
Appeal Decision

Hearing held on 20 December 2016

Site visit made on 20 December 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 16 January 2017

Appeal Ref: APP/V5570/W/16/3158150

Bayes House Community Centre, Augustas Lane, London N1 1QT

- 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 R Gutstein, Avon Freeholds Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2015/5367/FUL, dated 18 December 2015, was refused by notice dated 8 March 2016.
 - The development proposed is the change of use of community space (D1 use class) to residential use (C3 use class) for the formation of a single family unit and external alterations to create a ground floor courtyard.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the community space is no longer required due to lack of demand or no longer appropriate for its use due to its design, location and/or accessibility.

Reasons

3. Bayes House Community Centre lies within the Barnsbury development, a gated, residential complex which comprises 141 residential units of a variety of types and tenures situated between Barnsbury Park and Offord Road. The development occupies the site of an old school and includes both converted and new buildings in a landscaped setting. The perimeter gates can be opened during the day for pedestrians to walk through the complex but at night access is only by fob key or buzzing the on-site concierge.
4. Bayes House, an old school building, lies towards the centre of the complex and has been converted into a number of flats and maisonettes together with, at its western end, space for community purposes. This space was provided under the terms of a Section 106 agreement¹ which required the developer to make it available 'for the benefit of local people for a range of uses to include use as a public meeting place and playgroup at no expense save for a fee reflecting administrative costs'. No other clarification of the purpose or intended means of operation of the facility appears to exist.

¹ Dated 10 November 2005

5. The appellant, Avon Freeholds Ltd (AFL), acquired the completed development including the community space in the late 2000s. However, it would appear that the space had not been properly furnished or equipped and it remained effectively unused. In 2014 planning permission was refused for the conversion of the space to a family dwelling; the current application is a resubmission of the same proposal with additional supporting material in an attempt to overcome the previous reasons for refusal.
6. There is no dispute that the scheme would not cause significant harm to the living conditions of nearby occupiers, is acceptable in design terms, would preserve the character and appearance of the Conservation Area in which it lies and would provide an acceptable standard of accommodation. In addition, a unilateral undertaking to provide a financial contribution towards affordable housing has been submitted, overcoming a previous reason for refusal.
7. One other reason for refusal has now been overcome, that the loss of the space would lead to an absolute shortfall in provision within the local catchment area. The appellant has identified 40 spaces or community centres of various sizes within one mile of the appeal site and calculated that there is a surplus of nearby community centres based on the Council's guideline of one per 4000 population. The Council has itself concluded that most residents in the Borough have sufficient access to small and medium sized community facilities.
8. However, in Islington with a diverse and rising population there is a need for a wide variety of community facilities and Policy DM4.12 of the Development Management Policies 2013 (DMP) seeks to resist their loss unless the specific use is no longer required on site as evidenced by a lack of demand for the facility or another suitable social infrastructure use in its place. Alternatively, the facility may be no longer appropriate for community use e.g. due to its design, condition, location and/or accessibility.
9. Since the 2014 refusal, in order to establish the demand for the community space, the appellant has marketed the site in two ways, an advert on the Islington Directories website where community facilities are publicised² and by A4 sized notices on some noticeboards in the buildings within the complex³. However, no responses have been received to date as a result of the website advert and only a relatively modest number from residents within the complex.
10. The website advert includes the terms and conditions for hiring the space. These preclude use after 8 pm and set a flat rate hire charge of £206 for the whole building per day even though some uses could be acceptable later in the evening and most users would only require one of the three spaces for a much shorter period. The appellant claimed at the hearing that there would in practice be flexibility over such matters but this is not stated in the advert which may have deterred inquiries. In addition, until a recent change of policy, residents of the Barnsbury development itself have not been charged but this was not stated in the advert or the A4 notices in the buildings⁴.
11. The Section 106 agreement limits hire charges to 'administrative costs' which the Council interpret narrowly as just the cost of taking bookings, considering that the day to day operation of the community space should be subsidised by

² the method suggested by the Council

³ there is no single 'community noticeboard' as claimed by the appellant

⁴ residents of the complex pay a service charge for the maintenance of common areas within the development

the development owner. However, this interpretation is not explicit in the agreement and is counterproductive to the Council's aim of securing its use. The appellant's wider definition of day to day running costs but excluding profit or capital repayments would be more in line with community centres generally and was the definition used in the recent Section 106 agreement for the Scout Centre at 317-321 Holloway Road⁵.

12. Paragraph 4.65 of the DMP requires the premises to be offered at a reasonable charge to appropriate user groups. Whilst £206 may be comparable to the charge for a room at the Arc Centre within the Packington Estate or the Scout Centre if these are hired all day⁶, the charging structure should be flexible enough to accommodate a range of activities. Maximum flexibility is achieved by offering hourly rates for each room, and this is the approach of all the local community centres identified by the appellant⁷.
13. In addition, charges should be kept to a minimum. Within the £206 charge the cleaning cost of £150 is based on actual quotes for the whole building but most users would only use one room and would be prepared to clean up after themselves. Occasional more thorough cleaning could be carried out by the existing on-site contractor by varying their contract at modest additional cost. The £50 administration element also lacks justification as until recently the on-site concierge took bookings informally and released the keys. AFL head office is also now involved, but this has not been costed and may be unnecessary.
14. No organisation proactively manages the space and there has been no serious activity to promote the facility. The entrance, via a pathway, is not prominent even within the residential complex and there is nothing on the Barnsbury Park or Offord Road frontages to suggest its presence. Some basic steps have not been taken, for example there is no signage on the building and no dedicated noticeboard within the complex or next to the development entrances to promote the space, the events taking place within it, and to explain how it can be hired. Unlike most if not all community centres, no chairs, tables or catering equipment are provided, and this causes practical problems for users who have to bring their own. In addition, the ground floor room is currently used for storing large items of spare furniture and is not readily available.
15. These significant shortcomings in the promotion of the space, together with the financial and practical disincentives to using it, may explain the poor take up of the facility to date. Since 2014 there have been no bookings from groups or individuals outside the Barnsbury development, paid or otherwise, but there has been some use by residents from the development, albeit free of charge.
16. Residents have used the facility for children's birthday parties, music practice, yoga classes, meditation sessions, meetings and social gatherings. It follows that there is at least some demand for using the space, certainly if it is free of charge. The latest information provided by the appellant states that there were 20 bookings in 2016, but this excludes about 20 yoga classes and possibly a few other bookings as there has not been a single booking system.
17. However, the centre is only now becoming better known within the residential complex and the trend of usage is slowly upwards, although from a low base.

⁵ definition of Community Access Floorspace Costs in the Section 106 agreement dated 14 May 2013

⁶ although it is not clear if the room sizes are comparable

⁷ with the exception of the Scout Centre which offers sessions

The publicity surrounding the current appeal has raised awareness with many residents saying they have only just become aware of the space⁸. One or two residents' meetings specifically to discuss ideas for its use have now been held and, due to the greater likelihood of diary clashes, a single booking system has recently been introduced. AFL appear to have begun charging their residents to use the space, but a recent email exchange suggests high charges and an inflexible approach towards bookings are being retained⁹.

18. As matters stand at present, for the reasons set out above, it has not been demonstrated that there is a lack of demand for the community space to be retained. Increasing awareness of the space together with more proactive and flexible management, improved marketing and a more effective charging structure may generate an increase in use. In addition, AFL do not necessarily need to manage the space directly, and other approaches could be explored such as offering it to an existing community group to manage or, perhaps more likely, a residents committee set up for the purpose.
19. However, the design and location of the space does limit its potential uses. It comprises three separate rooms about 30 m², 40 m² and 30 m² in size respectively on the ground, first and second floors. There is consequently an overprovision of relatively small rooms with no scope for combining them to accommodate a single larger function. The ground floor has a kitchen (although no serving hatch), wc and disabled wc, but there are no facilities adjacent to the rooms on the upper floors and this may limit the ability to hire the rooms out separately. There is a staircase linking the rooms with a stair lift, but unlike a full lift its operation would be inconvenient and it would block the stairs when in use. With kitchen and toilet facilities only on the ground floor, use of the upper rooms for catered events or groups including children, the elderly or disabled would be problematic and possibly impractical.
20. The space is also located immediately adjacent to residential properties in Bayes House and in the centre of a gated residential complex where a relatively quiet environment would be expected. This precludes regular disruptive and some later evening uses but the current 8pm limit is unnecessarily restrictive for all activities and occasionally late evening events could reasonably be held.
21. In view of these limitations, the space does not fully meet the Policy DM4.12 requirement for new community facilities to be provided in buildings that are inclusive, accessible, flexible and provide design and space standards which meet the needs of the intended occupants. Indeed, the intended occupants of the space are not entirely clear. However, these deficiencies do not mean the premises are no longer appropriate for social infrastructure uses, the relevant test to justify its loss in the policy. Even with its limitations in terms of design, location and accessibility, suitably managed the space has the potential for a level of community use that would justify its retention.

Planning Balance and Conclusion

22. The proposal would provide an additional, energy efficient, four bedroom house in a desirable residential complex in a sustainable location. This would have important social and economic benefits for the area. With the need for more

⁸ contrary to the appellant's view that land charge searches, the two planning applications and A4 posters in the buildings have been sufficient to make residents aware of the space

⁹ emails between Simon Izod and Richard Simmons of Avon Estates handed in at the hearing

housing of all types this would be a significant advantage of the proposal, notwithstanding Islington's good record of housing delivery and comfortable housing land supply position. However, this benefit, and the contribution towards affordable housing that has been offered, must be balanced against the need to provide and then retain sufficient social infrastructure facilities to serve the diverse and rising population of the borough.

23. It was agreed at the hearing that the current level of use of the community space amounts to about one booking of one space per week. When balanced against the benefit of one additional house this level of use would not justify its retention in the medium term. However, the evidence suggests that if the necessary steps are taken, and with suitable management policies in place, there could be potential for a level of community use of the premises which would justify its retention. The change of use should not therefore be permitted at this time.
24. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Eian Caws, Barrister, Landmark Chambers

Joseph Daniels MRTPI, Principal Planner, Boyer Planning

Israel Moskovitz, Director, Avon Estates

Robert Gutstein MRICS, Avon Estates

FOR THE LOCAL PLANNING AUTHORITY:

Duncan Ayles MRTPI, Planning Officer

Ciara Power, Planning Officer

Eric Manners, S106 Officer

INTERESTED PERSONS:

Clarissa Carlyon, Local resident, Manson House

Simon Izod, Local resident, Manson House

Paul Formosa, Local resident, Ratcliffe House

Philippe Allard, Local resident, Manson House

Rowena Champion, Councillor, Barnsbury Ward

DOCUMENTS SUBMITTED AT THE HEARING

Agreed Statement of Common Ground

Statement from Robert Gutstein re Ramsey Scout Centre, Holloway Road

Letter from Boyer Planning to Duncan Ayles dated 16 December 2016

Emails between Simon Izod and Richard Simmons of Avon Estates