
Appeal Decision

Site visit made on 29 November 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 9 December 2016

Appeal Ref: APP/B4215/W/16/3153034

Brookside Works, Clough Road, Manchester M9 4FP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Allan Omagbemi against Manchester City Council.
 - The application Ref 111421/FU/2016/N1, is dated 23 February 2016.
 - The development proposed is the change of use of unit 2 to a place of worship.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposed change of use has already taken place. However, retention as referred to in the application form does not constitute an act of development. I have dealt with the appeal on the basis that planning permission is being sought for the change of use of unit 2 to a place of worship, which is reflected in my description of the development.

Main Issues

3. Based on the evidence submitted by the Council, I have identified the main issues in this appeal as being the effect of the development on the living conditions of the occupants of nearby residential properties, with particular regard to noise and disturbance, and the effect on highway safety.

Reasons

Noise and Disturbance

4. The appeal property forms part of a small industrial estate comprising similar buildings that contain various commercial businesses. The estate is surrounded by residential properties and as a result there are a number of dwellings within proximity of the appeal building, particularly on Carron Avenue to the north and Clough Road to the east.
5. Planning permission was previously granted on appeal¹ for a similar use of a nearby building, Unit 13. The congregation that used unit 13 has since moved into the appeal building. An application was subsequently submitted retrospectively for the current use². The application was refused on the

¹ Appeal Ref: APP/B4215/A/11/2166724

² LPA Ref: 109982/FU/2015/N1

grounds of the effect of the development on the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance. Following the refusal, a further application was submitted, which is the subject of this appeal. In response to the Council's concerns, the application was accompanied by a Noise Assessment Report (NAR), dated 9 February 2016, carried out by Blue Tree Acoustics.

6. The NAR concludes that subject to a number of mitigation measures the use of the building as proposed would not have an undue effect on nearby residential amenity. However, the Council pointed out in their email to the appellant dated 26 April 2016 that where entertainment noise is proposed the LAeq (entertainment noise) should be controlled to 10dB below the LA90 (without entertainment noise) in each octave band at the façade of the nearest sensitive location. There is no evidence before me that the NAR has been amended to account for this. Whilst I accept that the proposal is for a place of worship, from the observations I made on site of the musical equipment used, including a drum kit, a keyboard and speakers, I find that the NAR should use the entertainment noise criteria. This is further compounded by the possibility that the building could be used for community uses, although the details of this are very limited. Therefore, I am not satisfied that, as the NAR was not based on entertainment noise criteria, the recommended mitigation measures would adequately mitigate any harm as a result of noise breakout.
7. As evidenced by local residents, when the building is in use, particularly when there is music and singing, the noise generated is clearly discernible from nearby residential properties. The evidence indicates that this occurs during various times of the day and night and includes weekends. Given the proximity of the residential properties, this would likely have a significant adverse effect on the living conditions of their occupants, particularly during times of warm weather when neighbouring residents open their windows. Therefore, based on the insufficient evidence contained within the NAR, I am not satisfied that noise breakout from the building, even with the suggested mitigation measures in place, would not unacceptably harm the living conditions of the occupants of neighbouring properties.
8. In addition to noise breakout, the Council also raise concerns regarding noise and disturbance as a result of comings and goings. I note that the appellant confirms that the average number of worshippers is 35. However, it is also confirmed that this can be as many as 100 people. Therefore, there is the potential for a significant number of vehicular movements into and out of the site.
9. The application submission proposed that the opening hours can often be till late at night, most notably the third Friday of the month when it would be open between 2200 and 0100. On such an occasion, the noise generated by cars entering and exiting the site, car doors opening and closing, roller shutters closing and people generally conversing within close proximity of residential properties would likely have a significantly detrimental impact on the living conditions of their occupants and would potentially disturb their sleep. Whilst these effects also occur during the day time, I do not consider that they are as materially harmful as when they occur in the evenings. Notwithstanding this, a suitably worded condition could be imposed that would restrict the opening hours to a more reasonable time, as suggested by the appellant. Therefore, I am satisfied that any noise and disturbance generated from comings and

goings could be satisfactorily mitigated through the use of conditions.

However, this does not outweigh the concerns I have raised above in respect of the harmful effects of noise breakout from the building, which occurs during the daytime.

10. I have had regard to the lawful B1 use of the building and the potential for it to generate noise. However, given the size of the building it is unlikely that the same amount of people would attend the building as the proposed use. Furthermore, it is likely that a B1 use would not be operating during the same hours as the proposed use. I therefore attribute this matter only limited weight
11. I find therefore that the proposal would significantly harm the living conditions of the occupants of neighbouring residential properties, with regard to noise and disturbance. As such, it would fail to comply with Policies SP1 and DM1 of the Manchester Core Strategy Development Plan Document (CS) 2012 and Policy DC26 of the Unitary Plan for the City of Manchester (UDP), which seek to protect residential amenity.

Highway Safety

12. The drawings submitted with the application indicate parking space for 29 vehicles and a cycle bay. There are no parking restrictions in place on the nearby streets. Furthermore, the Council state that the site has good access to public transport. The Council raises concern that potential overspill could impact on the nearby residential roads. However, given the nature of the use it is likely that many of the users would arrive together in a single car, e.g. families. As such, it is reasonable to conclude that the car park could accommodate the majority of cars visiting the site.
13. I note that local residents state that, notwithstanding the available car park, visitors to the site frequently park on the road rather than within the site. However, there is no evidence that this has resulted in any significant effect on highway safety. Furthermore, it is not possible to enforce individuals to use the car park, only that it is made available to them.
14. I find therefore that the proposal does provide adequate parking provision and therefore does not have any significant harm to highway safety. As such, it accords with Policy DM1 of the CS, which seeks to ensure that development has regard to car parking and road safety.

Other Matters

15. I have had regard to the appeal decision for Unit 13. I note that the Inspector found that the scheme would have no material harm to the living conditions of nearby residents. The details of the scheme are limited, although I note that the opening hours and potential number of attendees was significantly different to the proposal before me. Furthermore, it was on a different site. Therefore, I cannot draw any direct comparison with the current proposal.

Conclusion

16. Whilst I have found that the proposal would not have any significant harm on highway safety, this does not outweigh the harm it would have on the living conditions of the occupants of neighbouring dwellings.

17. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR