

Location **The Sternberg Centre For Judaism 80 East End Road London N3 2SY**

Reference: **17/4905/S73** Received: 27th July 2017
Accepted: 27th July 2017

Ward: Finchley Church End Expiry 26th October 2017

Applicant: Ms Claire Mandel

Proposal: Variation of condition 18 (Permitted use of Premises) of planning permission F/00690/08 dated 24/04/2008 for Erection of synagogue (Variation of planning permission C00403CL/05 dated 30-09-2005 for demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva school block adjacent to Windermere Avenue and Pavillion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Beit Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car-parking spaces, single storey refuse store and alterations to Manor House). Variation to include allowing opening of premises from 22:30, to Midnight, except for on Friday nights, where the opening of premises will remain until 22:30. (amended description).

Recommendation: Approve following legal agreement

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Access Statement, Design Statement, Extended Phase 1 Habitat Survey of Land at the Sternberg Centre reference CAPPRO-STECCEN-1168, Visualisations, Ecological Strategy meeting minutes, Tree felling approvals, Arboricultural Survey / Arboricultural Impact Assessment / Method Statement reference AR/1233/06, Ambient noise survey AAC/112563/R01-sj, Supporting Planning Statement, Ventilation Report Issue C, N[2-]000 Option B only, U[--]001A/B, U[--]002A/B, U[--]003A/B, U[--]040A/A, T[31]020/B, Arboricultural Survey drawing 155/02/P2, 155/12/P7, 155/500/P6, 155/501/P5, 411-A-100A, 411-L-010, 411-L-011, 411-L-

011, 411-L-100H, 411-L-105A, 411-L-110J, 411-L-120G, 411-L-200J, 411-L-230G, 411-L-240H, 411-L-250D, 411-L-300F, 411-L-320G, 411-L-330G, 411-L-315D, 411-L-310F, 411-L-305D, Acoustic Report from Arup Acoustics dated 09/06/08 and numbered 123813/MJW.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The pedestrian access in the boundary wall fronting East End Road and the secondary access in the boundary wall with Pavillion Mews shall only be used for the purpose of the emergency evacuation of the site and shall be used for no other purpose.

Reason: In the interests of safeguarding residential amenity and in compliance with policies DM01, DM02, DM13 and DM17 of the Adopted Local Plan Development Management Policies DPD (2012) and policies CS1, CS NPPF and CS9 of the Local Plan Core Strategy (2012).

- 4 No external lighting, floodlighting or other means of external illumination shall be affixed to the external elevations of the building, or placed/erected within the site without the prior written consent of the local planning authority pursuant to a planning application. Any external lighting, floodlighting or other means of external illumination shall be installed and thereafter retained in full accordance with the approved details.

Reason: To enable the local planning authority to retain control over these matters in the interests of the amenities of adjoining properties and to safeguard the setting of the adjoining listed building and in compliance with policies DM01, DM02, DM06, DM13 and DM17 of the Adopted Local Plan Development Management Policies DPD (2012) and policies CS1, CS NPPF, CS5 and CS9 of the Local Plan Core Strategy (2012).

- 5 Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development and in compliance with policies DM01, DM02 of the Adopted Local Plan Development Management Policies DPD (2012) and policies CS1, CS NPPF and CS9 of the Local Plan Core Strategy (2012).

- 6 The use of the premises for the purposes hereby permitted (unless otherwise agreed in writing by the local planning authority or as set out in any associated legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) shall only take place between the hours of 8.00am and 10.30pm Fridays and 8.00 and midnight Saturdays and between 7.30am and midnight on all other days.

Reason: In the interests of the amenity of occupiers of neighbouring residential properties and in compliance with policies DM01, DM02, DM13 and DM17 of the Adopted Local Plan Development Management Policies DPD (2012) and policies CS1, CS NPPF and CS9 of the Local Plan Core Strategy (2012).

- 7 The level of noise emitted from the operation and use of the synagogue hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of any neighbouring property which existed at the time of this decision notice. If the noise emitted has a distinguishable, discreet continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1metre outside the window of any room of any existing neighbouring property at the time of this decision notice.

Reason: In the interests of safeguarding residential amenity and in compliance with policies DM01, DM02, DM13 and DM17 of the Adopted Local Plan Development Management Policies DPD (2012) and policies CS1, CS NPPF and CS9 of the Local Plan Core Strategy (2012).

Informative(s):

- 1 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

Officer's Assessment

1. Site Description

The Sternberg Centre is located on the southwest side of East End Road opposite the junction with Manor View. The Sternberg Centre occupies a site of approximately 3.03 hectares and incorporates a mixture of land uses, functions and facilities principally for the Jewish Community.

Beyond the site, the area is predominantly residential, although there is another school adjoining the site along East End Road to the southeast and sports grounds to the opposite side of East End Road. Basing Way housing estate is located to the south of the site.

The site comprises:

- o An 18th Century moated site which is designated as a Scheduled Ancient Monument.
- o An 18th Century three storey Manor House which is designated as a Grade II* Listed Building.
- o A three storey flat roofed extension and link building to the side of the Manor House.
- o A three storey modern building (the Beit Limmud building) and a number of original single storey outbuildings (the stable block).
- o A two storey house on the south east corner of the site that provided accommodation for the caretaker.
- o A newly built school.

The site is not located in a conservation area. There are a number of Tree Preservation Orders for the site and there is an area order for the area around the external boundaries of the site along East End Road and along the boundary with the Basing Way Estate.

The Sternberg Centre plays a major role in the life of the Jewish Community. It includes the central facility of Reform Judaism in the UK and accommodates a large number of organisations that inter-act to provide religious and community services to both the local and national Jewish Communities.

The site essentially contains the Head office and community centre of Reform Judaism in the UK and Europe, the Akiva primary school, the New North London Synagogue and Gan Alon Nursery and the Leo Baeck College and Centre for Jewish Education. The Sternberg Centre was established in 1981 after the Manor House and its grounds were collectively purchased by a number of Jewish organisations. Together they formed the Manor House Trust, which administers the site.

2. Site History (selected)

Reference: 14/07798/S73

Address: The Sternberg Centre For Judaism, The Lodge, 80 East End Road

Decision: Refused

Decision Date: 27.01.2017

Description: Variation of condition 18 (Hours of Use) pursuant to planning permission reference F/00690/08 dated 24/07/2008 for 'Erection of synagogue (Variation of planning permission C00403CL/05 dated 30-09-2005 for demolition of existing Akiva School, link

block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavillion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car-parking spaces, single storey refuse store and alterations to Manor House). Variations to include relaxation of restricted hours of use to allow extension of opening hours of premises between 8.00am and Midnight Fridays and Saturdays and between 7.30am and Midnight on all other days

Reasons for refusal:

The proposed variation to hours in this predominantly residential area would cause harmful loss of residential amenities to surrounding residents. The proposals would be contrary to policies DM01 and DM13 of the Adopted Barnet Development Management Policies 2012. Appeal Status: Appeal in progress.

Reference: F/00008/11

Address: The Sternberg Centre For Judaism, 80 East End Road, London, N3 2SY

Decision: Approved subject to conditions

Decision Date: 15 March 2011

Description: Variation of Condition 7 (Cycle Parking) pursuant to planning permission F/00690/08 dated 24/07/08 to alter location of cycle parking (but not number of spaces).

Reference: F/04726/10

Address: The Sternberg Centre For Judaism, 80 East End Road, London, N3 2SY

Decision: Approved subject to conditions

Decision Date: 8 February 2011

Description: Use of vacant building (Stables block) as a Jewish Military Museum (Use class D1). Internal alterations including extension to existing Mezzanine (25m²). Alterations to roof including insertion of 4 dormer windows facing courtyard. Replacement of all windows and doors with new double glazed windows and doors.

Reference: F/00730/08

Address: The Sternberg Centre For Judaism, 80 East End Road, London, N3 2SY

Decision: Approved subject to conditions

Decision Date: 24 July 2008

Description: Erection of synagogue (Variation of Listed Building consent C00403CM/05 dated 30-09-05 for demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavillion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car-parking spaces, single storey refuse store and alterations to Manor House) (LISTED BUILDING CONSENT)

Reference: F/00690/08

Address: The Sternberg Centre For Judaism, 80 East End Road, London, N3 2SY

Decision: Approved following legal agreement

Decision Date: 24 July 2008

Description: Erection of synagogue (Variation of planning permission C00403CL/05 dated 30-09-2005 for demolition of existing Akiva School, link block, caretakers house and all

timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavillion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car-parking spaces, single storey refuse store and alterations to Manor House).

Reference: C00403CL/05

Address: The Sternberg Centre For Judaism, 80 East End Road, London, N3 2SY

Decision: Approved following legal agreement

Decision Date: 30 September 2005

Description: Demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavillion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car-parking spaces, single storey refuse store and alterations to Manor House.

Reference: C00403CG/04

Address: The Sternberg Centre For Judaism, 80 East End Road, London, N3 2SY

Decision: Refused

Decision Date: 29 July 2004

Description: Demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new partially submerged Akiva School block adjacent Windermere Avenue, new synagogue adjacent St. Therasas Primary School and extension of existing stable block/Biet Limmud including an auditorium partially positioned below ground level, together with associated changes to landscaping, car-parking and alterations to Manor House.

3. Proposal

Permission is sought for the variation of condition 18 (hours of use) of planning permission F/00690/08 dated 24/04/2008. That application sought planning permission for the Erection of synagogue (Variation of planning permission C00403CL/05 dated 30-09-2005 for demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavillion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car-parking spaces, single storey refuse store and alterations to Manor House).

Condition 18 of the planning permission stated the following:

The use of the premises for the purposes hereby permitted (unless otherwise agreed in writing by the local planning authority or as set out in any associated legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) shall only take place between the hours of 8.00am and 10.30pm Fridays and Saturdays and between 7.30am and 10.30pm on all other days.

Reason: In the interests of the amenity of occupiers of neighbouring residential properties.

The application proposes the variation of the condition to achieve the following:

The use of the premises for the purposes hereby permitted (unless otherwise agreed in writing by the local planning authority or as set out in any associated legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) shall only take place between the hours of 8.00am and 10.30pm Fridays and 8.00am and midnight Saturdays and between 7.30am and midnight on all other days.

Reason: In the interests of the amenity of occupiers of neighbouring residential properties.

The variation is to keep the existing hours on Friday but increase the closing hours from 10.30pm until midnight all other nights. The previously refused variation to the hours sought to extend the opening hours to midnight on all nights.

4. Public Consultation

Consultation letters were sent to 146 neighbouring properties.

15 responses have been received, comprising 13 letters of objection and 2 letters of support.

The objections can be summarised as follows:

- o The existing hours were in place to minimise disruption however there are noisy activities taking place. The Activities Management Plan (AMP) allows for a relaxation of the controls on certain days and holidays. Because of this, other restrictions should not be relaxed.
- o There is anti social behaviour which occurs, generally when people are leaving the site including banging of car doors, people talking, headlights shining into neighbouring windows.
- o There is insufficient car parking in the area to accommodate the demand from this site. The parking that was meant to be provided for this development has not been constructed.
- o The extended hours and the resulting noise and illumination from the site would only increase the detrimental effect the site has had on wildlife in the area
- o Lack of privacy for neighbouring residents as a result of people entering and exiting via the external stairwell
- o This is not the first time they have applied for additional hours. It has previously been refused and should be refused again.
- o There are outstanding issues at the site including the fee payable under the s106 agreement which should be dealt with before anything else for this site is considered.
- o The figures given in the statement are not accurate
- o The statement says no objections have been received but there have been complaints directly to the NNLS and Councillors and enforcement.
- o The site does not keep windows closed nor the fire door and there is a lack of privacy and exacerbated noise as a result.
- o The additional 1 and ½ hours needed to get people out of the building is unnecessary

The representations can be summarised as follows:

- o Terminating events earlier takes away from these events considerably
- o Such restrictions do not apply to other similar developments
- o The synagogue is an invaluable community asset.
- o No noise complaints have been made
- o The events held ensure doors and windows are closed and no disturbance to neighbours.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2015

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 2031. 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.

Barnet's Local Plan (2012)

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

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS9 and CS10
- Relevant Development Management Policies: DM01, DM02, DM04, DM13 and DM17

Supplementary Planning Documents

Sustainable Design and Construction SPD (adopted April 2013)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether harm would be caused to the living conditions of neighbouring residents.
- Whether the local highway network would be able to accommodate any additional parking demand arising from the proposed extension to the hours of use.
- The implications for the development on the existing Section 106 agreement and its future implementation.

5.3 Assessment of proposals

Permission is sought for the variation of condition 18 (hours of use) of the synagogue building which was permitted under planning application permission F/00690/08. That

application was a variation of an earlier planning permission in 2005 for the erection of a new school and synagogue. This variation seeks permission for the synagogue to be able to be used until midnight on all days other than Friday. The planning application F/00690/08 was granted on 24 July 2008 and was completed in 2011. This would be in addition to the relaxation of hours of use controls permitted for holy days, holidays and religious festivals in written agreement with the Council. These days are defined by the Section 106 agreement as being Pesach (four days), Shavuot (2 days), Succoth (3 days), Yom Kippur (1 day), Rosh Hashanah (2 days), Chanukah (1 day), Purim (1 day) and Simchat Tora (1 day).

The planning application F/00690/08 was submitted to the Council to deal specifically with sound insulation and acoustic impact details that lead to design changes requiring a further application to be submitted. Although the option of non-material minor amendments was considered, officers were of the view that these alterations to the design and the possible amenity implications were material and as such, an application for a variation of the previous planning permission was made.

The applicant is the New North London Synagogue and they have advised that since the building has been occupied, the premises have been used as a valuable community resource not just for the membership but also for the wider community in the area. The facilities allow for the site to accommodate life cycle and rites of passage events such as Bar Mitzvahs and wedding celebrations. The applicant has advised that there have been 25 Bar Mitzvahs and other celebratory parties since moving into the building in April 2011. The applicants have taken particular steps to ensure that no disturbance takes place to neighbours, including the closure of any openings, sound level limitation and servicing and disposal on the day after.

However the 22.30pm finish has meant that there is reluctance from the community to holding such events at the Sternberg Centre. The applicant has advised that in practice, celebrations have to stop much earlier to allow sufficient time to vacate elderly people and disabled people from a celebration before 22.30pm. Nevertheless, it is considered that the existing operational activities would be able to occur satisfactorily within the existing hours set out within Condition 18 of the 2008 planning permission.

The condition was imposed on the planning permission to protect the amenity of occupiers of the neighbouring residential properties. Any impacts can manifest themselves in two ways, firstly through the noise impacts arising from the actual use whether that may include amplified noise and sound and the or from the movements and activities of people dispersing from the premises after the conclusion of the use of the synagogue as approved.

Environmental Health officers were consulted on the planning application and provided a written response to officers. Further clarification was sought from the applicant who confirmed their current practices of closing windows during amplified speech and music and compliance with condition 26. No objections were raised by Environmental Health officers to extending the hours.

Objectors have stated complaints have been lodged with the New North London Synagogue directly and with the Council. Environmental Health Officers have advised that no specific complaints have been recorded relevant to this proposal and there is nothing to suggest a recent nuisance has been witnessed at the site. Complaints were made some years ago relating to building works which are not relevant to this proposal. The applicant

has confirmed they have not received any complaints by residents about noise at evening NNLS events.

Nevertheless, the potential for the site to be used until later in the evening and for events requiring amplified noise and sound will require some safeguards including confirmation that windows and openings will be closed at times when amplified sound is not broadcast but when there may be high attendance. In addition, the sound limiter should ensure that noise events are at least 5dB(A) below the background noise level as measured from any point 1 metre outside the window of any room of neighbouring residential properties.

The original hours of use condition was considered acceptable and reasonable in providing a balance between the needs of the users and the function of the site along with the amenity considerations of neighbours. A number of objectors have raised concerns about people returning to cars parked around local streets, turning on headlights, closing car doors, talking loudly in a peaceful residential environment. The environmental health officer has not received any specific complaints in relation to the use of the synagogue in connection with these actions.

The Section 106 agreement has been revised and secures the implementation and adherence to an Activities Management Plan (AMP) to ensure that the Council retains oversight of the activities, times and population on the site at any one time. The AMP sets out requirements which include the details of the estimated number of parking spaces, sound attenuation measures and management and stewarding of attendees to mitigate against any adverse impact on the locality. The AMP also obliges the applicants to provide CCTV pictures and records of events and numbers of attendees to the Council on request. The AMP also requires the applicants to direct their attendees to be considerate to neighbours and to have a named person for responding to complaints.

The proposal does not give rise to any additional floorspace and the AMP will still impose restrictions on the numbers of attendees on the site and in conjunction with a Car Parking Management Plan that is also secured through the Section 106 legal agreement, it is considered that the proposed variation of the condition would not give rise to any additional parking. Highways officers have been notified of this application and have raised no objections to this application.

In varying the condition, the Council has had regard to the requirements of the NPPF and the NPPG to ensure that the condition passes the tests set out therein and is an appropriate method to address the obvious impacts that would arise from the development. The extension of the hours to midnight would be acceptable and would not give rise to an unacceptable level of harm given all the safeguards that exist. It is noted that condition 26 of the decision notice states that the noise from the air handling unit, chiller, shul exhaust fans, kitchen extract fans and the ground source heat pump shall be at least 5dB(A) below the background noise level as measured from any point 1 metre outside the windows of any room of a neighbouring property. This would help mitigate any noise impacts to surrounding residents.

Given the questions raised by the environmental health officer about amplified noise and sound and the applicants willingness to use sound monitors and limiters, it would be appropriate to also ensure that this condition is amended to include all noise the premises. As such, former Condition 18 (now condition 6) should be amended as follows:

The use of the premises for the purposes hereby permitted (unless otherwise agreed in writing by the local planning authority or as set out in any associated legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) shall only

take place between the hours of 8.00am and 10.30pm Fridays and 8.00 and midnight Saturdays and between 7.30am and midnight on all other days.

Reason: In the interests of the amenity of occupiers of neighbouring residential properties.

And, former Condition 26 (now Condition 7) should be amended as follows:

The level of noise emitted from the operation and use of the synagogue hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of any neighbouring property which existed at the time of this decision notice. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of any existing neighbouring property at the time of this decision notice.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties.

As already stated, given the mixture of different uses and occupiers within the Sternberg Centre as outlined at the head of this report and to limit the impact of the proposed development on the residential amenity of neighbouring properties, a Section 106 agreement has been in place since 2005 subsequently varied by the 2008 application. This is now replaced by a revised and updated S106 agreement which disregards matters which are no longer relevant and takes forward the matters which mitigate harm. This consists of three key elements: (A) Site development and phasing plan (B) Activities Management Plan and (C) Car Parking Management Plan (CPMP).

As part of the Legal Agreement attached to C00403CL/05 and F/00690/08, the applicants agreed with the Council to make a staged payment of £205,000 to research and identify the likely highway impacts arising from the development and to design, develop and implement the mitigation measures arising from the studies. The legal agreement established that at Stage 1, £65,000 would be paid to the Council towards the cost of designing the baseline parking review. Stage 2 would seek the payment of £25,000 to implement this review. Stage 3 would consist of a payment of £25,000 towards the cost of design, preparation and consultation of the Traffic Management Improvements. Stage 4 would comprise a payment of £155,000 towards the cost of implementing the Traffic Management Improvements. The Stage 1 payment was required to be made within 28 days of the commencement of the construction of the Akiva School.

Construction began in 2006 and completed in 2008. The Hall was also completed several years ago. Given that the actions in Stage 2 did not take place, it follows therefore that Stages 2, 3 and 4 cannot be taken forward. Given that the triggers have been missed by the Council, no further payments can be made. The applicants sought a refund of £65,000 from the Council of the monies that had been paid. The Council was not in a position to support this and under the dispute resolution terms of the legal agreement, the applicants enacted section 5 of the Agreement where an independent expert witness would determine whether any party (applicant or Council) would pay the other any undue costs.

The applicants sought reimbursement of £65,000 comprising the Stage 1 costs, given that it failed to enact any of the subsequent stages pursuant to the actions associated with the parking review or the development of mitigation measures. The expert adjudicated that a sum of £16,500 should be paid in reimbursement and concluded that there is no legal scope to secure further payment in this regard.

Following the refusal of the previous application by the Finchley and Golders Green Committee in January 2017, the applicants have sought to appeal against the refusal demonstrating that the additional hours would not result in any significant harm to the local residential amenity. Furthermore, they assert that they have robust management measures to ensure that no harm exists. The decision of the Inspector is due imminently. This proposal is similar to the previously refused scheme except that the applicant proposes to retain the existing hours on Friday (whereas they previously sought to extend the hours to midnight on all nights).

While the appeal decision is pending, officers have agreed with the applicants to take forward a revised legal agreement to capture the enforceable obligations such as the activities management plan, the car parking management plan and the phasing plan. In order to support the appeal process, the applicant was required to agree with the Council a completed unilateral undertaking which was processed and sent to the Planning Inspectorate in accordance with the 'Planning Appeals: Procedural Guide (2016).

This application would also be subject to the same legal agreement which has already been completed. Irrespective of the outcome, a planning permission will still be subject to the obligations set out in a legal agreement either from 2008 or from the current appeal and application.

As such, it is considered that the recommendation associated with this application to vary condition 18 should be accompanied by a wholly new legal agreement that seeks to take forward the same terms of the previous legal agreement including the AMP and CPMP. A S106 has been signed and executed ahead of this committee report.

5.4 Response to Public Consultation

The objections raised have been considered in the report above.

Other matters:

- o There are outstanding issues at the site including the fee payable under the s106 agreement which should be dealt with before anything else for this site is considered: A new section 106 is in place which removes the reference to the financial contribution as it is no longer applicable. This is detailed above.

- o The statement says no objections have been received but there have been complaints directly to the NNLS and Councillors and enforcement: No complaints have been received by either the NNLS or Council.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with all other relevant attached conditions, the variation of the hours of use condition is not considered to have an adverse impact on the amenities of neighbouring occupiers. This application is therefore recommended for approval.

