
Appeal Decision

Site visit made on 22 November 2016

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 20 December 2016

Appeal Ref: APP/Z4310/W/16/3155690
160A Stuart Road, Walton, Liverpool L4 5QY

- 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 Kevin Ward against the decision of Liverpool City Council.
 - The application Ref 15F/2864, dated 12 November 2015, was refused by notice dated 29 April 2016.
 - The development proposal is described as "to continue to use vacant former warehouse as a gymnasium/dry sports hall".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application form describes the proposal as to "continue" the use of the appeal premises as a gymnasium/dry sports hall. I noted at my site visit that fitting out work had already commenced, albeit the use was not in operation at the time. For the sake of clarity and accuracy, the continuation of a use as referred to in the application form does not constitute an act of development. Accordingly, I have dealt with the appeal on the basis that planning permission is being sought to use the appeal property as a gymnasium/dry sports hall.

Main Issue

3. The main issue in the appeal is the effect of the proposal on the living conditions of the occupiers of the adjoining and nearby residential properties, with particular regard to noise and disturbance.

Reasons

Living Conditions

4. The appeal premises comprise a large brick built warehouse with a profiled sheet roof, formerly used as a transport depot and for the repair, serving and storage of motor vehicles. It is located within a residential area, with a school opposite the entrance to the site on Stuart Road. To the south of Stuart Road is a dual carriageway, the A5058, one of the main radial routes serving Liverpool.
5. The proposals involve the creation of a gymnasium and community/amateur boxing club, which would operate Monday to Friday between 08.00-20.00 hours and on Saturdays from 10.00-16.00 hours. There is a slight discrepancy in the submitted documents over the opening hours on Saturdays, but I have used

the times given in the environmental noise report. The appeal submissions also indicate that the number of users in the gym at any one time would rise from 15-20 to 30-50 people as business increases. Activities would include music to accompany gym sessions.

6. The appeal building is in very close proximity to the surrounding residential properties. On its western side it is bounded by a row of terraced houses at 150-160 Stuart Road. Its western flank wall forms the rear garden boundary wall of nos. 150-160, which have small rear yards and outriggers with habitable rooms around 6 metres away. To the east the building is bounded by a narrow alleyway on the other side of which are the backs of a row of terraced houses at 41-59 Imison Street. The rear outriggers of the houses at nos. 41-59 extend in most cases to the alleyway, within 2-3 metres of the appeal property.
7. Saved Policy H4 of the City of Liverpool Unitary Development Plan (2002) (the UDP) does not oppose the development of new and improved community facilities within the residential areas of the city, providing that, amongst other things, there is no adverse impact on residential amenity. This is supported by paragraphs 17 and 123 of the National Planning Policy Framework (the Framework) which seek to secure a good standard of amenity for existing occupants of land and buildings and to avoid noise giving rise to adverse impacts on quality of life as a result of development.
8. The environmental noise report submitted with the appeal estimated noise generated from the gym at up to 86 decibels (dB) when in use by 30-50 people working out to music. In addition, it measured impulsive noise from the use of equipment at up to 90.8dB when weights clang. This compared to a current minimum background noise level measured at 44dB, generated principally from the nearby dual carriageway. The report states that a difference of +10dB or more between the source noise and background noise levels would indicate a significant adverse impact. Therefore, it is clear that without adequate mitigation, the noise generated by activity in the proposed gym would cause an unacceptable level of noise and disturbance for the occupants of nearby residential properties.
9. The report recommends a series of mitigation measures to be implemented in two phases. The first phase would comprise sealing gaps between the roof and walls of the building to prevent noise escape, together with a new double door lobby entrance to reduce noise passing through the existing steel doors. The report estimates this would limit noise emitted from the premises to 40dBA, which would be below current background levels. The second phase would involve the installation of a sound proofed suspended ceiling within the building, which the report estimates would reduce noise generated from the gym to 28dBA. The appellant would complete the phase 1 mitigation measures within 1 month of opening and phase 2 within 6 months. In addition, other noise mitigation measures are proposed. These include resilient matting and pads to reduce noise from weights clanging, mechanical ventilation during the summer months to enable external doors to remain closed, the proprietor to keep shouting from clients and instructors within the gym to a low level and setting a maximum acceptable level for music.
10. I have carefully considered both the noise report and the proposed mitigation measures. However, it is unclear how the mitigation measures would be effective in reducing the noise levels so significantly from 70dB to 40dB in

phase 1 and from 86dB to 28dB in phase 2. The report does not explain how the noise break out results have been calculated to demonstrate this.

Therefore, I cannot be certain that the measures proposed would achieve the estimated levels of noise mitigation. In addition, given that the measures would not be implemented before the start of the operation, there would be a period of at least 6 months where the noise generated by the activities in the gym would be unmitigated. Based on the evidence of the environmental report, this would have a significant adverse impact on the living conditions of the occupiers of surrounding dwellings, in what from my site visit appeared to be a generally quiet residential area, notwithstanding the presence of the school and the dual carriageway. Beyond this the measures to limit the music levels and frequencies and to control noise from shouting within the gym and from customers entering and leaving the premises are not specified.

Therefore, I cannot be certain they would be unenforceable by the local planning authority.

11. I acknowledge the position of the appellant in starting up a business and the financial challenges of doing so, as well as the potential contribution a gym could make within the local community. However, these considerations do not outweigh the noise and disturbance to the occupiers of the surrounding residential properties which would result from the operation as proposed. I also recognise the appeal premises have a lawful use for motor vehicle repairs, but this has more limited hours of operation and strict controls over the repair work allowed. In addition, a garage would not bring with it the level and frequency of music which would be part of the gym operation.
12. On this basis, I conclude that the noise and disturbance generated by the proposal would cause unacceptable harm to the living conditions of the occupiers of the adjoining and nearby residential properties. Consequently, it would be contrary to saved Policy H4 of the UDP and fail to comply with paragraphs 17 and 123 of the Framework.

Other Matters

13. For the sake of completeness I have considered the additional concerns raised about accessibility and parking. I am satisfied that the building could be designed to ensure it would be accessible to all potential user groups and that this could be dealt with by condition, if the appeal were to be allowed. Despite the on-street parking controls locally, I also noticed surrounding streets which were not subject to parking controls, suggesting there would be on-street parking available for users of the proposed gym. However, these matters are not determinative of the appeal and neither offers benefits which would outweigh the harm the proposal would cause to the living conditions of surrounding residents due to noise and disturbance.

Conclusion

14. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR