

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

23 November 2022

**REPORT OF DIRECTOR OF FINANCE,
DEVELOPMENT AND BUSINESS SERVICES**

22/1907/VARY

**Farooq E Azam Mosque and Islamic Centre, Bowesfield Lane, Stockton-on-Tees
Section 73 application to vary condition no7 (amplification equipment) of planning approval
04/3691/FUL - Erection of New Mosque with associated carparking and landscaping
(demolition of existing building)**

Expiry Date 20 December 2022

SUMMARY

The application site is the Farooq E Azam Mosque and Islamic Centre which is located on Bowesfield Lane, within the Parkfield area of the Town.

In 2004, Planning permission was granted for a new Mosque to be constructed (ref; 04/3691/FUL). The Officers report at that time set out that the call to prayer would be via an internal PA system with no external calls via amplification. A planning condition (condition 7) sought to control the use of amplification equipment.

Planning approval is now sought under section 73 of the Planning Act to vary condition 7 (amplification equipment) to allow for the 'Azan' (also known as an 'Adhan') prayer to be broadcast on Friday's between 12 and 2pm.

As detailed within the report, a total of 37 objections have been received and 11 letters of support. Letters of objection mainly focus on the associated noise implications and impact on the community, whilst those in support focus on the benefits it will bring the Muslim community.

Understandably, the main impact is on the level of amenity and the balance between the right to the religious practice of publicly announcing the Azan/Adhan through amplification and the right of those living nearby to enjoy their homes.

Consideration has been given to the likely noise effects arising from the proposals. In particular the occurrence of the amplified call to prayer, its duration and associated time. In weighing those considerations it is considered that the amplified call to prayer would be perceived to be observed between 'present and not intrusive' and 'present and intrusive' depending on the sensitivity of the receptor.

In line with planning practice guidance the impacts of 'present and intrusive' noise should be mitigated to a minimum and a number of planning conditions are recommended to achieve those aims and strike an appropriate balance. The application is therefore recommended for approval subject to those conditions set out below;

RECOMMENDATION

That planning application 22/1907/VARY be approved subject to the following conditions and informatives;

Variation of amplification only;

- 01** Nothing in this permission other than the variation of condition No.7 (amplification) to allow for external amplification shall be construed as discharging the conditions attached to the previous permission 04/3691/FUL.

Reason: To reserve the rights of the Local Planning Authority with regards to these matters.

Siting of loudspeakers

- 02** Notwithstanding any information contained within this application a maximum of three loudspeakers shall be installed. All associated loudspeakers shall only be installed within the minaret tower with no amplification equipment being placed on any of the roof(s) or balconies of the Mosque. All speakers shall be sited as far as is reasonably practicable to minimise their visual appearance on the street scene.

Reason: To define the consent and in the interests of the amenity of the neighbouring occupiers.

Amplified prayer limitations

- 03** The amplified Azan (call to prayer) shall adhere to the following at all times;
- take place only on Fridays between 12.00 and 14.00 hrs
 - be recited once
 - last no more than two minutes

Reason: To define the consent and in the interests of the amenity of the neighbouring occupiers

Noise disturbance

- 04** The sound level should not exceed 70dB(A) (Fast) a minimum of 2m from any elevation of any dwelling or at a distance of 50m from the loudspeaker, whichever is the closer.

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

Acoustic Suppression

- 05** Full details of an acoustic suppressor to be fitted to the amplifier system shall be submitted to the Local Planning Authority for approval prior to the amplification system being first brought into use. The acoustic suppression system shall be installed in full accordance with the agreed details and set so that a volume of 70dB(A) cannot be exceeded. Thereafter the acoustic suppressor is to be regularly calibrated and maintained to ensure there is no acoustic drift.

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

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority found the submitted details satisfactory subject to the imposition of appropriate planning conditions and has worked in a positive and proactive manner in dealing with the planning application.

BACKGROUND

1. In 1995 outline planning approval was given for the use of the land for a Mosque, community and training centre (ref: 94/2437/P). In 2004, Planning permission was granted for a new Mosque to be constructed (ref: 04/3691/FUL). The Officers report at that that time set out that the call to prayer would be via an internal PA system with no external calls via amplification. A planning condition (condition 7) sought to control the use of amplification equipment.
2. For clarity condition 7 states;

No use of amplification equipment shall be permitted internally or externally unless evidence is provided to the reasonable satisfaction of the Local planning Authority, to demonstrate that adequate noise attenuation or control measures are in place to prevent nuisance to local residents and the written confirmation of the Local planning Authority has first been obtained.

Reason : In the interests of the amenity of nearby residents.

SITE AND SURROUNDINGS

3. The application site is the Farooq E Azam Mosque and Islamic Centre which is located on Bowesfield Lane, within the Parkfield area of the Town. The building itself is an attractive and instantly recognisable structure through its architectural style and materials which create a local landmark for the surrounding community.

PROPOSAL

4. Planning approval is sought under section 73 of the Planning Act to vary condition 7 (amplification equipment) to allow for the 'Azan' (also known as an 'Adhan') prayer to be broadcast on Friday's between 12 and 2pm.
5. The submitted application states that the prayer shall be broadcast only once and the intention is to install speakers within the minaret tower on the building's northern elevation.

CONSULTATIONS

6. The following Consultations were notified and any comments received are set out below (in summary):-

Environmental Health - I have checked the documentation provided and have no objection in the principle of this development, however, I do have some concerns as there is a very limited amount of information for the application "to allow Friday prayer to be played once between 12-2pm – for Friday only".

From further research, I understand that the call to prayer "The Azan" is a traditional act to bring the congregation together and should not last more than 2 minutes. The call can happen at any time between 12-2pm as it is very dependent on the time of year, British summertime Etc. However, the volume of the call should not be excessive to cause disturbance to any of the residents in close proximity and the speakers should be installed on the minuet of the mosque above the roof tops of the houses to prevent any acoustic reverberation.

So in conclusion, to ensure the time of day, duration of the call, the overall volume and affect on the local community is balanced to all needs, I would recommend the following conditions as detailed be imposed on the development should it be approved.

- The call to prayer shall occur only once during 12:00-14:00Hours on any given Friday.
- The call to prayer shall not last longer than 2 minutes

- The sound level should not exceed 70dB(A) (Fast) 2m from any elevation of any dwelling or at a distance of 50m from the loudspeaker, whichever is the closer.
- An Acoustic suppressor shall be fitted to the amplifier system so that once set the volume cannot be exceeded, even with increased microphone input, this system is to be fitted, used, calibrated and maintained to ensure there is no acoustic drift.

Councillor Louise Baldock - I am writing in support of this application

As I understand it, the call to prayer will be played for a minute or two, once on a week on a Friday afternoon between 1pm and 2pm, which will be during daylight hours.

There are a lot of Muslim worshippers living in the vicinity of the mosque and they will hear this short announcement and answer that call by attending the mosque. I compare this announcement to the ringing of church bells, calling Christians to worship, only bells tend to ring for between half an hour and an hour which is considerably longer than is being proposed here.

This announcement will last for a similar length of time (and happen at a similar time of day) to the Stockton Flyer which you can hear across town too, although not hugely loudly. I don't expect it to be any more disruptive than that.

It will bring pleasure to the Muslim community and allow them to enjoy something already being experienced in other Teesside areas, including Middlesbrough and across the rest of the country too.

I do not believe that any legitimate objection could be raised on the grounds of volume or duration, under existing noise legislation and I believe that because precedent has been set by churches, it would be wrong to oppose this on religious grounds either, as it would fail under equality legislation

Police – no comments received to date

PUBLICITY

7. Neighbours were notified and the comments received are set out below (in summary). A total of 37 objections have been received and 11 letters of support.
8. Some of the correspondence received was of a discriminatory and offensive nature and has been removed from the planning application file. In all those instances the objectors were offered to amend their comments to remove the offensive content. Where no further correspondence was received those comments were removed in line with the advice on defamatory comment on our webpages.

Objection comments

- No need for call to prayer given modern technology altering worshippers of times.
- Ringing of church bells stopped so no precedent for other religions
- No way to police the volume
- Noise will become a nuisance/noise pollution
- This is a Christian country and churches don't do this
- People regardless of religion do not want to hear public prayers
- Violation of an individual's rights having to publicly hear this
- Impact of noise on surrounding occupiers and residents
- Will set precedent for other mosque's
- Concerns over the traffic and car parking issues which may arise.
- Friday prayer should be held inside not broadcasted to the whole community
- A call to prayer 4 times a day, starting at 5am is NOT conducive to community relations

- It is NOT inclusive and favours one minority religion over others and once one has permission it will be relocated in other mosques.
- The application does not specify the power of the amplification
- It is impossible to police the duration and amplitude/amplification of such an announcement.

Objectors

1. Ray Vassallo - 24 Linden Avenue Stockton-on-Tees
2. Ms S Hughf - 34 Springfield Avenue Stockton-on-tees
3. Mr Dante Chan - 16 Whitwell Close Stockton-on-Tees
4. Mr Stephen Vaughan - 21 Manfield Street Stockton-on-tees
5. Mr Adrian Patterson - Westgarth Grove Shotton Colliery
6. Miss E Hoskin - 94 Hampton Road Stockton-on-tees
7. Miss Emma Moore - 29 Columba Road Stockton-on-tees
8. David Coulthard - 7 Burford Avenue Stockton-on-Tees
9. Max Farrall -12 Lorne Court Stockton-on-Tees
10. Miss Megan Chadwick - 23 Tarring Street Stockton-on-Tees
11. Deborah Worton - 9 Osborne Road Stockton-on-Tees
12. Miss P Roberts - Front street, West Bedlington
13. Mr Stephen Willson - 29 Carnoustie close Ashington
14. Mrs Christine Williams - 8 Van Mildert Way Stockton-on-Tees
15. Mr Ian Swash - 29 Langley house, Langley close
16. Miss Suzanne Chaney - 52 Densham Drive Stockton-on-tees
17. Richard Cook - 2 Whinney Hill Durham
18. Miss Sarah Tranter - 30 Sculptor Crescent Stockton-on-Tees
19. Mr David Priestley - 2 Corona Court Stockton-on-Tees
20. Mr Karl Brown - 6 Lynx Way Stockton-on-Tees
21. Sarah Brookbanks - 75 Hillbrook Crescent Ingleby Barwick
22. Mrs Alison Stevenson - 17 Van Mildert Way Stockton-on-Tees
23. Mr John Marshall - 18 Kipling Grove
24. Richard Brocklesby On Behalf Valerie Brocklesby - 12 Clyde Grove Stockton-on-Tees
25. Mr Alan Reeder - 45 Innovation Avenue Stockton-on-Tees
26. Mr John Henderson - 10 Corona Court Stockton-on-Tees
27. Mr Peter Clark -13 Parliament Street Stockton-on-Tees
28. Mr Michael Wass - 10 Corvus Drive Stockton-on-Tees
29. D.M. Tranter - 60 Sydenham Road Stockton On Tees
30. Stephen McMullen - 28 Wembley Way Stockton On Tees
31. Donna Preston -10 Winston Street Stockton On Tees
32. Mrs Brown - 15 Burford Avenue Stockton On Tees
33. Mr R Henderson - 2 Melrose Drive Stockton On Tees
34. Mr P Mason - 78 Wembley Way Stockton On Tees
35. Mr Butler - 10 Sydenham Road Stockton-on-Tees
36. Brian Croft - 14 Clyde Grove Stockton-on-Tees
37. Peter Fletcher - 540 Yarm Road Eaglescliffe

Support Comments

- Prayer is only on Friday and good for Muslin community
- This mosque is very welcoming and used alot by locals
- The local churches can ring the bells every hour
- Small-minded people are making racist comments
- Does not cause an issue for quality of life of neighbouring occupiers
- Will bring the local community together and show the importance of faith.
- Will also provide opportunity for other members of the public to be part of the mosque and to promote being one community.

- It will happen once a week it will not affect anyone there's no reason why this can't happen.
- The Bowesfield ward in Stockton has a big Muslim population, and majority of residents in the immediate vicinity of the mosque are of the Muslim faith.
- The Friday prayers can be compared to Christians going to church on a Sunday with church bells ringing.
- Noise/attenuation controls can be implemented if necessary.
- Our country is proud of being tolerant to all faiths and religions, which is wonderful and this would be the ideal opportunity to show this tolerance in the diverse community that we live in.
- It would be important to the Muslim community who live in the area to hear the call of prayer
- Question comments from those outside of the surrounding area
- The Azaan is for 40 seconds and be said only once
- It is unfair leaflets, using leading and biased language is persuading people to oppose the planning application
- The Mosque already has a car park so congestion shouldn't be an issue.

Supporters

1. Mr James Hockburn - 19 Palmerston Street Stockton-on-Tees
2. Mr Shazad Aslam - 12 Oakdene Avenue Stockton-on-Tees
3. Miss Zaynab Khan - 19 Grasmere Road Stockton-on-Tees
4. Mrs Naseem Alam - 26 Van Mildert Way Stockton-on-Tees
5. Mr Thyeb Ahmed - 4 Northcote Street Stockton-on-Tees
6. Mrs Zeenat Khan - 19 Grasmere Road Stockton-on-Tees
7. Mr Azhar Mannaf - 51 Richmond Road Stockton-on-Tees
8. Mrs Victoria Mitchell-Kirby - 26 Carina Crescent Stockton-on-Tees
9. Muhammad Mubeen - 9 Lawrence Street Stockton-on-Tees
10. Dr Sagga Ahmed - 42 Cotherstone Road Stockton-on-Tees
11. Mrs Victoria Mitchell-Kirby - 26 Carina Crescent Stockton-on-Tees

PLANNING POLICY

9. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.
10. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

11. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
12. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁵; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Local Planning Policy

13. The following planning policies are considered to be relevant to the consideration of this application.

Policy SD5 - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:
 - a. Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.
 - l. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of ground, air, water, light or noise pollution or land instability. Wherever possible proposals should seek to improve ground, air and water quality.

Policy SD8 – Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
 - a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
 - d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
 - e. Privacy and amenity of all existing and future occupants of land and buildings;

f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport

2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. 3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.

Policy TI2 – Community Infrastructure

1. There is a need to ensure that community infrastructure is delivered and protected to meet the needs of the growing population within the Borough. To ensure community infrastructure meets the education, cultural, social, leisure/recreation and health needs of all sections of the local community, the Council will:

a. Protect, maintain and improve existing community infrastructure where appropriate and practicable;

b. Work with partners to ensure existing deficiencies are addressed; and

4. To ensure needs for community infrastructure are met, the Council will:

a. Support opportunities to widen the cultural, sport, recreation and leisure offer;

b. Support proposals of education, training and health care providers to meet the needs of communities;

c. Encourage the multi-purpose use of facilities to provide a range of services and facilities within one accessible location;

MATERIAL PLANNING CONSIDERATIONS

14. The main planning considerations of this application are the impacts on the amenity of the area, character of the area, highway safety and matters arising out of consultation.

Policy context:

15. Paragraphs 185 and 187 of the NPPF detail that planning decisions should ensure that new development is appropriate for its location and adverse impacts resulting from noise from new development should be mitigated and reduced to a minimum. In such instances the 'agent of change' should be required to provide the mitigation unless significant adverse impacts on health and the quality of life would occur.

16. Policy SD5 and SD8 of the adopted Local Plan seek to ensure that new developments do not contribute to unacceptable risk from noise pollution and respond positively to the privacy and amenity of all existing and future occupants of land and buildings. While policy TI2(1) aims to maintain and improve existing community infrastructure for the purposes of education, cultural, social, leisure/recreation and health needs of all sections of the local community.

17. In terms of assessing the impacts of noise and disturbance the national planning practice guidance (NPPG) sets out that there are three 'levels' to consider when assessing noise implications; No observed effect; Lowest observed adverse effect and Significant observed adverse effect. It also sets out that the level of noise is likely to be influenced by more than one factor which may include;

- noise exposure,
- the number of occurrences in a given time period,
- the duration, and
- the time of day the noise occurs

18. The NPPG also states that the defining characteristics over the level of observed impact are where noise exposure results in changes in behaviour, attitude, physiological responses and where they are changes in the quality of life. Appendix 1 contains the observed effect levels taken from the NPPG.

Amenity:

19. Islam is a religion which is both recognised and practiced by many across the world. This country allows for all people to follow and practice the religion of their choice or persuasion and the both the Equalities Act and Human Rights Act seek to protect those freedoms.
20. The Azan/Adhan plays an important part in the Islamic faith marking the start of prayers, much as church bells often do the same in church services for the Christian community. For those elements of the surrounding Muslim community hearing an amplified call to prayer would be rewarding, uplifting and would help to bring them together at what is an important time for their faith.
21. Nevertheless, it is also accepted that for those who are not of the Muslim faith the amplified call to prayer is likely to be unfamiliar and therefore it will be all the more apparent for those elements of the community. It may also be perceived as noise nuisance to those individuals.
22. Very careful consideration has therefore been given to the application, the judgement with respect to amenity is the balance between the right to the religious practice of publicly announcing the Azan/Adhan through amplification and the right of those living nearby to enjoy their homes and the level of amenity that might be expected.
23. It is noted that limited information on the specification of the speakers, noise levels or other technical matters have been submitted within the application. Nevertheless, the consideration of the application is relatively narrow given that the proposal is focussed on the amplified call to prayer on the Friday afternoons between 12pm and 2pm. The application does not seek anything beyond that.

Noise

24. As detailed within the NPPG, in considering the associated implications of noise on the surrounding community, the factors such as noise exposure, occurrences, duration, and the time of day the noise occurs are relevant to the determination of the application.
25. The citation of the Azan/Adhan would occur once a week for a limited period of time in the middle of the day where the background noise levels are higher. Whilst there would be some tonal variation within the prayer reading it would be for a relatively short period of time and would need to be considered within the overall context of the degree of activity occurring within the area at that time.
26. Within the immediate area there is already a degree of background noise occurring from general daytime activity from the commercial properties within the area and associated traffic travelling across Bowesfield Lane and Yarm Road (to the north).
27. In considering the associated impact of the associated noise from the call to prayer, it is noted that the amplification equipment would be located within the Mosques minaret tower which is a much higher level than those immediately surrounding properties which are predominately two storeys in nature. As a result the noise would not be positioned directly facing or towards habitable rooms spaces and will limit the overall extent of 'direct' noise to those immediately adjacent properties.
28. In view of the above and considering the impact on the observed effect level as set out within the NPPG, it is envisaged that the amplified call to prayer would be perceived to be observed

between 'present and not intrusive' and 'present and intrusive' depending on the sensitivity of the receptor to the call to prayer, i.e that the call would be audible but the impact it would have on the behaviour, attitude and physiological response would vary from individual to individual. In taking the worst-case scenario i.e that it is a 'present and intrusive' impact, then measures should be taken to mitigate and keep the noise to a minimum.

29. The Council's Environmental Health Team have considered the proposals and have no objection in principle. They comment that the "Azan" is a traditional act to bring the congregation together and should not last more than 2 minutes which is dependant on the time of the year. However, it should not cause disturbance to any of the residents in close proximity and the speakers should be installed on the minuet of the mosque above the roof tops of the houses to prevent any acoustic reverberation.
30. To further ensure that overall impact on the local community is limited, it is recommended that conditions be imposed to limit the prayer to being read once between 12.00 and 14.00 hrs, last no more than 2 minutes in duration and have imitations imposed over the level of noise the amplification would generate.
31. Accordingly the use of planning conditions is considered appropriate to control those aspects and these are recommended should the application be approved. With those conditions imposed it is not considered that the impact on the amenity of the neighbouring occupiers would be such that a refusal of the application could be justified. The proposal would therefore comply with Local and National Planning Policy and guidance.

Character of the area and setting of listed buildings:

32. To the north of the mosque are situated five grade II listed buildings and whilst no details have been provided for the speakers, it has been indicated that these would be positioned within the minaret tower and would not be visible.
33. A planning condition is recommended to ensure that the speakers are installed within the minaret tower and are positioned so that they are hidden from public view. On this basis, the proposed speakers would not have any impact on the design or character of the mosque, surrounding area or the setting of the adjacent listed buildings .

Highway Safety:

34. The Mosque has already been granted planning permission and the associated implications on traffic generation and oaring (including on-street parking) were considered at this time.
35. Whilst the concerns of objectors are noted, yellow lines are present within the immediate vicinity of the Mosque which would be enforceable under highway legislation. Notwithstanding this, it is not considered that the proposal for the amplified call to prayer would generate significant levels of traffic beyond that already permitted and consequently it is not considered that there is a highway safety issue arising out of the call to prayer once on a Friday afternoon.

Community Safety Implications:

36. The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report. It is recognised that the proposals would have the potential to generate conflict between different groups within the community.
37. However, the Mosque is already present and operating within the community. Although the amplified call to prayer may make the particular prayer time more noticeable there is no evidence available to suggest that the prayer alone would generate significant increases in Crime and Disorder.

38. Cleveland Police have been notified of the application and no comments have been received at the time of writing. In the absence of any evidence to the contrary, it is not considered that the proposal for an amplified call to prayer would result in any significant rise in Crime or Disorder.

Matters arising out of consultation:

Islam:

39. Despite the comments received in relation to the Islamic faith and Britain being a Christian country, it is not the role of the planning system to control or curtail religious beliefs and such matters are not material planning considerations in the determination of this application. As such they have been given no weight in considering this application.
40. Comments in relation to the need for the call to prayer given the availability and use of modern technology to make the community aware of prayer times are noted. Whilst it is recognised that alternative means of communication such as social media, text and multi-media messages are available, much like the ringing of church bells the call to prayer is a symbolic activity to mark the start of prayer services and for the Mosque is therefore not purely about being a means of communication as it would once have been.

Noise nuisance

41. As members will be aware noise can constitute a statutory nuisance and is subject to the provisions of the Environmental Protection Act 1990. When assessing whether a statutory nuisance exists, factors, as outlined above are taken into consideration. To be classed as a statutory nuisance it must unreasonably and substantially interfere with the use or enjoyment of a home (or other premises), injure health or be likely to injure health.
42. Local authorities have a duty to take such steps as are reasonably practicable to investigate a statutory nuisance complaint. It is a matter for them whether they take further formal action to remedy a statutory nuisance.
43. However, it is considered that subject to the recommended controls, this should be sufficient to prevent any statutory nuisance from occurring

Property value

44. The impact of the proposals on property value is not a material planning consideration and cannot be taken into account in considering this application.

Precedent

45. Whilst the concerns over creating a precedent for other Mosques are noted, as with all planning applications, they are considered on their own individual merits. Any acceptability of this proposal would not mean further calls to prayer would automatically be acceptable and any future application would need to fully assess those implications at the appropriate time should any application be made.

CONCLUSION

46. As detailed above, the impacts on amenity are the main material planning consideration and with respect to amenity it is the balance between the right to the religious practice of publicly announcing the Azan/Adhan through amplification and the right of those living nearby to enjoy their homes.
47. Very careful consideration has been given to the application and the likely noise effects arising from the proposals. In particular the occurrence of the amplified call to prayer, its duration and associated time. In weighing those considerations it is considered that the amplified call to prayer would be perceived to be observed between 'present and not intrusive' and 'present and intrusive' depending on the sensitivity of the receptor.

48. In line with planning practice guidance the impacts of 'present and intrusive' noise should be mitigated to a minimum and a number of planning conditions are recommended to achieve those aims and strike an appropriate balance. Subject to those conditions it is recommended that the application be approved for the reasons specified above.

Director of Finance, Development and Business Services
Contact Officer Simon Grundy Telephone No 01642 528550

WARD AND WARD COUNCILLORS

Ward	Parkfield and Oxbridge
Ward Councillor	Councillor Mohammed Javed
Ward Councillor	Councillor Louise Baldock

IMPLICATIONS

Financial Implications:

There are no known financial implications

Environmental Implications:

The nature of the proposal has the potential to

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

Stockton on Tees Local Plan Adopted 2019

Appendix 1: National Planning Practice observe effect levels;

Response	Examples of outcomes	Increasing effect level	Action
No Observed Effect Level			
Not present	No Effect	No Observed Effect	No specific measures required
No Observed Adverse Effect Level			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life.	No Observed Adverse Effect	No specific measures required
Lowest Observed Adverse Effect Level			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
Significant Observed Adverse Effect Level			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable Adverse Effect	Prevent

Appendix 2: Site Location

