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## Appeal Decisions

Inquiry opened on 5 April 2011

Site visit made on 14 April 2011

**by John L Gray DipArch MSc Registered Architect**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 21 June 2011**

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### **Appeal Ref. APP/D3640/A/10/2136193**

#### **The Islamic Centre, 282 London Road, Camberley, GU15 3JP**

- 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 the Berkshire, Hampshire and Surrey Bengali Welfare Association against the decision of Surrey Heath Borough Council.
  - The application, ref. 09/0958, dated 18 August 2009, was refused by notice dated 12 March 2010.
  - The development proposed is the erection of a mosque with two ornamental minarets, basement morgue facility and parking and landscaping, to provide a replacement Islamic Centre following demolition of existing buildings, together with the erection of an associated detached house.
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### **Appeal Ref. APP/D3640/E/10/2136196**

#### **The Islamic Centre, 282 London Road, Camberley, GU15 3JP**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
  - The appeal is made by the Berkshire, Hampshire and Surrey Bengali Welfare Association against the decision of Surrey Heath Borough Council.
  - The application, ref. 09/0599, dated 18 August 2009, was refused by notice dated 12 March 2009.
  - The demolition proposed is of existing Islamic Centre buildings.
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**Decisions: I dismiss both appeals.**

#### **Preliminary matters**

1. I opened the inquiry on 5 April 2011. It sat on 5-8 and 12-14 April. I made accompanied visits to the Royal Military Academy Sandhurst (RMA) and the appeal site on 14 April.
2. The description above for Appeal Ref. APP/D3640/A/10/2136193 is, subject to minor grammatical amendments, taken from the application itself. It refers specifically to the demolition of existing buildings. The recent Court of Appeal judgement in *R (on the Application of SAVE Britain's Heritage) v SSCLG* brought demolition of a building in a conservation area within both the definition of development and the scope of the Environmental Impact Assessment (EIA) Directive. Given the inclusion of the demolition within the application description, I see no need for further action consequent upon the judgement. A screening opinion at the application stage concluded that an EIA was not required for the proposed development; I do not consider that inclusion of the demolition alters that conclusion.

3. Conservation area consent is required only for the demolition of unlisted buildings in a conservation area. Accordingly, I have deleted the proposed redevelopment from that application description.

### **Main Issues**

4. On opening the inquiry, I expressed the opinion that there was a single main issue in the appeals:
  - the effect of the proposed development on the character and appearance of the Conservation Area within which the appeal site is located.

It is not, of course, as straightforward as that. A conclusion on that issue can only properly be reached by first looking at:

- the appropriateness of the proposal as new development in the countryside, assessed particularly in relation to saved Local Plan Policy RE3; and
- the contribution made to the character and appearance of the Conservation Area by the existing buildings on the site, which are included in the Council's list of structures of local architectural or historic significance.

In addition, there has to be considered:

- whether, if the conclusion reached was that there would be harm, the need for the proposed development or the community benefits arising from it are sufficient to outweigh that harm.

There are also three other issues to be addressed:

- whether there is a need for a transport infrastructure contribution and, if so, how much;
- the appropriateness of the proposed dwelling in terms of private amenity space and the impact of its location and mass for the occupiers of the adjacent dwelling at 278 Camberley Road; and
- whether there are any security implications arising from the proposals.

### **Reasoning on appeal ref. APP/D3640/A/10/2136193**

#### ***Development in the countryside***

5. The Development Plan comprises the South East Plan and the saved policies of the Surrey Heath Local Plan. Clearly the most pertinent policy is Local Plan Policy RE3, dealing with development in the countryside beyond the green belt. I consider the application of that policy clear-cut.
6. Firstly, land beyond the defined boundaries of settlements or built-up areas must, almost by definition, be countryside. Secondly, it is of little moment that the countryside in which the appeal site lies does not contribute to separating the settlements identified in para. 6.22 of the Local Plan – it is still countryside. Thirdly, Policy CS3 cannot have the effect of rendering community facilities as acceptable development in the terms of Policy RE3. CS3 deals specifically with community facilities within settlements; there is no comparable policy for such facilities outside settlements; therefore, they must be considered, just like any other proposed development in the countryside, under RE2 or RE3.
7. Policy RE3 states that development in the countryside beyond the green belt will be permitted only for purposes falling within six defined categories and only if it would not detract from the character or appearance of the countryside.<sup>1</sup> The proposed development falls within none of the six categories. Category

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<sup>1</sup> Development will also not be permitted if it would detract from nature conservation interests, interfere with the safe movement of traffic or cause difficulties in the provision of public services. I deal with the traffic implications of the proposal below; there is no objection in relation to nature conservation or public services.

(f), however, may permit the replacement or extension of existing business premises, provided there is no significant change in the scale of the building; and category (g) may permit other uses of land which preserve the openness of the countryside. Taking into account the permission granted in 2003 for extension of the existing buildings, the report to Committee took the view that the acceptability of a new mosque should depend on (amongst other things) the qualifications set out in categories (f) and (g).

8. That seems to me an entirely reasonable approach. It is difficult to understand why extension or replacement of existing buildings in the countryside should be acceptable in principle for business premises but not community facilities. And it means that what falls to be assessed in terms of countryside policy is tantamount to the effect the proposed development would have on the character and appearance of the Conservation Area, which is partly why I suggested at the inquiry that that was the main issue in the planning appeal.

### ***The value of the existing buildings***

#### The Conservation Area

9. The Royal Military Academy / Staff College / A30 London Road Frontage Conservation Area was designated in 1989. There is no conservation area appraisal but the designation report clearly identifies (as does the name of the Conservation Area) the importance attributed to the London Road frontage.
10. It was suggested that the area being "characterised by buildings of a very high architectural quality set in well-landscaped ... parkland ..." could not apply to the London Road frontage, which is separated from the RMA and Staff College by a substantial area of woodland. That may be so – but the "long, prominent frontage to the A30" is identified in the same paragraph, as are "significant building groups" along it, including the appeal buildings, then St Gregory's School. It was also pointed out that Bracknell Forest Borough Council had declined the suggestion of a "joint designation" because the area was Crown Land with limited public access (thus excluding a very important part of the RMA from Conservation Area designation). That, however, cannot mean that Surrey Heath Borough Council should not have designated as a conservation area an area which it considered "of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance".<sup>2</sup>
11. I am in no doubt that the London Road frontage is appropriately included in the Conservation Area. The land was all originally in the same ownership. The church and the school were built on land donated by the then Royal Military College (or, perhaps more accurately, the War Office) to cater for the needs of the settlement growing up to serve the College. To the west, the listed houses on Tea Caddy Row, nowadays barely visible behind trees from the A30, remain within the RMA grounds; to the immediate east of the former school, what is now the TA Centre is on land still owned by the RMA (Ministry of Defence). Thus, whatever the architectural quality of the buildings along the London Road frontage, there is a very strong historical link between the frontage and, beyond its visually impenetrable, wooded perimeter, the RMA.

#### The school buildings

12. In addition to the historical link, the architectural quality of the buildings on the appeal site, while not particularly high, is certainly not poor. This is very clearly a Victorian school. Indeed, that it is an early National School can be

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<sup>2</sup> The words of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

discerned from its architectural style. There have been numerous alterations and additions. Some of the alterations to the windows are both modern and unfortunate in terms of the character of the building. That apart, the majority of the alterations and extensions were obviously made within three or four decades of the original construction – and they maintain, or are sympathetic to, the architectural character of the original building.

#### Evaluation

13. English Heritage offers a checklist of questions to help with the process of assessing the contribution of a building to the character and appearance of a conservation area. It was used by the appellant and the objectors,<sup>3</sup> with very different conclusions. My own assessment, based on the evidence, is this.
- *Is it the work of a particular architect or designer of regional or local note?* Yes – Charles Buckeridge, a regionally well-known architect.
  - *Does it have landmark quality?* In a sense, yes – not vertically, but as part of the group of buildings on the north side of the A30 visually contained by the perimeter woodland to the RMA.
  - *Does it reflect a substantial number of other elements in the conservation area in age, style materials, form or other characteristics?* Not really – it is nominally in the same style as the nearby church but there is little visual similarity; the adjacent TA building is brick-built but its detailing is simpler.
  - *Does it relate to adjacent heritage assets in age, materials or in any other historically significant way?* Really only historically, being, like the nearby church, on land donated by the War Office.
  - *Does it contribute significantly to the setting of adjacent designated heritage assets?* No – the application proposal was not (correctly in my view) advertised as affecting the setting of the nearby St Michael's Church.
  - *Does it contribute to the quality of recognisable spaces, including exteriors or open spaces with a complex of public buildings?* No.
  - *Is it associated with a designed landscape?* No – save that it is in a clearing of the densely wooded perimeter of the RMA.
  - *Does it, individually or as part of a group, illustrate the development of the settlement in which it stands?* Yes – it is evidence of the historical link between the RMA and Camberley and the recognition of the settlement growing at the time to serve the military establishment.
  - *Does it have significant historic association with features such as the historic road layout, burgage plots, a town park or a landscaped feature?* Yes – the association is with the then Royal Military College.
  - *Does it have associations with local people or past events?* Not other than as described above or the generations of children who went to school there.
  - *Does it reflect the traditional functional character or former uses in the area?* Yes – it is clearly a Victorian school, even if now used as the Islamic Centre.
  - *Does it contribute to the character or appearance of the area?* Visually, only to a limited extent; its architectural quality is not particularly high but its character is nevertheless redolent of a Victorian school.
14. English Heritage notes that a “positive response to one or more of the questions may indicate a positive contribution [to the conservation area] provided that its historic form and values have not been eroded”. The balance

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<sup>3</sup> In the Heritage Statement submitted in support of the applications and by Mr Clarke for the Residents' Association in his proof of evidence.

of the assessment above points to an undoubtedly positive contribution. The form and character of the original school may be much altered and extended but it cannot be mistaken for what it is (was) and its historical links are, to my mind, a very important aspect of the Conservation Area. English Heritage, in declining to list the buildings, described Buckeridge's original building as "engulfed by later extensions" but accepted that those extensions were built in a matching style. That seems to encapsulate why listed status was denied but why local listing is appropriate.

15. Looking a little more deeply, it seems to me that it is community use that is the most important element in the building's character and also in its contribution to the Conservation Area. The church was built on land donated by the War Office for the benefit of the community. The school was built on land donated by the War Office for the benefit of the community. The architectural style of the school buildings is the visual reminder of that historic importance, which might otherwise be overlooked. On the other hand, the architecture is not of such quality or uniqueness as to demand preservation for its own sake. Put another way, the buildings make a positive, if somewhat limited, contribution to the appearance of the Conservation Area but their contribution to its historic character is more significant.

#### National policy context

16. Policy HE9 in PPS5 (Planning Policy Statement 5: *Planning for the Historic Environment*) deals with applications for consent relating to designated heritage assets. In this case, the designated asset is the Conservation Area. The buildings on the appeal site are not themselves designated heritage assets in the terms of PPS5, though they are locally listed and contribute positively to the character and appearance of the Conservation Area.
17. Policy HE9.2 applies where there would be substantial harm to a designated heritage asset, in this case the Conservation Area. I cannot see that demolition of the school buildings would be bound to cause substantial harm to the Conservation Area. The buildings serve more as a visual reminder of things past than as an exemplar of architectural quality. It is the community use that is historically much more important. The evidence to the inquiry persuades me that the harm to the Conservation Area from the demolition of the existing school buildings would be less than substantial and is thus to be considered under Policy HE9.4.
18. English Heritage's view is that, in dealing with buildings in a conservation area that make a positive contribution to the area's significance, it is appropriate to apply Policies HE9.1 to HE9.4 and HE10<sup>4</sup> to the impact of the proposals on the individual building rather than the area. In effect, that means considering an unlisted building in a conservation area as if it were listed (a designated heritage asset). That is not an interpretation that flows from a reading of PPS5 itself; nor does the Historic Environment Planning Practice Guide accompanying PPS5 offer any further assistance. Moreover, I do not consider that the architectural significance of the existing buildings warrants the level of appraisal that English Heritage's view implies. And I can envisage that a redevelopment, both sensitively-designed and for an appropriate use, could preserve or enhance the character and appearance of the Conservation Area.

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<sup>4</sup> Policy HE10 concerns development affecting the setting of a designated heritage asset. I do not consider that it applies to these proposals. The application was not advertised as development affecting the setting of the listed church. I do not disagree with that. The church stands in its own well-treed grounds, separated from the appeal site by the vicarage in its large and densely-treed curtilage.

### Conclusion on the value of the existing buildings

19. Although at the edge of the designated Conservation Area, the London Road frontage is visually important. The existing buildings on the appeal site make a positive contribution to the character and appearance of the Conservation Area. That is more for their historic significance than their architectural merit – they represent an historically important link between the RMA to the north and the town to the south; but it is their Victorian educational character, rather than their architectural excellence, that is the visual reminder of that. Their loss would harm both the character and appearance of the Conservation Area but not in such a substantial way as to involve the application of PPS5 Policy HE9.2. It is entirely possible that their significance could be appropriately reflected by new development sensitively designed for its conservation area context.
20. I shall now move on to assess whether the proposed development would achieve that objective – or, drawing on the words of Policy HE9.4, whether the merits of the proposed development are sufficient to justify or outweigh the harm to the Conservation Area from demolition of the existing school building. I shall then consider the need for the proposed mosque, the benefits that might arise from it for the community and the weight to be given to them.

### ***The character and appearance of the proposed development***

21. The proposal appears, at first glance, to be little more than a fairly traditional mosque design transposed into Surrey from somewhere in the Near East or the Indian subcontinent. The design, taken in isolation, has received plaudits from various sources. At the same time, many of those have concluded that that very same design would be inappropriate for the particular site and/or the Conservation Area context. I have to say that I agree with those concerns.

### Orientation, layout, mass, scale, style and character

22. The orientation and layout of the building, facing towards the Kaa'ba, have a number of ramifications. The building is aligned more or less diagonally across the site, meaning that no façade addresses London Road directly. That might not be unacceptable in itself but the orientation towards the Kaa'ba also means that the main entrance is at the rear of the building, away from London Road. In a sense, the building is turning its back on the street.
23. In truth, the orientation, plan form and elevational design have all the characteristics of a pavilion that should be standing in its own grounds rather than addressing the street scene. But, in visual terms, its grounds are not spacious enough for such a large building to stand within them successfully. That is most evident in the relationship with the retained infants' school building. It abuts the eastern boundary of the site and would have the nearest two corners of the mosque just 7.0m or so to its west. Moreover, the existing building is about 3.0m and 4.5m high to its differing eaves while the mosque would be 8.0m and 9.8m high at its nearest points. Even the ridge line of the existing building would be almost 1.0m below the lower corner of the mosque.<sup>5</sup> The existing building would appear cramped and dominated by the height, mass and proximity of the mosque – and the mosque would look as if it had been squeezed on to its site.

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<sup>5</sup> The appellant's evidence tended to compare the height of the mosque with the ridge heights of neighbouring buildings. I do not consider that a fair method of comparison. Buildings with pitched roofs are generally seen and understood by their height to eaves, because the receding roofs above do not have the mass or visual prominence conveyed by the vertical wall surfaces below.

24. The disparity in design, appearance and character between two buildings standing so close to each other would be in very unfortunate contrast. The existing building has the visual advantage of the buildings of the TA Centre, in a not dissimilar style of construction, standing immediately to its east. The mosque would thus appear to be a dominant intervention in a relatively traditional scene by a building of very different mass, scale, style and character – something generally inappropriate in a designated conservation area.
25. The relationship with the proposed house only exacerbates matters. Although not raised at the inquiry, the design of the house is somewhat curious – primarily due to what seems to be tile-hanging within the main gables and a style of fenestration that harks back to what was popular some 30 years ago. That said, the general form of the house, if built with wall and roof materials matching those of the infants' school building, would stand reasonably comfortably to the rear of that building. It would, however, be just over 4.0m from the nearest corner of the mosque, which would be about 8.0m high at that point. The main eaves of the house would be just 3.6m, leaving it uncomfortably and inappropriately dominated by the mosque standing so close. Even the central gable in the house's west-facing facade, some 7.0m high to its ridge, could not alleviate the stark disparity in mass, scale, style and character.
26. It is a feature of the existing buildings that they are seen from London Road against a backdrop of the woodland surrounding the RMA. It is part of the character of the Conservation Area that the buildings along the London Road frontage are seen to be set within that woodland or in front of it (in effect in clearings). The mass, height and overall width of the mosque, coupled with its position on the site, would largely obscure that backdrop from London Road – the woodland would be seen to either side of the building but would not be seen above it, as it is seen, to the benefit of the Conservation Area, above and behind the existing building.
27. All of these factors – the size of the mosque, its orientation and its visual relationships with the retained building, the proposed house and the woodland to the rear – go together to render the proposed development inappropriate in a location which is both countryside and a conservation area.

#### Context

28. The appellant considered the site part of the London Road street scene rather than an integral part of the Conservation Area. I accept that the sheer variety of style and quality of architecture on the south side of London Road would admit of a new building of different style and character, perhaps even with a different orientation – but it would not render acceptable the inappropriate relationships between the buildings on the appeal site itself, which result from their proximity and their differing mass, scale and character. In any event, I disagree that the London Road street scene should be the context in which the proposed development is assessed. London Road is the very clear boundary between the town of Camberley to its south and the countryside to its north; the two sides are very different in character and London Road represents, as I conclude above, the logical boundary for the Conservation Area to the north.

#### Architectural quality

29. In addition to these conclusions, I also find it extremely difficult to judge the architectural quality of the design of the mosque from the information available. The graphic devices, the style of draughtsmanship and the scale used for the elevations in the application plans serve more to obscure than to

assist. They caused me to seek, before the inquiry opened, further information on the intentions for the details of the design and the materials to be used. The brief response,<sup>6</sup> albeit accompanied by detailed suggestions for conditions should the appeal be allowed, would leave a considerable amount still to be defined and approved after any grant of planning permission.

30. More importantly, it leaves me to judge the quality of the design itself from the application plans and the indications of the facing materials intended to be used – and the main impression I gain is that the proposed design makes little concession to the fact that the mosque would be in a Conservation Area. It is not obvious that what appears, in essence, to be a design from elsewhere in the Muslim world has been in any way tempered by the actual location and context. The choice of lead for the dome roofs and natural stone for the walls, with decorative brick detailing, pays respect to traditional English styles but is to some extent undermined by the actual form of the proposed design and could too easily be further undermined by details, at present unknown, reinforcing the derivation of that form. I cannot see any contextual influences in the proposed design in the same way as can be seen in the illustrations of other mosques in England presented by both Mr Kitchen and Mr Chowdhury.
31. All told, I do not have a suitably clear image of what the finished building is intended, or expected by the appellant, to look like. It might be that (setting to one side the objections I have found above) conditions attached to a planning permission could secure a detailed design that was appropriate to its context. It would have been inappropriate, however, to have sought further detail during the inquiry – to have done so could too easily have prompted adjournment and substantial delay followed by proposals for design amendments which would have taken the scheme significantly away from the specific design which was refused planning permission.

#### Conclusion on the proposed design

32. Put very simply, the features of merit and significance for the Conservation Area that would be lost by demolition of the existing school building would not be adequately replaced or reflected in the proposed development. Indeed, the layout, mass, scale, style and character of the proposed development would combine to harm the character and appearance of both the countryside and the Conservation Area within which it would stand. Given my findings on layout and the relationship between the proposed mosque and both the existing infants' school building and the replacement house, more specific information on the materials and detailed design could not have altered this conclusion.

#### ***Need and benefits***

33. The needs and desires of the Muslim community were expressed by Abdul Wasay Chowdhury and Nahrin Choudhury. It was said that the proposed design evolved taking into account the views of the community. On the other hand, the comments forms with the Statement of Community Involvement appear to have been invited on the basis of what is, in effect, the application scheme. Some of the things said to be 'needs' were argued by Dr Targey not to be essential. That may be so; and what Dr Targey said about needs and desires would not necessarily be inconsistent with a design developed from the Muslim community's views of what it would like to have. In practice, the only reason for differentiating between what might be necessary and what might

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<sup>6</sup> Document 8 – the submitted drawings “indicate the scale, height, massing, style and overall articulation of the proposed building, but are not intended to represent design details in respect of any external finishes”.

simply be desirable is in considering whether need might outweigh the harm that the proposed development would do to the character and appearance of the Conservation Area. It will help towards that to consider the existing situation and the potential for other possibilities to resolve whatever inadequacies there may be.

#### The existing buildings

34. What is clear is that the existing buildings are unsatisfactory. Prayer takes place in a number of rooms and the total area available is hardly adequate for the numbers said to be attending on a Friday. Ablution and toilet facilities are poor and inadequate; provision for women appears almost non-existent. The library seems to be somewhat makeshift, because floor space has to be made available within it for prayer. It is not clear how poor the educational facilities might be; the infants' school building has been refurbished but may not provide adequate space for the purpose.
35. That said, it would be wrong simply to compare the proposed development with the existing facilities. The inadequacies of the existing buildings were recognised many years ago and planning permission was granted in 2003 for a substantial extension to the rear of the main building. That scheme would have provided a large prayer hall, male and female ablution facilities and two new classrooms. A start was made on the scheme in 2007 but it was not continued. While work was apparently begun without satisfying certain pre-development conditions attached to the permission, it seems that the main reason for not continuing was a lack of funds. That scheme is now said not to meet the needs of the community; Mr Chowdhury said that he had always had his reservations, even if they were not shared by others. It is in no way clear, however, that the needs (or desires) of the community can only be met on the appeal site by the proposed development, or something very like it.
36. The condition of the existing buildings should not, so far as I could see at my site inspection, cause undue concern. I saw no evidence of any serious structural flaw in the main building, though there is certainly one 'saw tooth' crack in the brickwork and there are signs of localised damp in one or two places. The building would clearly benefit from additional expenditure on relatively straightforward maintenance, and also from redecoration, but no more than could reasonably be expected for a building of this age and style. Put simply, redevelopment cannot be justified by the condition of the existing buildings. I can also understand that heating the existing spaces is relatively expensive; in similar vein, however, the cost of running the existing building cannot justify redevelopment on the basis that it would be significantly more energy-efficient.

#### Alternatives

37. The possibility of alternatives to the proposed development was raised by some objectors. The proposal is not, however, one that required the consideration of alternative sites in support of the application. Nor is it for me to assess the merits of any of the suggestions made in relation to the appeal site itself. It is, however, relevant to consider whether there may be options that could overcome the objections to the appeal scheme which I have found above. I am guided in this by Mr Chowdhury's evidence on needs.

#### The needs of the Muslim community

38. It was suggested that the proposed design was for a larger building than really necessary. An illustrative layout shows a prayer hall accommodating 300

- prayer mats – but their size, 950mm x 1700mm, is generous. It would not be unreasonable to assume that the size of the prayer hall could accommodate some 450 people, significantly more than maximum current numbers. The basement appears designed simply to occupy the space available beneath the prayer hall. What detail there is suggests room sizes much larger than their purpose requires. Harm, however, does not automatically arise from seeking to make generous provision, whether for a mosque or any other use.<sup>7</sup> I have assessed the proposed scheme on its merits but it is not for me to say whether a smaller scheme to a similar design, if such were thought to be acceptable by the appellant (and the Council), could overcome the objections I have found.
39. The prayer hall in the scheme granted permission in 2003 would not have been orientated towards the Kaa'ba – but, from the evidence to the inquiry, and also what I have seen elsewhere in the country, mosques tend to be aligned with surrounding streets, so the direction of prayer within many must necessarily, and apparently acceptably, be at an angle to the walls of the buildings.<sup>8</sup>
40. The most obvious addition in the appeal scheme is the morgue but it is difficult to understand how the expected (lack of) intensity of use could make it a significant omission from the permitted scheme. Ablution facilities and WCs are clearly needed – but are provided in the permitted scheme and could be easily included in any variant of it. The library in the appeal scheme appears to be an improvement on what exists – but the permitted scheme would at least have freed the existing library solely for that use. The permitted scheme would also have provided two enclosed classrooms whereas the three classrooms in the appeal scheme are spaces within the prayer hall and could, perhaps, be constrained by that principal use.
41. All told, the evidence of deficiencies in the scheme permitted in 2003 is not compelling. Even if it were, it seems that there must be other ways of altering and extending the existing buildings in order satisfactorily to meet the needs of the congregation. That applies even if I set to one side Dr Targey's evidence on what is essential and what is not.
42. For example, it was suggested that a prayer hall aligned towards the Kaa'ba might interconnect with the existing building and thus retain those elements of it that contribute positively to the character and appearance of the Conservation Area. I cannot see that that should be ruled out. Nor should the condition of the existing building be a deterrent to consideration.
43. It was argued that, should these appeals fail, the appellant would be left without any satisfactory alternative. The site would remain undeveloped, due to lack of funds. Indeed, lack of donations would likely mean that the condition of the existing building would deteriorate further. The appellant would be unable to fulfil its obligation to the Muslim community and the wider community would be deprived of a "fully facilitated Islamic Centre". The comments of the Council's Head of Built Environment<sup>9</sup> were pointed to as evidence that there were no other options. As I read it, however, that letter is referring to a "new mosque on this site", not to a proposal in similar vein to the 2003 scheme.

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<sup>7</sup> Though there may be implications for traffic generation and the assessment of any highway infrastructure contribution, which I consider below.

<sup>8</sup> Document 12 illustrates prayer mats oriented towards the Kaa'ba in a mosque clearly aligned differently.

<sup>9</sup> Document 4, responding to Document 3.

## Funding

44. The question of funding is an imponderable deserving of further scrutiny. The main reason that the permitted scheme did not proceed, irrespective of reservations about any deficiencies, was a lack of funds. The evidence to the inquiry was no more than an assertion that a new development, as now proposed, would be far more attractive to potential donors than the extension scheme previously approved. That may well be true – but the evidence was hardly cogent and the cost of the proposed scheme would be substantial.
45. The only estimate of cost given to the inquiry was a figure of £1,100-£1,200/sqm. What that figure did or did not include is not known. I suspect from the evidence that what is proposed would include materials and details costing significantly more than the estimate probably allows for. If so, it is likely that the proposed development would cost around £3.5 million, at a minimum, all to be secured by donations. Even if a new development would be more appealing to donors, it is difficult to square the funding requirement with the inability to raise the necessary moneys for the approved scheme – even more difficult to square it with the suggestion that, should the appeals be dismissed, adequate funds for the repair and maintenance of the existing building would be unlikely to be forthcoming.
46. The question of funding therefore remains uncertain. The appeals, however, are concerned, first and foremost, with the land use merits of the proposal and its physical and visual impact on its surroundings. I cannot see that the uncertainty about funding could itself lead to dismissal of the appeals.

## Benefits for the wider community

47. The Council has previously accepted that there is substantial public benefit in having an Islamic Centre in the Borough. That benefit may be diminished at present because of the constraints of operating within the existing buildings. It appears, however, that the benefit may be an intangible one, rather than one gained from specific provision. Evidence on the relative benefits that would flow from the appeal scheme, as opposed to the permitted scheme or something akin to it, is not substantial. It is not clear what would be achieved by the one that could not equally be achieved by the other. Indeed, there is no obvious provision in the proposed scheme, save for the mezzanine library space, for accepting visitors to the mosque in order to spread knowledge of Islam into the wider community – and the straightforward evidence was that no further provision was deemed necessary.

## Conclusion on need and benefits

48. The inadequacies of the existing buildings cannot be used to outweigh the harm that would be caused by the proposed development, especially as a scheme to alter and extend the existing main building was approved in 2003, begun in 2007 and must be assumed then to have been satisfactory. Even if that scheme is now thought deficient, there seems to be no good reason why a variant of it should not provide satisfactorily for the needs of the congregation. I saw nothing in the condition of the existing main building that could justify its complete demolition in favour of redevelopment.

## ***Transport infrastructure contribution***

49. The highway authority raised no objection to the proposed development on the basis that the intensity of use would be similar to the existing level and, while that can cause localised congestion on the A30, it is only for a limited period,

- only on Fridays and outside the peak periods. Notwithstanding that, it sought a financial contribution towards transport infrastructure.
50. Local Plan Policy G3 seeks contributions “fairly and reasonably related in scale and kind to the proposed development ... to achieve the objectives of the Local Plan”. Policy M5 looks for “significant development” to provide appropriate transportation improvements – but, given the existing use of the appeal site, it is arguable that the proposed development could not be significant in the terms of the policy. Policy M6 seeks developer funding where works to accommodate development-related traffic are deemed necessary by the highway authority; that is not the position here. The policies in the South East Plan are more general and do not add materially to Local Plan policy. In the context of Policy G3, in effect the only relevant policy, two things combine to suggest that some sort of contribution would be appropriate.
51. Firstly, even if the intention and expectation are that patterns of use would remain very much as they are now, the proposed mosque offers significantly better and more spacious accommodation than the existing buildings, which could very easily prompt increased levels of use. That would have an effect on localised congestion levels but, so far as I can gauge (because the evidence did not seek specifically to address the possibility), not so significantly as to warrant dismissal of the planning appeal. Secondly, Government policy is, in simple terms, to reduce reliance on the use of the private car. Achieving that involves a shift to other modes of transport, cycling being the most obvious alternative in this particular case. Putting these two factors together, and consistent with the guidance in Annex B to Circular 05/2005, *Planning Obligations*, it is not unreasonable in principle to seek a contribution that would be spent on cycle route provision and a movement study in nearby residential streets, even though there is no highways objection to the proposed development itself.
52. The difficulties lie in the method of calculating a contribution. A mosque is essentially a place of assembly. Contributions, however, are calculated on the basis of the gross additional floor area (1,650sqm) divided by a fixed area per employee (14.6sqm for community services) to give a number of employees (113, though the appellant says, not unreasonably, that there would be no more than five), to which is applied a fixed sum per employee. That method of calculation has no obvious relevance to the proposed development, where it is the number of visitors that is crucial, not the number of employees (and that number would be better based on the capacity of the prayer hall than the overall floor space in the building). It is then illogical in the terms of the calculation method, though perhaps sensible in terms of actual use, to divide the calculated sum by seven because congestion, caused by the number of visitors, occurs only on one day of the week. Overall, therefore, it is very difficult to argue that the method of calculation is one that can give a figure “fairly and reasonably related in scale and kind to the proposed development”. Equally, neither would a calculation based on the true number of employees, simply because it is the number of visitors that is important.
53. The executed obligation offers a choice of sums (£21,454.39 or £885.49), were I to consider that a contribution would be appropriate in the first place. It is impossible, because of the means of calculation, to say that either amounts to what could reasonably be sought. While I believe that a contribution of some sort would have been warranted, had I been minded to allow the appeal, the evidence does not allow a satisfactory conclusion on the amount.

### ***The proposed dwelling***

54. There are two reasons for refusal relating to the proposed replacement dwelling – one on the impact for the occupiers of the neighbouring dwelling at 278 London Road, the other on the lack of private amenity space.
55. On the first, the proposed house would be situated just one metre from the site boundary and would be 4.0m to eaves with a 45° pitched roof above that. It is true that no. 278 has a wide garden but it already has the infants' school building along its western boundary and the proposed house, just 4.0m from the gable of the existing building, would extend along more or less the rest of that boundary. The effect of that would be unacceptably overbearing; it would also limit the amount of afternoon sunlight reaching the garden.
56. On the second point, there is effectively no private amenity space around the proposed house. A small amount could be enclosed, but no more than 3.0m wide, so that its size and location would offer little to the occupiers in terms of being able to enjoy the open air in privacy. I accept that they would have access to the whole of the grounds, offering a variety of sunny, shady and sheltered locations. That, however, is not the same as having an area which can be enjoyed in relative peace and quiet, irrespective of the comings and goings at the mosque. What is proposed is made more unacceptable by there being 10 parking spaces immediately beyond the house, accessed by way of a gap between the mosque and the front of the house which, at its narrowest, would be just over 4.0m wide; moreover, the overspill parking layout indicates that there could be a further 22 cars parked outside or beyond the house at the busiest times.
57. Accordingly, I consider that there is conflict with Local Plan Policies G4 and H23 and that, far from being "makeweights", both reasons for refusal are justified.

### ***Security***

58. The northern boundary of the appeal site is with the RMA. Defence Estates (now the Defence Infrastructure Organisation – DIO) and the RMA were both represented at the inquiry. They had no objection to the proposed development subject to specific conditions being attached to planning permission. I made an accompanied visit to the RMA, looking in particular at the Parade Ground, the Old College and the perimeter security fence within the woodland to the north of the appeal site. I have no reason to doubt the basis of the conclusions reached by the DIO and RMA.
59. The imprecise nature of the levels information for the site and the nearby church made it extremely difficult to judge whether the minarets of the proposed mosque would be visible from either the Parade Ground or the first floor of the Old College. My feeling is that their tops would just be seen above the tree line, certainly from the latter. That potential line of sight makes it important to the security of the RMA that the tops of the minarets should not be accessible from within.
60. It was suggested on behalf of Save our School that external access to the upper parts of the minarets for maintenance purposes should also be controlled by condition. The DIO and RMA appeared not to share that view but, were the tops of the minarets to allow line of sight into the RMA grounds, then control would seem to me justified.
61. In addition, at present, only two structures can be seen above the otherwise entirely landscaped horizon around the RMA – St Michael's church spire and, some distance to the north-east, a communications mast. There is a strong

argument that the character and appearance of the Conservation Area, albeit that only part of the RMA is within it,<sup>10</sup> should not be harmed by the appearance above the horizon of any new structure, in this case the minarets of the proposed mosque. Since the evidence of other mosque developments suggests that the height of a minaret is not critical, no difficulty should arise in ensuring that the tops of the minaret(s) in any otherwise acceptable scheme would not be visible above the tree line from within the grounds of the RMA.

62. I am uncertain that the other agreed conditions (relating to openings or windows in the minarets and at first floor level) would be entirely necessary were my decision to allow the appeal. The site is already an Islamic Centre. The intensity of use is not expected to alter significantly as a result of the proposed development (though in theory it could). The depth and density of the woodland provides an effective visual barrier from all but the very top of the proposed minarets. The security fence within the woodland is considered adequate but, to my mind, offers only limited protection against anything more than a casual effort to enter the grounds. A condition controlling boundary treatment around the appeal site would be important but would not, and was not sought to, add to the existing level of security. It was suggested that the mosque was already home to a fundamentalist form of Islam and that terrorism must be considered a possibility. The evidence was not at all conclusive on that – but the Islamic Centre is already there and so, even if it were true, the threat is already there and would not be unduly exacerbated by the proposed development.
63. All told, I have no reason to think that the DIO and RMA are unable to conclude on the security needs of their own establishment and no reason to dismiss the appeal on the basis of inadequate security.

***Overall conclusion on the main issues***

64. The proposed use is not one of those permitted by Local Plan Policy RE3 on development in the countryside. On the other hand, the existing buildings are already in use as an Islamic Centre and the principle of redevelopment does not seem very different to that of business premises, which may be allowed by category (f) of that Policy. In those circumstances, the proposal falls to be dealt with in terms of the change of scale of what is proposed and the effect on the character and appearance of the countryside.
65. The existing buildings are locally listed and within a Conservation Area. The Conservation Area boundary is appropriately defined, bearing in mind the historical links between the church and school on the London Road frontage and the RMA beyond the woodland to the north. The buildings make a positive contribution to the character and appearance of the Conservation Area, perhaps more for their historical associations than their architectural character, although that association is made manifest by their visual appearance. The status of the building proposed to be demolished and the significance of its contribution are such that the proposed redevelopment falls for consideration in relation to Policy HE9.4 of PPS5 and Local Plan Policies HE1 and HE3.
66. The proposed development would not adequately reflect the characteristics of the Conservation Area which would be lost through demolition of the existing school building. The layout of the development and the relationship between

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<sup>10</sup> The Parade Ground and the Old College, perhaps the visual focal point of the RMA, are in Bracknell District and thus not in the Conservation Area. It seems certain that the minarets would not actually be visible from any point within the designated Conservation Area. Nevertheless, it remains a valid argument that the exceptional visual enclosure should not be undermined unnecessarily by new development beyond.

the proposed mosque, the retained school building and the replacement house would harm the character and appearance of the Conservation Area. In so far as it can be judged from the information available, the design and detail of the proposed mosque appear to reflect what might be found in the Near East or the Indian subcontinent, uninfluenced by the location in a Conservation Area. Accordingly, while demolition of the existing building might be permitted in favour of an acceptable scheme of redevelopment, the appeal scheme fails against criteria (b) and (c) of Policy HE1, and also Policy RE3.

67. Nor can the need for the proposal or the benefits to flow from it, as presented in the evidence, outweigh that harm. Indeed, the proposal fails against criterion (a) of Policy HE3 because the existing building makes a positive contribution to the character and appearance of the Conservation Area and it was explicitly no part of the appellant's evidence that the building no longer had a viable use.
68. Three other matters influence my conclusions. Firstly, Local Plan Policy G3 seeks planning benefits from new development, where appropriate, but the evidence does not demonstrate how any contribution to transport infrastructure would be fairly and reasonably related in scale to what is proposed. Secondly, the replacement house would have an overbearing effect for the occupiers of the neighbouring dwelling and would itself lack adequate private amenity space, contrary to the general aspirations of Policy G4(a) and the more specific requirements of Policy H23. Lastly, the evidence does not indicate to me that the security of the RMA would be seriously undermined, always provided that appropriate conditions were attached to any planning permission and preferably if the minarets could not be seen above the treed skyline from any sensitive location within the RMA grounds.

### **Conservation area consent – Appeal Ref. APP/D3640/E/10/2136196**

69. Had the proposed redevelopment been acceptable, that would have justified allowing Appeal Ref. APP/D3640/E/10/2136196 and granting conservation area consent. Not having found it acceptable, I see no reason to grant conservation area consent. It is not at all clear that, following dismissal of Appeal Ref. APP/D3640/A/10/2136193, an alternative and acceptable scheme would be submitted within the life of a conservation area consent granted now. It might also be that an acceptable scheme for the site would not require demolition. Accordingly, I shall dismiss Appeal Ref. APP/D3640/E/10/2136196.
70. Had I been minded to allow the appeal, I would have considered that the standard condition (preventing demolition until a contract for redevelopment had been let) would afford adequate security against the harm that could arise from a development that was started but could not be completed. In part, that is because, were the proposed development to founder, I cannot conceive that there would not be other uses and building designs that would preserve or enhance the character and appearance of the Conservation Area.

### **Suggested conditions**

71. Had I concluded that Appeal Ref. APP/D3640/A/10/2136193 should be allowed, what was being sought by way of the suggested conditions discussed at the inquiry was entirely reasonable and necessary. While I would have changed the organisation and construction of some, all could have satisfied the tests in Circular 11/95. On the other hand, they could not resolve the objections I have found to the effect of the proposed development on the character and

appearance of the Conservation Area. Accordingly, it would be inappropriate to allow the appeal and grant planning permission subject to those conditions.

### **Other matters**

72. In coming to my decisions, I have had regard to the duties set out in the Race Relations Act 1976 and the Equality Act 2010, and to the provisions of Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1). Section 71(1)(b) of the Race Relations Act requires the promotion of equality of opportunity and good relations between persons of different racial groups. The Equality Act 2010 came into force during the inquiry. Section 149 of the Act makes not dissimilar provisions. Section 149(6) states that compliance with the duties in the section may involve treating some persons more favourably than others. Paragraphs 14-16 of PPS1 promote social cohesion and inclusion and meeting the diverse needs of all people.
73. I have come to my conclusions above on the planning and design merits of the appeal proposals in the context of the appeal site's location in the countryside and in a Conservation Area and the planning policies applying thereto. I have also assessed the need for the development, on the basis of the evidence put before me, and found that that was insufficient to outweigh the harm that would be caused. In that my conclusions would apply to any group or person making this proposal, or a different proposal with similar impacts, there is no conflict with the provisions of the Race Relations Act or PPS1. Nor, given my clear-cut conclusion on the physical and visual harm that would be caused by the proposed development, do I see any justification, by virtue of Section 149(6) of the Equality Act, for treating the appellant more favourably than any other person or persons who might propose development having a similar impact.
74. I have taken account of all other matters raised at the inquiry but have found nothing, individually or cumulatively, that could outweigh my conclusions above, primarily those on the effect of the proposed development on the character and appearance of the Conservation Area, which have led me to my decisions.

*John L Gray*

Inspector

## **APPEARANCES**

### **FOR SURREY HEATH BOROUGH COUNCIL**

Craig Howell Williams QC	instructed by Amardip Healy, Legal Services Manager, Surrey Heath Borough Council.
He called	
Edmund Booth BA(Hons) DipUD MRTPI IHBC FSA	President, IHBC.
Andy Stokes MCIHT	Principal Transport Development Planning Officer, Surrey County Council.

### **FOR THE SAVE OUR SCHOOL GROUP**

John Pugh-Smith, of Counsel	instructed by Paul Dickinson & Associates, Town Planning and Development Consultants, Highway House, Lower Froyle, Hampshire, GU34 4NB.
He called	
Major General (ret'd) Tim Cross CBE FCILT BSc MSc	
Imam Dr Taj Hargey BA MA PhD	Chairman, Muslim Educational Centre, Oxford.
Alan Kirkland	Vice Chairman, Save our School.

### **FOR THE SOUTHWELL PARK RESIDENTS' ASSOCIATION<sup>11</sup>**

Christopher McDonald	
He called	
Ken Clarke	Treasurer of Surrey Heath Local History Club and Camberley Society Committee Member.
Melanie Longden	Residents' Association Committee Member and Chairman of Save our School.

### **FOR THE BERKSHIRE, HAMPSHIRE AND SURREY BENGALI WELFARE ASSOCIATION**

Christopher Lockhart-Mummery QC	instructed by CgMs Consulting, Morley House, 26 Holborn Viaduct, London, EC1A 2AT.
He called	
Edward Kitchen BA MA	Director, CgMs Consulting.
Abdul Wasay Chowdhury	Bengali Welfare Association Executive Committee Member.
Nahrin Choudhury	
Kevin Goodwin BTP MRTPI	Head of Planning, CgMs Consulting.

### **INTERESTED PERSONS**

Alexis Norman	Senior Estate Surveyor, Defence Infrastructure Organisation.
Col Roddy Winser	Chief of Staff, Royal Military Academy, Sandhurst.

Christopher Nobbs	Terry Monk
T Ewing	Geoffrey Hislop
Cllr Colin Dougan	Mrs Caroline Collier
CJF Pavey	Mrs Kassner
Cllr Ian Bell	Sally Garland
Kathy Fuller	Roger Webb

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<sup>11</sup> The Southwell Park Residents' Association also represented the views of the Camberley Society, The Surrey Heath Local History Club and the Southern Road & Lower Charles Street Action Group.

## **DOCUMENTS submitted to the inquiry**

- 1 File containing details of all notifications and the distribution thereof.
- 2 "Important Note – 11<sup>th</sup> July 2010", English Heritage, in relation to PPS5.
- 3 Letter, 29/10/10, from Mr Chowdhury to Mr Townley, Head of Built Environment with the Council ... and ...
- 4 Letter, 2/11/10, in reply.
- 5 Reproductions of drawings of the original school building.
- 6 St Michael's Church, A Short History, Miss B M Holmes (undated).
- 7 Email trail re. security concerns.
- 8 Appellant's response to Inspector's note on design detail.
- 9 Additional suggested conditions re. design detail.
- 10 Documents submitted by T Ewing (conservation area case law).
- 11 2001 census data.
- 12 Photographs of Croydon mosque.
- 13 Save our School press release, 10/3/10.
- 14 Population analysis by Save our School.
- 15 'Outreach' by the Islamic Centre and associated correspondence, submitted by Save our School.
- 16 Analysis of petitions by Save our School.
- 17 Charity Commission information re. the appellant.
- 18 M A Al-Kharafi Islamic Centre Financial Statement for year ended 31/12/09.
- 19 Letter, 28/1/11, from Charity Commission Direct to Mr Anwar Ali.
- 20 Land Registry entry, 10/3/99.
- 21 Mortgage charge 1996.
- 22 Design images, submitted by Mr Kitchen.
- 23 Commonwealth Institute, Kensington – list description, plan and images, submitted by Mr Kitchen.
- 24 Email, 3/1/08, re. commencement of works in implementation of 2003 planning permission (application ref. 02/1079).
- 25 The Constitution of the Berkshire, Hampshire and Surrey Bengali Welfare Association, 13/8/10, plus 1996 draft.
- 26 Silk Route Traders Limited, UK Data 192 Full Report.
- 27 Material obtained from [www.camberleymosque.co.uk](http://www.camberleymosque.co.uk).
- 28 The hijacking of British Islam, Denis MacEoin, published by Policy Exchange, 2007.
- 29 Zibdawn Associates Limited, knowYOURclient report.
- 30 Letter, 14/10/10, from UK Border Agency.
- 31 Email, 11/4/11, from Charity Commission.
- 32 Minute of meeting of 20/2/11 approving Mr Chowdhury's proof of evidence.
- 33 Correspondence confirming that Mr Karim is not and has not been a client of John Pugh-Smith QC.
- 34 "Camberley, A History", Mary Ann Bennett, 2009.
- 35 Amended and expanded list of suggested conditions.
- 36 Surrey Heath Local Plan 2000.
- 37 Note from Borough Council re. suspension of Core Strategy.
- 38 Executed section 106 obligation.
- 39 Understanding Place: Conservation Area Designation, Appraisal and Management, English Heritage, 2011.
- 40 Letter (undated) from General the Lord Guthrie GCB LVO OBE.