). Both were adopted in September 2012.

Main considerations

The Main issues in this case are the impact of the use on: the character of the area; noise and disturbance; the provision of spaces for public performances and; travel and transport.

The use that is the subject of this report commenced in or around September 2017. Whilst the time that has elapsed allows the Council to begin to make judgements on the impacts of the use as it now is these judgements may not necessarily reflect the effects over the medium to long term.

The capacity of the Hippodrome appears to greatly exceed current average patronage. It is reasonable to conclude that if the size of the Merkaz community were to increase, or if members were to become more engaged with operations at the Hippodrome a correlating increase in impacts would also be in evidence. As patronage rises closer to capacity the more pronounced the impacts would become

Patronage currently varies over the course of the year and with the Centre's timetable of festivities. Caution must be adopted therefore in judging any one day as reflective of the use overall.

Character and Noise and Disturbance

Policy DM01 of the London Borough of Barnet's Development Management Policies development plan document states that:

"Development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets"

There is a high degree of public concern over the impact of the use of the Hippodrome on the character of the area. The levels of noise and disturbance resulting from the use are part and parcel of the wider concern over the impact on character.

Policy DM04 of the DPD states:

"Proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted"

It is true that the use of the Hippodrome as a cultural and religious centre has introduced patterns of activity that are distinct from those that were likely associated with the buildings historic use as a theatre or concert hall. However, such patterns have not been seen since 2003 at the latest and a more appropriate comparison is with the use of the building by the El-Shaddai Christian community from 2007.

There can be no doubt that the current patterns of activity differ from those that were associated with the previous user, particularly in terms of the days of peak activity. However, there is little evidence to suggest that the change of user has had, or is likely to

have, a material impact on the character of the Golders Green Town Centre. The Town Centre stands apart from nearby quiet suburban streets due to its energetic bustle and the diverse range of services offered and this area of the centre is notably busy and noisy with buses, coaches and associated passenger traffic. Further diversification and intensification will not erode the established character of this part of the Town Centre and Conservation Area.

The Hippodrome is located within the busy town Centre and immediately adjacent to two large public transport interchanges. Although patronage of the centre is likely to result in high levels of activity the potential for it to give rise to unacceptable levels of noise and disturbance is mitigated by the location. Where noise and disturbance does result it is likely to be restricted to the quieter residential roads, particularly to the South and East where parking spaces are more available, and after the centre's peak periods have subsided. It is considered that appropriate travel planning and restrictions on hours of operation could be successful in mitigating these impacts.

Public Performances

Paragraph 17 of the NPPF requires that planning authorities "take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs... [and]...promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas". Paragraph 70 continues: "to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

The London Borough of Barnet Core Strategy development plan document contains the following advice:

"Barnet is home to a rich diversity of groups involved in arts, music, theatre, literature, visual arts and film. Demands for performance and exhibition space are therefore high. Support and publicity for over 100 groups engaged in the arts is provided by an independent charity - the Barnet Borough Arts Council."

"We are aware that though there are many rooms suitable for use for clubs, classes, meetings and rehearsals, the spaces for public performance of theatre, dance, musical theatre and music are limited in number. These spaces are mainly on the eastern side of the Borough where there is the greatest level of existing demand. There is also a shortage of spaces for exhibitions."

"In order to create vibrant town centres we will support the temporary use of vacant shops for performance and creative work. Co-location for arts and culture will be explored with other community provision on a site by site basis. In terms of the school estate we will seek to maximise use of performance space in schools by the wider community."

- Core Strategy policy CS10 states that: "the council will work with our partners to ensure that community facilities including schools, libraries, leisure centres and pools, places of worship, arts and cultural facilities, community meeting places and facilities for younger and older people, are provided for Barnet's communities"

The 2007 permission was predicated on an understanding that public performances would continue to play an important role in the reconfigured use. Although the sensitivities of performances may be different in an Islamic environment to a Christian one there is no

reason to believe that the building is now any less suitable for public performances than it was in 2007. The Hippodrome's history, form and accessibility make it an ideal venue for public performances. Furthermore, there is no evidence to suggest that there is any less demand or desirability for performance spaces.

Adopted policy at local and government level encourages the shared use of land for arts and culture and other community uses.

Council officers and representatives of the community have together explored the possibilities for and the implications of the stage area and auditorium being a shared space, used from time to time for public performances. There is currently no reason to believe that public performances would necessarily be considered by the community as an inappropriate use of the space, and in particular of a space that would also be used for communal worship.

In the absence of any binding plan there is an unacceptable risk that the Hippodrome will be lost as a space for public performance to the detriment of the cultural life of Barnet.

Travel and Transport

The Hippodrome is in a highly accessible location, well served by public transport. Nevertheless, the capacity of the building and the nature of the transport infrastructure of the area is such that careful travel management and mitigation is likely required to ensure that the travel is appropriately accommodated.

In response to a 2017 consultation exercise the Council received numerous complaints of inappropriate parking and other such activity. The exercise was undertaken at the time the centre opened and the results are not likely to represent current or future experiences. However, the potential for the centre to generate detriment to the amenities of neighbours, highway safety and/or the free-flow of traffic cannot be disregarded.

Policy DM17(d) requires that "In considering planning applications for new development, the council will require developers to submit a full Transport Assessment (as defined by Department for Transport threshold) where the proposed development is anticipated to have significant transport implications in order to ensure that these impacts are considered." Although a Transport Assessment was undertaken pursuant to the 2007 permission the former and current uses are sufficiently distant in time and nature that a new version would be appropriate. Although the current use has now been in operation for approximately a year it is still evolving and full assessment of the potential future impact cannot, as yet, be made through retrospective means alone.

Although current attendances at the Centre appear to fall significantly below the maximum capacity there is nevertheless the potential for significant trip generation. Where significant trip generation is to be reasonably anticipated policy DM17 requires "the occupier to develop, implement and maintain a satisfactory Travel Plan (or plans) to minimise increases in road traffic and meet mode split targets". No such Travel Plan has been submitted to the Council and therefore the Council cannot be confident that the use is as sustainable as reasonably possible and practical.

JUSTIFICATION:

1 No Travel Plan has been submitted to the Council and therefore the Council cannot be confident that trip generation caused by the centre is sustainable as reasonably possible and practical. The failure to provide a Travel Plan is contrary

to Policy DM17 of the London Borough of Barnet Development Management Policies development plan document (DPD) 2012 which requires that the occupier develop, implement and maintain a satisfactory Travel Plan (or plans) to minimise increases in road traffic and to meet mode split targets.

2 Given the size of the site and the nature of the on-going use there is a reasonable possibility that the Centre will have significant transport implications now and in the future. In the absence of an up to date Transport Assessment the Council cannot be certain that the use of the site will not result in harm to highway safety, the free flow of traffic or on the appropriate availability of residential parking spaces. As the use continues to evolve the Council is not yet in a position to make a full assessment by retrospective means alone. The failure to provide an appropriate Transport Assessment is contrary to Policy DM17 of the London Borough of Development Management Policies development plan document 2012

3 In the absence of an agreed and enforceable plan there is an unacceptable risk that the centre will not provide or facilitate an appropriate level of public performance for the benefit of the wider community. Contrary to policy CS10 of the London borough of Barnet Core Strategy development plan document (DPD) 2012

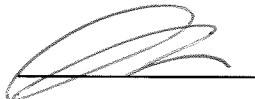
4 In the absence of appropriate restrictive conditions placed on the use there remains an unacceptable risk that the use will evolve in a manner that becomes detrimental to the amenities of neighbouring occupiers and to the character of the area, contrary to Policies DM01 and DM04 of the London Borough of Development Management Policies development plan document 2012

Planner (ENF)



Date: 5 March 2019

Acting for
Service Director – Planning and Building Control



Date: 5 MARCH 2019

F. CARDIN

