
Appeal Decision

Site visit made on 16 August 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 18 October 2016

Appeal Ref: APP/B0230/W/16/3148819

13-17 Hartley Road, Luton, Bedfordshire LU2 0AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Ugo-Ochei (c/o Dominion City) against the decision of Luton Borough Council.
 - The application Ref 15/01591/FUL, dated 26 October 2015, was refused by notice dated 24 March 2016.
 - The development proposed is change of use from a garage to a community church and church offices.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It was evident from my site visit that the development applied for has been carried out and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to noise and general disturbance.
 - The effect of the proposal on the character of the area.
 - Whether it has been demonstrated that there is a need for the proposal.
 - The effect on highway safety.

Reasons

Living conditions

4. With the exception of the appeal property the street is characterised by Victorian terraced houses, located on the back edge of the footway with windows and doors directly onto it. There are controlled on street parking bays on both sides of the highway for residents and visitors and further along the street some additional pay and display spaces.
 5. The appeal property is a two storey painted brick building fronting onto Hartley Road with a more modern and larger building located behind. There is a small forecourt that is capable of accommodating 3-4 vehicles and set behind a pair
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of entrance gates. The property has a lawful use as a motor vehicle repair garage including minor body repairs, valeting and storage of new and used vehicles¹.

6. Activities currently associated with the use are confined to evening bible studies for one hour every Tuesday evening, a once a month prayer meeting which runs for three hours, choir practice held every Saturday between 17:00 hours and 19:00 hours and weekly church services, held three times on a Sunday for an hour and a half each service during both the day and evening. There is also associated cleaning activity between these events and administrative office functions that take place during the week at normal office hours. There are also other occasional community events such as the one I witnessed at my visit.
7. The appellant confirms that the size of the congregation is 70-80 and although the submitted Transport Statement refers to 20 to 30 regular attendees, the main room can hold up to 120 users. Although I accept that not all members may attend all of the services and events, there is nothing before me that suggests the numbers of members attending the property at any one time could be effectively controlled. Even taking the lesser figures it is a significant level of activity.
8. Although I have been referred to the lawful use this would typically operate during normal business hours and is unlikely to extend as far into the evenings and weekends, given its location in a residential street. Vehicle movements would be comparable during the day but not in the evening, even if the lawful use is unrestricted. Footfall for that use would also be much less and I do not consider that the lawful use would be less harmful in terms of the living conditions of neighbouring occupiers.
9. In the context of this narrow and quiet residential side street and despite the best efforts of the appellants, the level of disturbance as people come and go from additional vehicle movements, noise, footfall, conversations and general activity is at times when residents can reasonably expect to enjoy peace and quiet in their homes. In my judgement, this harm would be noticeable and unacceptable.
10. For these reasons, the proposal harms the living conditions of neighbouring occupiers in terms of overall noise and general disturbance. Accordingly, the proposal conflicts with Policies LP1 and LC4 of the LP which require development to maximise the opportunity to improve the quality of life of residents and that new community facilities should not have an unacceptable effect on the amenity of any surrounding dwellings.

Character

11. Although I agree that there would be improvements to the appearance of the appeal property the predominant character of Hartley Road is one of a relatively quiet, urban residential street. Even with responsible behaviour by those attending the appeal site the additional disturbance from vehicles attending the site, general activity from members entering and exiting the property and at the times proposed, would out of keeping with this character.

¹ Ref L/13877/A/0) – Approved March 1994.

12. For these reasons and in view of my findings in relation to the effect on living conditions of neighbouring occupiers, granting permission for the retention of the development would result in an over intensive use and unacceptable change in the character of Hartley Road. Accordingly, the proposal conflicts with Policies LP1, LC4 of the LP which require development to maximise the opportunity to improve the physical environment of the town, the quality of life of residents and that new community facilities should not have an unacceptable effect on the amenity of any surrounding dwellings.

Need

13. Amongst other things, Policy LC4 of the LP allows new community facilities provided that a demonstrable local or regional need is established and that the facility is well related to the area it serves. The use is somewhat established and is operating, with what appears to be a relatively local congregation. It is therefore well related to the area it serves. Nevertheless, I have no evidence before me of any such need being demonstrated by the appellant and therefore there would be conflict with (A) of Policy LC4 of the LP.
14. However, the National Planning Policy Framework ('the Framework') encourages the promotion of sustainable healthy communities and is a significant material consideration. The requirement to demonstrate the need for this proposal is not reflected in the Framework and the appellants clearly provide a wide range of services which are valued by many within the community and retaining the proposal would also meet the specific needs of a religious group. The conflict with this part of the plan is, in my view, outweighed by such considerations and should not be a reason for dismissing the appeal.

Highway safety

15. The Council do not refer to any adopted parking standards and the appellant has produced a Transport Statement that shows members walk to the site, that public transport is accessible and that car usage is low. Although the Council consider this is not satisfactory I have been provided with no substantive evidence to the contrary.
16. From my observations, albeit during the morning, some parking spaces were available, including some 20-30 pay and display spaces that were limited to a maximum two hour stay. The surrounding highway network is busy and I was shown additional on-street parking in the streets close to the appeal property, in addition to a number of Council and privately controlled car parks. Although I have nothing before me to suggest that the use of spaces within that car park could be effectively secured or kept available for visitors to the appeal building at the necessary times, they are within short walking distance of the site.
17. The operation of the use during the evening and at weekends would be at times when pressure for parking is at its highest but there would be fewer restrictions on the available spaces. Furthermore, some members will walk to the site and it is in an accessible location with public transport and car parks close by. Furthermore, any additional vehicle movements within Hartley Road itself would be at low speed and pedestrian safety and conflict with pedestrians would be limited.

18. I also note there is no objection from the Council's Highways Engineering Service, subject to conditions and there is no evidence before me of any particular highway safety issues associated with on-street parking in this locality. In my judgement, any modest increase in on-street parking as a result of the retention of the use would not be to the detriment of highway safety.
19. For these reasons, the proposal does not result in harm to highway safety. Accordingly, it does not conflict with Policies LP1 and T3 of the LP which does not permit development that has significant transport implications, exacerbates road congestion or cause safety problems for pedestrians, cyclist and other road users.

Overall conclusions and planning balance

20. For the above reasons, although there would be conflict with part of the development plan in terms of (A) of Policy LC4, I consider that this conflict is outweighed by other considerations. I have also not found harm to highway safety and conflict with the development plan, in this regard.
21. However, I have found harm to the living conditions of neighbouring occupiers in terms of general noise and disturbance and to the character of the area. On the evidence before me, I do not consider that this harm could be addressed by the submission of a Travel Plan or that the use of conditions restricting the use to the appellant only, restricting the use or limiting hours of operation is appropriate or necessary.
22. I note the appellant's reference to the Framework, however, although the Framework encourages the promotion of sustainable healthy communities, given the harm that I have identified the proposal would fail to satisfy the social and environmental dimensions to sustainable development as defined in the Framework.
23. Drawing these conclusions together, although there would be compliance with some aspects of the development plan, the proposal would conflict with the development plan, when taken as a whole and the Framework. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR