

Appeal Decision

Site visit made on 31 January 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/W5780/W/16/3163387

10 Mulberry Road, South Woodford, London E18 1ED

- 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 Mr Liqueat Khan against the Council of the London Borough of Redbridge.
 - The application, Ref 1144/16, is dated 16 March 2016.
 - The development proposed is the demolition of existing building and redevelopment to provide a new build mixed use building over a basement and part 2 part 3 storeys, comprising of a D1 place of worship and community centre and C3 residential comprising of 1x 1 bed and 3x 2 bed flats.
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Decision

1. The appeal is dismissed and planning permission refused for the demolition of existing building and redevelopment to provide a new build mixed use building over a basement and part 2 part 3 storeys, comprising of a D1 place of worship and community centre and C3 residential comprising of 1x 1 bed and 3x 2 bed flats.

Application for Costs

2. An application for costs was made by Mr Liqueat Khan against the Council of the London Borough of Redbridge. This application is the subject of a separate Decision.

Preliminary Matter

3. The appeal follows the failure of the Council to determine the application within the statutory period. A report to the Council's regulatory committee was prepared and recommended approval of the application. However, in discussions prior to the committee meeting, it was established that the applicant was not prepared to enter into a 25 year lease for the provision of car parking to be used in association with the development. In the absence of a commitment to provide parking over the long term the Council considered that the proposal would pose an unacceptable risk to highway safety and convenience and would adversely affect the amenity of nearby residents. I have framed the main issues accordingly.

Main Issues

4. The main issues are the effects of the proposed car parking arrangements on:
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- highway safety and convenience;
- the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

Background

5. The community centre and place of worship elements of the appeal proposal would be similar in nature to the current use of the appeal site and the number of people using the facilities would not change. Planning permission was granted in 2011 for the change of use of the building to a Muslim Community Centre with accommodation for up to 250 worshipers at any one time¹. The permission was subject to conditions which required the provision and management of 42 car parking spaces at the Primrose Road car park directly opposite the appeal site and the use of marshals to manage vehicles during major events.
6. That permission followed a dismissed appeal in 2009² for a similar use of the building. However that scheme did not include use of the Primrose Road car park and the Inspector found that car parking demand generated by the use would be harmful to the living conditions of local residents and road safety.

Highway Safety and Convenience

7. The appellant does not contest the findings of previous appeal decisions³ or the requirement to provide car parking to serve the proposal. However, he considers that adequate parking provision could be made by means of a three year lease. I have not been made aware of the terms of the previous leases to secure parking for the Muslim Community Centre use. In any event, the parking provision condition attached to the 2011 permission is not time limited and is not linked to the terms of any lease.
8. The appellant questions whether the 25 year lease would be 'permanent' in the same way as the building. However, the appeal proposal is for a permanent building and associated uses. It would, therefore, generate an ongoing requirement for an appropriate amount of parking. I consider that a three year lease would not meet this requirement. Furthermore, any parking arrangements necessary to make the proposal acceptable in planning terms would need to be enforceable through a planning condition or Planning Obligation. No such mechanism has been agreed.
9. The appellants submitted a Transport Statement⁴ in support of the proposal. The Statement includes a parking survey undertaken in 2013 which found that there were a total of 382 spaces on the roads or in car parks within 200m of the site. At the busiest time (Friday 13:15) there were 69 spare spaces. However the total capacity includes 66 spaces in the Qur'ani Murkuz Trust (operators of the appeal site) car park (part of the Primrose Road car park). In the absence of a mechanism to provide these spaces in the future, the amount

¹ Application reference 2958/10

² Appeal reference APP/W5780/A/09/2094256

³ Two appeals were dismissed in 2015 due to the effects of the buildings then proposed on the character and appearance of the area. Since the appeals were dismissed for those reasons, it was not necessary for the Inspectors to go on to consider the need for conditions to control parking.

⁴ Stilwell Partnership March 2016 Version 1.0

of parking available to users of the appeal facilities would reduce significantly and there would be very little spare capacity in nearby roads and car parks at the busiest time.

10. I recognise that the appeal site is reasonably sustainably located terms of access to public transport and pedestrian accessibility. Nevertheless, the Travel Plan submitted in support of the application finds that, in 2013 (the same year as the parking survey), 20% of trips were by solo car and 30% were by shared car. The Plan sets out measures to reduce solo and shared car use to 16% and 26% respectively in 2020. It also sets out the measures proposed to achieve these shifts. Whilst some of these could form part of the proposed development and therefore, could be secured by condition, others require the payment of money. The Planning Practice Guidance advises against the use of conditions to secure the payment of money. Whilst it may be possible to secure these measures through Planning Obligation, no such Obligation has been submitted. Moreover, even if the anticipated reduction in car use was achieved, it would amount to only 8% of total trips. I am not persuaded that this would translate into a significant reduction in the demand for parking associated with the proposal.
11. Consequently, I consider that the proposal would place significant pressure on local parking spaces, with drivers circulating to locate free spaces and the potential for unsafe vehicle manoeuvres and inappropriate parking. Such an outcome would pose a risk to highway safety and the convenience of other road users and pedestrians. Whilst the parking survey suggests that the problem would be most acute at the busiest time for the use of the appeal building, given the number of people who would use the building and the proportion travelling by car, I consider that the absence of dedicated parking would be likely to be problematic at other times.
12. Therefore, I find that the proposal not provide adequate parking and would be harmful to highway safety and convenience. This would be contrary to National Planning Policy Framework (the Framework) paragraph 32 which requires safe and suitable access for all people.
13. The lack of off-street parking would also conflict with Policy T5 of the Council's Borough Wide Primary Policies 2008 (PP). Amongst other things, this policy requires proposals to provide parking in accordance with the Council's standards or, where there is a reduction in off-street car parking, either to demonstrate that sufficient parking will remain in the area to serve local needs, or to make alternative arrangements to ensure that the development provides for existing local need and the demand arising from the development.

Living Conditions

14. The area to the north and east of the site is primarily residential in use with properties lining fairly narrow roads and largely reliant on on-street parking. The proposal would allow the building to be used by up to 250 people at any one time. Based on the Activities Schedule submitted by the appellant, the building would be used regularly at times ranging from dawn until an hour after sunset. I recognise that permission has been granted previously for a similar use. However, at that time, arrangements were in place to provide off-street car parking. In the absence of an acceptable mechanism to secure comparable arrangements in the future, I consider that the vehicle movements and parking problems set out above would have a materially detrimental effect on the living

conditions of nearby residents in relation to noise and disturbance, particularly at morning and evening times. I note that the Inspector in the 2009 appeal reached a similar conclusion.

15. The proposal would, therefore, conflict with Policy SP3 of the Council's Core Strategy 2008 and PP Policy BD1 insofar as they require development to respect the amenity of adjoining properties.

Other Matters

16. I note that the Council has not objected to the proposed building on the basis of its effects on the character and appearance of the area.
17. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
18. Framework paragraph 7 sets out the economic, environmental and social roles of sustainability. The proposal would provide short term economic benefits through the construction activity. Whilst there is nothing to suggest that the Council cannot demonstrate a 5 year supply of housing, the provision of the additional residential units is supported by Framework paragraph 47. I have already recognised that the principle of the use of the site as place of worship and community centre has been established. The proposal, therefore, derives support from London Plan Policies 3.1, 3.3 and 3.5 to the extent that they encourage the creation of new housing and the provision of high quality social infrastructure.
19. Nevertheless, those considerations do not outweigh the specific, but significant, harms arising from the current proposal. Overall therefore, I consider that the proposal would have a negative effect on the environmental and social roles of sustainability and that this would outweigh the limited economic benefit. As such, the proposal would not amount to sustainable development and does not benefit from the presumption in favour of sustainable development set out in Framework paragraph 14.

Conclusion

20. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR