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## Appeal Decision

Site visit made on 17 December 2019

**by M Cryan BA(Hons) DipTP MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 February 2020**

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**Appeal Ref: APP/G4620/W/19/3238235**  
**409 Bearwood Road, Smethwick B66 4DJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Lamin Yaffa (Gambian Islamic Community Centre) against the decision of Sandwell Metropolitan Borough Council.
  - The application Ref DC/19/62759, dated 20 November 2018, was refused by notice dated 10 April 2019.
  - The development proposed is a change of use from solicitor's office to place of worship.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the appeal property is suitable for use as a place of worship, having particular regard to:
  - The provision of adequate car parking, and the effect of the proposal on road safety, and;
  - Any effects on the living conditions of neighbouring occupiers arising from noise disturbance.

### Reasons

#### *Car parking and road safety*

3. The appeal property is a former solicitors' office situated at the northern end of Bearwood town centre. The proposal is to use it as a place of worship, intended to serve a congregation of around 100 to 110 members of the local Gambian Islamic community.
4. Although the appellant indicates that the majority of the congregation lives within walking distance of the appeal premises, the address information provided suggests that the largest part of the community is based in an area to the north near Cape Hill. Although bus routes pass the appeal site, given the distance involved it is likely that many of the congregation would travel to the site by car.
5. There is a small area to the rear of the property which is proposed to be used as a car park for worshippers. The initial application included the provision of 18 spaces within the car park, but a drawing submitted just before the Council

determined the application showed a revised layout accommodating 16 cars. The appellant indicates that the car park would only be used by infirm or disabled users, and the layout shows 4 spaces for disabled drivers.

6. At least one of the disabled spaces shown would be blocked by another parking space, while the narrow gap between most spaces suggests to me that many infirm users would have some difficulty getting out of and back into their cars. I am not therefore persuaded that the car park could be used as intended. Furthermore, the layout of the car park means that the only way most vehicles would be able to leave would be by reversing out onto Belmont Road. This would be likely to increase the risk of accidents at the end of services when large numbers of worshippers would be leaving the premises in a short period of time. Although the appellant intends to use road stewards, no information is provided as to how this would work.
7. Taking these points together, the proposed car park layout does not realistically lend itself to safe or efficient operation for the number of vehicles proposed. It is likely therefore that the majority of those attending services in the premises would seek to park on street.
8. The appellant has attempted to address the Council's concerns about parking in the surrounding area by carrying out a survey of the availability of on-street spaces between 1230 and 1430 on a Friday, the time of the main weekly prayers. From my own observations during my site visit, at a similar time on a different day of the week, the figures provided by the appellant appear plausible. However, no survey information is provided to indicate how worshippers would usually travel to the centre. As much of the community lives some way from the appeal site, I cannot be certain either that the proposal includes adequate on-site car parking provision, or that the excess demand could safely be met by nearby on-street space.
9. The appellant has drawn my attention to another case where the Council granted planning permission for a place of worship where many, although not a majority, of the users would be travelling by private car. Although I do not know all of the details of that case, the appellant has included the applicant's Transport Statement. Unlike in this case, it provides information about how members of the congregation would usually travel to the site. It is therefore not possible for me to assess the extent to which the two cases may be comparable, and in any event I have of course determined this appeal on its own merits.
10. I conclude that the proposal would not have adequate car parking provision. It would therefore conflict with Policy DM6 of the 2012 Sandwell Site Allocations and Delivery Development Plan Document (the DPD), which seeks to ensure that the use of premises as a place of worship does not cause adverse effects arising from the demand for on-street parking, or create potential hazards to pedestrians and other road users.

#### *Living conditions*

11. Although the appeal site is within the Bearwood shopping area, it is adjacent to residential flats on Bearwood Road to the north, and terraced houses on Belmont Road to the east. There would be noise arising from the use of the car park which would be likely to cause some disturbance to residents of Belmont Road. Although the appeal building does not share a party wall with any of its

residential neighbours, it is very close to the adjacent flats on Bearwood Road, and there is therefore potential for noise disturbance arising from services and other activities taking place within the building.

12. The appellant has indicated that the centre would operate between 12.00 and 20.00 seven days a week. A condition to restrict the operating hours of the premises on this basis would reduce the likelihood of noise disturbance, particularly that related to the arrival and departure of users of the centre, occurring late into the evenings or early in the morning. However, no information is provided about the potential installation of sound insulation, and while the appellant indicates that there would be no sound amplification projecting externally from the building there is no information provided or suggested conditions from either party to indicate how this would be achieved. It is therefore not clear from the information before me that the operation of the building as a place of worship would not lead to noise disturbance for neighbouring residents, even with a condition limiting the operating hours.
13. I conclude therefore that the proposed use of the premises as a place of worship would have a harmful effect on the living conditions of neighbouring occupiers arising from noise disturbance, and so would conflict with Policy DM6 of the DPD which aims to prevent such disturbance to neighbours.

#### **Other matters**

14. A number of representations were submitted by interested parties. Most of those objecting to the proposal raised concerns about car parking and noise, matters which are addressed above. Many supportive representations raised the desire of the local Gambian Islamic community to have its own place of worship and community centre. I am sympathetic towards this ambition, and recognise that the provision of such a facility would be a positive thing for the members of that community. However, it is important that such facilities are developed in a way which does not cause or exacerbate problems in the surrounding area. The benefits which the community would get from the presence of the place of worship would not, on the basis of the information before me, outweigh the harm arising from the inadequate provision of car parking and noise disturbance.

#### **Conclusion**

15. For the reasons given above the appeal is dismissed.

*M Cryan*

Inspector