### Barking and Dagenham Council
#### Development Control Board

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<th>8 May 2017</th>
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<th>Application Number:</th>
<th>17/00274/FUL</th>
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<td>Ward:</td>
<td>Eastbrook</td>
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| Reason for Referral to DCB as set out in Part 2, Chapter 9 of the Council Constitution | The application is of public or likely Councillor interest and should be determined by the Development Control Board. |

| Address: | 539 Rainham Road South Dagenham Essex |

| Development: | Application for variation of condition following grant of planning permission by Planning Inspectorate (Ref: APP/Z5060/W/16/3143341) dated 8 July 2016): Variation of condition 3 (hours of use) to allow extended use till 00:45 during the month of Ramadan for those years when devotions cannot be completed in time due to a later sunset (for up to 29 consecutive days a year). |

| Applicant: | Mrs R. Ali |

| Contact Officer: | Title: Principal Development Management Officer |
| Charles Sweeney | Contact Details: Tel: 020 8227 3807 E-mail: charles.sweeney@lbbd.gov.uk |

### Summary:

The application site is a community/cultural centre/place of worship operating at the former Post Office along Rainham Road South.

Members may recall the application site has a very detailed planning history relating to applications for changes of use to various community/cultural centre/place of worship type uses (Use Class D1). Of most relevance, in July 2015, planning permission was refused for the change of use of the ground floor of the application site to a community/cultural centre/place of worship (Use Class D1) (Ref: 15/00472/FUL). The decision was appealed to the Planning Inspectorate who subsequently allowed the appeal in July 2016 and granted planning permission (Ref: APP/Z5060/W/16/3143341) subject to a number of conditions. Condition 3 of the planning permission stated that:

“The use hereby permitted shall not take place other than between the hours of 09:00 to 23:00, Monday to Sunday”.

This application seeks to vary that condition to amend the hours to allow extended use until 00:45 during the month of Ramadan for those years when devotions cannot be completed in time due to a later sunset (for up to 29 consecutive days a year). Essentially, this means that there would be extended evening hours until 00:45 for up to 29 consecutive days once a year. The applicant advises that due to the nature of the timing of Ramadan, which shifts by around 10 days each year, this application will only effect the use when Ramadan occurs during peak summer months which are in the region of a few years during any 36 year cycle.
Members may be aware that the centre is now open and has operated without complaint which is an important consideration. The applicant advises that there have been changes to the management of the centre along with the introduction of new highway controls (in the form of double yellow lines) along Reede Road at the junction with Rainham Road South.

This application is solely focussing on the extended hours of opening. The applicant has advised that at the busiest times (typically Friday lunchtimes), the centre caters for up to 60 people (the total membership is less than 100). However, the applicant has confirmed they are willing to cap this figure at 40 people during the proposed extended hours. In addition, the applicant will install CCTV to monitor member numbers and will keep a record of those members who need to travel to the centre by car (such as the elderly or disabled). The applicant has also advised that they are willing to accept a temporary planning permission of 3 months to trial the impact of the proposed extended hours.

This is a finely balanced application. However, subject to the conditions identified above, it is recommended that the extended hours be approved for a temporary period expiring at the end of June after Ramadan has finished to allow a trial period to assess the impact of the extended hours.

**Recommendation:**

That the Development Control Board grant planning permission subject to the following conditions:

1) The extended hours until 00:45 hereby permitted shall be discontinued on or before 30 June 2017.

Reason: To give the use a trial run, so as to assess its effect on amenity and in accordance with Policy BP8 of the Borough Wide Development Policies DPD (March 2011).

2) The use hereby permitted shall be carried out in accordance with the following approved plans: 539 Rainham Road South, RM10 7XJ Proposed Ground Floor Plan Drafted 04/2012; 539 Rainham Road South, RM10 7XJ Proposed First Floor Plan Drafted 04/2012 and 539 Rainham Road South, RM10 7XJ Proposed Top Floor Plan Drafted 04/2012.

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

3) Following expiration of the extended hours period, the use hereby permitted shall not take place other than between the hours of 09.00 to 23:00, Monday to Sunday.

Reason: To prevent the use causing any undue disturbance to occupants of neighbouring properties at unreasonable hours and in accordance with Policy BP8 of the Borough Wide Development Policies DPD (March 2011).

4) No music or amplified sound shall be played in the premises hereby permitted at any time.

Reason: To prevent the use causing any undue disturbance to occupants of neighbouring properties at unreasonable hours and in accordance with Policy BP8 of the Borough Wide Development Policies DPD (March 2011).
Development Policies DPD (March 2011).

5) Access and egress to the premises must only be taken from the main shop frontage along Rainham Road South. No access or egress shall be taken from Reede Road.

Reason: To prevent the use causing any undue disturbance to occupants of neighbouring properties at unreasonable hours and in accordance with Policy BP8 of the Borough Wide Development Policies DPD (March 2011).

6) The applicant shall ensure that CCTV records of numbers of members using the centre and vehicular trip generation associated with the extended hours shall be kept as may be required to permit the Local Planning Authority to monitor membership levels and vehicular movements. Those records shall be made available to the Local Planning Authority on request.

Reason: To prevent the use causing any undue disturbance to occupants of neighbouring properties at unreasonable hours and in order to minimise the impact of the development on the local highway network and traffic congestion in accordance with Policies BP8 and BR10 of the Borough Wide Development Policies DPD (March 2011).

7) The maximum number of people using the centre during the extended hours hereby permitted shall not exceed 40.

Reason: To prevent the use causing any undue disturbance to occupants of neighbouring properties at unreasonable hours and in accordance with Policy BP8 of the Borough Wide Development Policies DPD (March 2011).

1. Introduction and Description of Development

1.1 The application site is a community/cultural centre/place of worship operating at the former Post Office along the southern side of Rainham Road South, close to the junction with Reede Road Dagenham.

1.2 The application seeks planning permission to vary a condition following the grant of planning permission (on appeal) by the Planning Inspectorate (Ref: APP/Z5060/W/16/3143341) dated 8 July 2016) to allow extended use till 00:45 during the month of Ramadan for those years when devotions cannot be completed in time due to a later sunset (for up to 29 consecutive days a year).

2. Background

2.1 There is a very detailed planning history relating to the application site for changes of use to various community/cultural centre/place of worship type uses (Use Class D1). Of most relevance, in July 2015, planning permission was refused for the change of use of the ground floor of the application site to a community/cultural centre/place of worship (Use Class D1) (Ref: 15/00472/FUL). The decision was appealed to the Planning Inspectorate who subsequently allowed the appeal in July 2016 and granted planning permission (Ref: APP/Z5060/W/16/3143341).

2.2 In January 2017 planning permission was refused to vary the hours of use to include the words “with the exception that during the month of Ramadan this may
be extended to 00:45 only during those years when the completion of related devotions would cease at or before that time” (Ref: 16/01545/FUL). The application was refused on the grounds of noise and disturbance principally due to a lack of information on the frequency of the extended hours, membership levels and management arrangements.

3. Consultations

3.1 a) Neighbours/Publicity

48 letters were sent to the surrounding neighbouring premises and 2 identical letters of representation were received from neighbouring properties at 537 and 541 Rainham Road South together with 4 online representations raising no objections to the application.

b) Environmental Health Team

The environmental protection issue raised is possible noise disturbance to nearby residents during the extended hours of use. The current permission is subject to a condition to prohibit the playing of music or amplified sound at any time. There are no records of complaint of noise associated with the current use of the centre albeit that this is restricted to 09:00 to 23:00 Monday to Sunday.

The supporting statement advises that during the proposed extended hours of use, activity within the centre would be speech based reading and not tuition or more general centre activity. It is understood that the applicant would be prepared to accept a temporary consent to permit the impact, if any, of the extended hours of operation to be tested. Based on the above considerations, there are no objections to the grant of a temporary permission months to permit the impact, if any, of the extended hours of operation to be tested over a Ramadan period.

4. Local Finance Considerations

4.1 The application is not subject to the Community Infrastructure Levy and there are no other financial considerations.

5. Analysis

5.1 This application seeks to vary an hours of use condition to amend the hours to allow extended use until 00:45 during the month of Ramadan for those years when devotions cannot be completed in time due to a later sunset (for up to 29 consecutive days a year). Essentially, this means that there would be extended evening hours until 00:45 for up to 29 consecutive days once a year. The applicant advises that due to the nature of the timing of Ramadan, which shifts by around 10 days each year, this application will only effect the use when Ramadan occurs during peak summer months which are in the region of a few years during any 36 year cycle.

5.2 Policies BR13 and BP8 of the Borough Wide Development Policies DPD seek inter alia, to minimise noise levels and protect existing and proposed occupiers from unacceptable levels of general disturbance arising from proposed developments and in line with these policies, the Council has always carefully considered hours of
use for commercial premises (or indeed any non-residential uses) where there is residential above or in very close proximity, in the interests of residential amenity.

5.3 Above the application site, there is a self contained flat accessed via the rear of the premises which is understood to be used as accommodation for a caretaker who will open up and close the facility. There is however residential accommodation above the other commercial units in this parade and residential development generally in close proximity to the application site (such as Durham Road to the rear of the site). Within this parade, none of the commercial premises operate beyond 23:00. The Council has consistently controlled and restricted opening hours in these localities to 23:00 in the interests of residential amenity.

5.4 However, Members may be aware that the centre is open (operating hours 09.00 to 23:00 Monday to Sunday) and has operated without complaint which is an important consideration. This application is solely focussing on the extended hours of opening until 00:45 for up to 29 consecutive days once a year. The applicant has advised that at the busiest times (typically Friday lunchtimes), the centre caters for up to 60 people (the total membership is less than 100). However, the applicant has confirmed they are willing to cap this figure at 40 people during the proposed extended hours. In addition, the applicant will install CCTV to monitor member numbers and will keep a record of those members who need to travel to the centre by car (such as the elderly or disabled). The applicant has also advised that they are willing to accept a temporary planning permission of 3 months to trial the impact of the proposed extended hours.

6. Summary

6.1 This is a finely balanced application. The previous application was refused principally due to a lack of information on the frequency of the extended hours, membership levels and management arrangements. Following the submission of further information, it is considered that the applicant has satisfactorily addressed these concerns to warrant a temporary planning permission expiring at the end of June after Ramadan has finished to allow a trial period to assess the impact of the extended hours.

Background Papers

- Planning Application File
  
  [http://paplan.lbbd.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OLEUE8BL07H00](http://paplan.lbbd.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OLEUE8BL07H00)

- Local Plan Policy

Core Strategy

Policy CM5 – Town Centre Hierarchy
Policy CC2 – Social Infrastructure to Meet Community Needs

Borough Wide Development Policies DPD

Policy BR9 – Parking
Policy BR10 – Sustainable Transport
Policy BR13 – Noise Mitigation
Policy BE1 – Protection of Retail Uses
Policy BP8 – Protecting Residential Amenity

Site Specific Allocations DPD (December 2011)

Neighbourhood Centres

• National Planning Policy Framework

• Planning Practice Guidance