



Appeal Decision

Site visits made on 6 and 8 October 2026

by Grahame J. Kean B.A. (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2026

Appeal Ref: APP/Z4718/C/26/3377518

Waverley House Waverley Road, Huddersfield HD1 5NA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Trustees of Iman Community Association against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 10 December 2025.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the material change of use to a place of worship.
 - The requirement of the notice is to cease the use of the site as a place of worship.
 - The period for compliance with the requirements is: 90 days after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the period for compliance in the enforcement notice is varied by the substitution of the period of 90 days with six calendar months.
2. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Grounds (b) and (c)

3. Ground (b) is that the matters alleged to constitute the breach of planning control have not occurred as a matter of fact. An appeal on ground (c) is that the matters alleged to have occurred (if they occurred) do not constitute a breach of planning control. Sometimes, as here, it is convenient to deal with both grounds together as the issues are intertwined.
4. The appellant says the use of the whole building is a local community use in Use Class F2. The Council says that it is a place of worship in Class F1. A change from F1 to F2 would need permission unless on facts no material change of use arises¹.
5. Waverley House is used in part for community centre type activity, but from the information supplied, I am satisfied that its primary use is as a place of worship. This is exactly how the chairman of the appellant association on 1 February 2024 replied to a planning contravention notice (PCN) that asked the question, what is the current use of the land.
6. It was also said in the PCN reply that the change of use to a place of worship took place on 12 February 2023, and it was accepted that the entire building was being

¹ Class F1 includes use "(f) for, or in connection with, public worship or religious instruction"; Class F2 includes "(b) a hall or meeting place for the principal use of the local community." But the pre-existing lawful use is relevant to consider.

used as a place of worship (*"it is predominantly used as a place of worship and nothing else"*). There is nothing to suggest that the position changed fundamentally before the notice was issued.

7. The description in the Charity Commission records is not conclusive as it records what the charity does, as "religious activities" and "recreation", both charitable purposes². However, the whole building was to be registered as a Place of Meeting for Religious Worship under the Places of Worship Registration Act 1855, the faith of the congregation being given as Sunni Islam. There are discrete areas set aside specifically for worship, and several areas marked on the submitted plan are for what may be termed community or educational use. It is undisputed that the building is advertised and described as a mosque online.
8. It is common ground that the building forms a single planning unit. The association wrote to the Council when the property was purchased, citing its application to register the whole building as a place of religious worship as a reason to seek full exemption from having to pay Council tax for occupying the building. Then, in this appeal, it says that the primary use of the property is not in fact a place of worship.
9. The association seems to regard the actual use of the property as variable according to convenience, despite what it must know is the truth of its formal declaration³ of the use as a religious place of worship.
10. Having regard also to the PCN reply I disagree that the use is more akin to a community centre. I find as matter of fact and degree, on all the information provided, that the primary use of the appeal site is as alleged in the notice, with other educational and community type activities being ancillary thereto.
11. The Council has monitored the site for several years in relation to apparent breaches of planning control including the removal of soft landscaping and formation of hardstanding for parking vehicles. Several applications were made in which it was said that most of the building was in a B1 use (now Use Class E), with the first floor used as a driving test centre (DVSA), a sui generis use. The previous owner said the building was occupied by 6 separate businesses and the DVSA.
12. I deduce that the change is either from Class E or a sui generis use. In either case a material change to use has occurred for, or in connection with, public worship or religious instruction, requiring permission. As no permission exists, there is a breach of planning control and as such the appeal on these grounds must fail.

Ground (a)

13. A revised version of the National Planning Policy Framework (NPPF) was published on 17 August 2026. The national decision-making policies (NDMP) do not affect the merits of this case in a material way and therefore I have not consulted the parties about these changes.
14. The main issues are the effects of the development on highway safety and the local highway network, and secondly, the character and appearance of the area including the Greenhead Park/New North Road conservation area.

² Cf the Recreational Charities Act 1958 and Charities Act 2011. Providing facilities for recreation or leisure time is charitable if in the interests of social welfare.

³ Certifying Declaration of Sami Mustafa, dated 12 January 2023, made in accordance with the Places of Worship Registration Act 1855.

Highway impacts

15. The appeal site is in a residential and commercial area. There is a high demand for parking in the area due to these uses and the proximity to the town centre, reflected in the limitations to on-street parking by way of permit holder only restrictions alongside time limit restrictions. These comprise short stay parking for 60 minutes with no return within 15 minutes. There are 5 off-street parking spaces to the front of the site with access from Waverley Road. The site does not benefit from any other lawful on-site parking. The parking on the hardstanding within the appeal site on a strip of land adjacent to the side elevation is unauthorised because there is an extant enforcement notice requiring its removal.
16. I visited the site on a weekday mid-morning. There appeared no evidence of activity at the premises. On-street parking was limited. I returned for an evening visit when I saw people entering and exiting the premises in connection with a function or functions taking place. Cars were parked bumper to bumper along the side roads and within the site, including on the unauthorised area west of the building. In one case a car was parked close to the building's entrance blocking the pavement. I have also considered photographs taken of the site and surrounding highway network on 17 April 2026, submitted by the Council.
17. The submitted images show: at least 7 parked cars on the unauthorised hardstanding within the site to the west of the building; on street parked cars on Waverley Road viewed towards Wentworth Street; additional parked cars further down Waverley Road with cars parked immediately to the side elevation of the appeal building, one blocking the entrance to the site; Wentworth Street towards Mountjoy Road with spaces on both sides of the road full of parked cars, including on double yellow lines; overspill parking onto Waverley United Reformed Church land; congestion at Waverley House facing Wentworth Street; car on the pavement alongside double yellow lines at Fitzwilliam Street facing New North Road; and cars parked on double yellow lines at Portland Street facing New North Road.
18. The building operates daily from 12:30 pm to 11:00 pm and as a mosque it hosts regular prayers, special events, and classes for up to 80 children. Friday attendance can be up to 100 people. There is a proposed transport management plan but given the building's capacity it would attract much larger crowds than the plan could realistically accommodate. When rooms and areas are used simultaneously, they generate a significant increase in visitor numbers. Parking is already constrained in the area. The substantial traffic generation and obstruction in my view fails to protect local residential amenity and safe traffic flows.
19. I acknowledge that the submitted alternative transport management plan is a genuine and thoughtful attempt to resolve the Council's objections. However, it relies on voluntary compliance, behavioural change and self-monitoring without quantifiable outcomes that could be practicably enforced. It would not overcome the identified harm to highway safety. The transport plan might be modified with some enforceable measures but even if adhered to, harm would still be caused to the surrounding road network due to the building's substantial capacity and current use as a place of worship with other activity operating simultaneously.
20. A "fall-back" case appears to be made in that the notice would not resolve parking issues as the *"use of the building as a community centre would still operate"*. The large congregations contribute significantly to the highway impacts. The appellant

association is heavily invested in the religious aspect of the activities, and if the place of worship ceases and alternative premises have to be found, it seems to me just as likely that the ancillary community-type activities traditionally associated with a mosque, ie including the madresa element with classrooms, religious and other educational courses, would travel with the main use.

21. In any case, subsequent uses of the property would fall to be assessed on a case-by-case basis having regard to the generalised description of “community” activities, ie as to whether they would fall into a F2 use class and whether there would in any event be a material change of use from the lawful pre-existing use. For these reasons I give the fall-back argument little weight.
22. I conclude on this issue that the limited off-street parking spaces compel visitors to the appeal site to park dangerously and illegally on surrounding streets, including on double yellow lines and in permit zones. Because the local area already faces high parking demand from nearby homes, businesses, and the town centre, this overspill has adverse impacts on parking provision and creates an unacceptable risk to highway safety in conflict with the requirements of Kirklees Local Plan (LP) Policy LP21 which seeks to provide adequate car parking and ensure that highway safety is not adversely affected.

Character and appearance and significance of conservation area

23. Waverley House is a large building, dating back to the late 19thc, constructed from stone under a slate roof. It sits on a prominent corner plot west of Portland Street, south of Waverley Road, in very close proximity to the A629 and is centrally located within Huddersfield. Surprisingly, there is no written appraisal for the conservation area, despite its designation many years ago. The appellant has not stated in terms what it considers to be the significance of this designated heritage asset but states the development has less than a significant impact on the area.
24. By s72 Planning (Listed Buildings and Conservation Areas) Act 1990 special attention has to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas when considering applications affecting land or buildings within them.
25. In my view this part of the conservation area exhibits a series of uniformly built 19th century terraced houses, interspersed with several larger detached properties such as Waverley House, both positive features of the area. The appeal premises are detached with spacious gaps on the sides of the plot. I agree with the Council that the presence of large numbers of vehicles in the grounds erodes the openness and setting of the building as a local non-designated asset, diminishing its significance. In turn the development undermines the character and appearance of this part of the conservation area by introducing a level of activity and visual clutter considerably at odds with the character and appearance of the surrounding street scene.
26. The unlawful hard surface now used for parking was a soft landscaped garden area including a lawn, bushes and 4 large, protected trees, a pleasant green setting to Waverly House and a positive contribution to the character and appearance of the conservation area. The hard surface has an obtrusive impact on the setting of the building and adjacent church, harming the significance of the non-designated heritage asset of Waverley House and the significance of the

conservation area. Retaining the area for parking would reinforce an engineered, car dominated appearance at odds with the open setting of the building.

27. The harm caused is less than substantial but regarded as a matter of considerable importance pursuant to NDMP HE6.3. Pursuant to NDMP HE9 I view the open areas around the site and the street scene in the absence of the development, as elements contributing to the significance of the conservation area as a whole.
28. The use of the property as a place of worship and ancillary activity provides a service to the local community which is a demonstrable public benefit. However, the benefit does not clearly outweigh the harm being caused to the conservation area.
29. I conclude on this issue that the development is contrary to LP Policy LP24 by failing to respect the character of the townscape, heritage assets and urban landscape. It also fails to preserve or enhance the character and appearance of the conservation area and it is detrimental to the visual amenity of the locality, contrary to the aims of LP Policy LP35 to preserve the significance of designated heritage assets

Conclusion on ground (a)

30. I must have regard to the provisions of the development plan, so far as material to the deemed application and to any other material considerations. As such the determination must be made in accordance with the plan unless material considerations indicate otherwise.
31. The change of use to a place of worship has directly facilitated large quantities of vehicles being parked within the curtilage of the building. This introduces a level of activity, visual clutter, and urban character that is at odds with the appearance of the building and its setting. The cumulative visual impact of parked vehicles in and around the property on the side streets, particularly during peak periods, harms the significance of the conservation area and wider visual amenities of the locality. The harm is substantial and contrary to the development plan policies cited above.
32. In accordance with NDMP HE5 2c) the harm is less than substantial. Pursuant to NDMP HE6, in considering the effect of the development on the significance of the conservation area as a designated heritage asset, substantial weight should be given to the asset's conservation. In accordance with NDMP HE6.4 I weigh the harm against the public benefit resulting from the proposal. I accord the public benefits moderate weight. Nevertheless, despite the service afforded to the local community, the benefits do not clearly outweigh the harm caused to the conservation area.
33. Overall, the development is contrary to the key policies for determining the appeal, namely LP Policies LP21, LP24 and LP35 and is contrary to the development plan as a whole. I find the policies consistent with the decision-making policies of the NPPF. I also find that the harm caused is not clearly outweighed by other considerations.
34. For these reasons planning permission shall be refused.

Ground (g)

35. An appeal made on ground (g) is that the period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.
36. The appellant's claim under the ground (g) appeal is that a period of 90 days is too short. The local Kurdish community attends this building for prayers, and they do not have an easy or immediate alternative. Whilst the community is well integrated it reasonably requires its own facilities. To effect an orderly cessation of the use and find alternative premises would, it is said, take longer than 90 days.
37. The appellant seeks a minimum of 12 months, but this would be tantamount to granting a temporary permission. In addition, I note that an interested party, Huddersfield Civic Society had been following developments at Waverley House since 2022 when it was contacted by a member. The society points out that there is no shortage of unused or underused building space in the area. Additionally, the society maintains that several buildings in walking distance with a religious use categorisation have come on the market in the last few years.
38. These representations were cross-copied to the appellant's agent on 20 April 2026 but no final comments were made in response. I have no good reason to doubt the general position held by the society that premises may well be available for the purpose. That said, the absence of a reply does not necessarily indicate that a period longer than 90 days might not be required to comply with the notice.
39. I have to balance the harm currently being caused as identified which is serious. In the circumstances a period of 6 months would be a reasonable compliance period.
40. The appeal on ground (g) succeeds to this extent.

Conclusion

41. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Grahame J. Kean

INSPECTOR