
Appeal Decisions

Site visit made on 16 January 2017

by Diane Fleming BA (Hons) MRTPI

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

Decision date: 7 February 2017

Appeal A Ref: APP/W5780/C/16/3151270

Sana Welfare Foundation, 208 Green Lane, Ilford, Essex IG1 1YF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Khursheed Siddique of Sana Welfare Foundation against an enforcement notice issued by the Council of the London Borough of Redbridge.
 - The enforcement notice was issued on 22 April 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the use of the ground floor of the building as a community non-residential education centre (D1).
 - The requirements of the notice are to cease the use of the ground floor of the building as a community non-residential education centre (D1) and revert the use of the premises to its authorised retail use (A1).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/W5780/W/16/3149607

Sana Welfare Foundation, 208 Green Lane, Ilford, Essex IG1 1YF

- 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 Khursheed Siddique against the decision of the Council of the London Borough of Redbridge.
 - The application, Ref 1926/15, dated 14 May 2015, was refused by notice dated 9 November 2015.
 - The development proposed is described as 'Retrospective planning application for a community non-residential education centre'.
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Appeal A

Decision

1. It is directed that the enforcement notice is corrected by the insertion of 'material change of' after 'the' in paragraph 3.(i) of the notice. Subject to this correction, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of the ground floor of the building as a community non-residential education centre (D1), subject to the conditions attached to this decision.

Appeal B

Decision

2. The appeal is allowed and planning permission is granted for the development described as 'Retrospective planning application for a community non-residential education centre' at Sana Welfare Foundation, 208 Green Lane, Ilford, Essex IG1 1YF in accordance with the terms of the application, Ref 1926/15, dated 14 May 2015, and the plans submitted with it, subject to the conditions attached to this decision.

Procedural Matter

3. The allegation describes the breach of planning control as the use of the premises as a community non-residential education centre; however, it was clear from the heading on the enforcement notice that it was seeking to allege a material change of use. In the interests of clarity, I will correct the notice by inserting the words 'material change of' before the word 'use' in the actual allegation. There is no injustice caused to any party in correcting the notice in these terms.

The ground (a) appeal, the deemed planning application (Appeal A) and the refusal of planning permission (Appeal B).

Main Issues

4. The main issues in Appeal A and Appeal B are the effect of the development on:
 - i) The living conditions of neighbouring residential occupiers, having regard to noise and disturbance; and
 - ii) Highway safety, with particular regard to off-street parking at the site.

Reasons

Living conditions

5. The appeal concerns the use of the ground floor of a building that was originally a dwelling and is part of a terrace of modest, two storey houses on the south side of Green Lane. An extension has been built over the entire rear garden which means the total ground floor space provision is 166 sq m, as stated by the appellant. This is now laid out as a multi-purpose room at the front of the building, containing a pool table, table top football and a table and chairs. There is also a waiting area in the middle of the building, containing a table, chairs, bookshelves and a ritual washing area. This leads into a space that has the appearance of a prayer room at the rear of the building, which is labelled 'classroom' on the appellant's plans.
6. Prior to the new use the ground floor was used as a shop and the first floor was and continues to be used as a flat with the entrance to the flat being to one side of the shop front. There is a residential property on one side at No 210 and a double glazing business with a flat above on the other side at No 206a. To the rear of the premises there are the gardens of residential properties along South Park Crescent. Opposite the premises there are residential properties interspersed with some small business units such as a newsagent at No 145 and a café/takeaway at No 153 that was being refurbished at the time of my visit.
7. Green Lane is a busy arterial road where on-street parking is restricted between the hours of 0700-1900 Monday-Saturday. A number of bus routes

- use this road and some run all through the night. Parking is permitted on the footway on the south side of the road and in addition some residents have hard surfaced their front gardens to provide more off-street parking. There is a large forecourt in front of the entrance to the appeal site which the appellant states could be used for parking.
8. The appellant describes the uses of the ground floor of the building in the Design and Access Statement (DAS) that accompanied the planning application for Appeal B. These are summarised as a 'broad spectrum of activities for the community' with the main activity being after school homework sessions which take place most evenings and on a Saturday and a Sunday. There are also English language classes for adults, amongst other services.
 9. Both the DAS and the information on the application form set out that the centre's opening hours¹ are seven days a week and in the main up to 2200 at night. However, at some point after the submission of the application there were discussions with the Council's Anti-Social Behaviour Team and the opening hours are now stated to be Monday-Friday 0900-2000, Saturday 0900-1800 and at no time on Sunday or Bank Holidays.
 10. The Council advise that the unauthorised use of the building began in March 2014. A number of local residents from South Park Crescent raised objections to the use when the planning application was considered by the Council, on the grounds of noise, disturbance and parking. The appellant points out that there have been no objections raised to the new use from the occupiers of any of the properties along Green Lane. Notwithstanding the lack of any comments from immediate neighbours though, it is necessary to consider the effect of the use on existing and future occupiers in the immediate and wider area.
 11. The residents of South Park Crescent refer to increasing levels of noise disturbance in the area of an evening, at night and at the weekend. On one occasion a resident saw a large crowd outside the appeal site after 2300 with food being carried across the road from the café. However, as the centre now operates reduced opening hours I find that this has concentrated activity during the early part of the evening. During this period people are still often commuting and the Council recognises this as the restriction on the traffic regulation order on Green Lane ends at 1900. I consider any noise or disturbance around the entrance to the premises that might arise by the arrival/departure of people attending a class goes largely unnoticed against the background sounds of traffic and other activities along the busy Green Lane.
 12. Once inside the building, any sounds from the activities are contained as floors are carpeted, the internal spaces are subdivided by walls and there are no windows or any outside space at the rear. This protects the living conditions of the neighbouring occupiers to the rear in South Park Crescent. The Council are concerned that groups of people may linger on the forecourt of the premises at particular times of the day when activities are concentrated and thus disturb local residents. However, they have submitted no evidence of this happening regularly or demonstrated that this has caused harm over the substantial period that the centre has been open.

¹ Application form states Monday-Friday 0900-2200, Saturday, Sunday and Bank Holidays 1000-2100; DAS states: Monday-Sunday 0900-2200.

13. The appellant states that the maximum number of people in attendance is 25 but that is limited to 15 students to minimise the potential for noise and disturbance to neighbouring properties. The Council suggest, should I be minded to allow the appeal, that the number of people on the premises at any one time could be controlled by condition. However, I consider such a condition would be difficult to enforce as in practice monitoring and proving a breach of this condition would be impractical. The appellant submits that the manager of the building lives in the flat above and provides the necessary overview. Whilst this is helpful, I find that it may not always be the case and it is the actual size of the accommodation that acts as a constraint on the number of people who can attend at any one time.
14. For the reasons given I therefore conclude that the development does not result in an adverse effect on the living conditions of neighbouring residential occupiers, having regard to noise and disturbance. The development therefore accords with Policy SP3 of the Council's Core Strategy (CS)² and Policy BD1 of the Council's Development Plan Document (DPD)³. These policies seek to ensure that new development respects the 'amenity' of adjoining properties and the local area and that there are no adverse impacts on surrounding uses in terms of noise. I give these policies weight as they accord with one of the principles of the National Planning Policy Framework (the Framework) that planning should seek to secure a good standard of amenity for existing occupiers of land and buildings.

Parking

15. The appellant advises that the appeal site forecourt could accommodate two parked cars. However, I saw at my visit that there was no dropped kerb directly in front of the forecourt as exists outside the hard standing at No 210, and other properties along Green Lane. Therefore parking is permissible on the pavement in front of the appeal site. In addition to the parking restrictions along Green Lane there is also a controlled parking zone that applies to the area on the north side of Green Lane but it also extends for short stretches into South Park Road and South Park Drive to the rear of the site. This restricts parking to residents only between the hours of 0830-1830 Monday-Saturday. The remainder of these roads and South Park Crescent, which runs between these two roads, are unrestricted.
16. The Council are concerned that the lack of any drop-off or pick-up facilities at the site results in significant indiscriminate kerbside parking in the area which is prejudicial to pedestrian safety. Third parties also state that they have difficulty parking and making manoeuvres in the area near their properties due to the number of vehicles being parked in the area by users of the centre. However, on the evidence before me, the level of on-street parking in the area could well be attributable to the widespread parking restrictions in the area. Furthermore, it has not been demonstrated that it is actually the users of the centre who park indiscriminately in the area to the detriment of pedestrian safety either during the day or the evening when parking restrictions end.
17. Policy T5 of the DPD sets out parking standards for non-residential educational centres. The appellant has indicated that there are four, full time equivalent, staff on site and as such the Council state there is a requirement for three

² London Borough of Redbridge Planning and Regeneration Services Core Strategy Adopted March 2008

³ London Borough of Redbridge Borough Wide Primary Policies Development Plan Document May 2008

off-street parking spaces.⁴ There is insufficient space within the site to meet this requirement. However, Policy T5 also makes provision for developments proposing a lesser standard of parking and sets out that levels of public transport and the character of an area can also be taken into account when assessing need. I find that the site is well located for public transport links. There are a number of bus services not only along Green Lane but also South Park Drive and the centre is also within walking distance of a train station. As such, in these circumstances, and for this particular use, the requirement for off-street parking is not necessary.

18. The appellant states that most users arrive on foot. If this is the case, it is not known whether this is by choice or due to the difficulty of finding on-street parking spaces in the area. Should I be minded to grant planning permission it would not be possible to impose a condition that prevented users from using a car to access the site but I find the availability of public transport and the limited on-street parking spaces encourages users to make use of alternative means of transport.
19. The Council have suggested a condition be imposed requiring the submission of a Green Travel Plan. Policy T1 of the DPD states that such a requirement is only necessary for major development. This is consistent with the Framework⁵ which advises that these are only applicable for developments that generate significant amounts of movement. I consider the use of the site does not amount to major development and the small size of the premises and staff levels does not warrant a requirement for a Green Travel Plan.
20. The Council are also concerned that the lack of parking results in traffic congestion and harms public transport provision in the area, relying on the wording in Policy T1⁶, but no substantiated evidence is provided to support their view. Furthermore, the consultation response from the Council's Transport Engineer is that the numbers attending the site are relatively modest. As the facility is likely to serve the local community, there is the possibility that users make use of sustainable transport provision and he raises no concerns about vehicular or pedestrian safety. Overall he has no objections provided the number of users is limited and the use is confined to a non-residential educational centre. As the Council have not submitted any substantiated evidence to demonstrate any harm caused by the lack of off-street parking, I consider that their concerns do not support a dismissal of the ground (a) appeal or Appeal B.
21. For the reasons given I therefore conclude that the lack of off-street parking for the development does not result in harm to highway safety. As such, the development accords with Policies T1 and T5 of the DPD.

Other Matters

22. Local residents have expressed concern that the development is out of character with the adjoining residential area. However, the Council has raised no objection on this point within the reasons for refusal set out on the decision notice or within the reasons for issuing the enforcement notice. Furthermore, there are a variety of uses along Green Lane interspersed with residential

⁴ Two spaces for every three members of staff plus 50% additional for visitors and other staff

⁵ Paragraph 36

⁶ This policy states that planning permission will not be granted for development which would increase trip generation excessively so as to harm local roads or public transport.

development including an MOT garage, a car sales business, a petrol filling station and a café/hot food takeaway.

23. There is also concern that the use of the building would increase the risk of burglary for the residents of South Park Crescent but I have been presented with no substantive evidence that would lead me to conclude that this would be the case.

Conditions

24. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance. A condition requiring the development to be carried out in accordance with the approved plans is imposed on the grant of planning permission following the section 78 appeal (Appeal B), for the avoidance of doubt and in the interest of proper planning. In respect of both Appeal A and B, to protect the living conditions of nearby neighbours it is necessary and reasonable to require that the use shall only operate at particular times, that the use shall be only as a non-residential educational centre and the submission of details of refuse storage facilities. I have not imposed a condition restricting the number of people on site or one that requires the submission of a Green Travel Plan for the reasons already discussed.

Conclusions

Appeal A

25. It is clear that the description of the development in the enforcement notice is incorrect in that the allegation does not allege that there has been a material change of use. It is open to me to correct the allegation in the notice. I am satisfied that no injustice will be caused by this and I will therefore correct the enforcement notice in this respect, in order to clarify the terms of the deemed application under section 177(5) of the 1990 Act as amended.
26. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act as amended, which will now relate to the corrected allegation.

Appeal B

27. For the reasons given above I conclude that the appeal should be allowed.

D Fleming

INSPECTOR

**Schedule of conditions attached to appeal decision
Ref:APP/W5780/C/16/3151270 (Appeal A)**

Sana Welfare Organisation, 208 Green Lane, Ilford, Essex IG1 1YF

- 1) The use hereby permitted shall only take place between the following hours:
0900 - 2000 Mondays - Fridays
0900 - 1800 Saturdays
and at no time on Sundays or Bank Holidays.
- 2) The premises shall be used for a community non-residential education centre and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) Within one month of the date of this decision, details of refuse storage facilities to be provided at the site shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided within one month of the approval of the refuse storage details and retained thereafter at the site in accordance with the approved details.

**Schedule of conditions attached to appeal decision
Ref:APP/W5780/W/16/3149607 (Appeal B)**

Sana Welfare Organisation, 208 Green Lane, Ilford, Essex IG1 1YF

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Block plan, Location plan, Existing plan and Dwg No KOM/546-1 dated March 2015.
- 2) The use hereby permitted shall only take place between the following hours:
0900 - 2000 Mondays - Fridays
0900 - 1800 Saturdays
and at no time on Sundays or Bank Holidays.
- 3) The premises shall be used for a community non-residential education centre and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) Within one month of the date of this decision, details of refuse storage facilities to be provided at the site shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided within one month of the approval of the refuse storage details and retained thereafter at the site in accordance with the approved details.

END

