

Appeal Decision

Hearing held on 21 March 2017

Unaccompanied site visit made on 20 March 2017

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

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

Decision date: 30 March 2017

Appeal Ref: APP/V4305/C/16/3143036 & 7

Parklands Sports and Social Club, 1A Parklands, Widnes, WA8 4NQ

- 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 1990 Act").
 - The appeal is made by Mark Thomas William Freeman & Vivienne Mary Freeman ("the Appellants") against an Enforcement Notice issued by Knowsley Metropolitan Borough Council ("the Council").
 - The Enforcement Notice, numbered 16/00002/ENFNOT, was issued on 15 December 2015.
 - The breach of planning control as alleged in the Enforcement Notice is the unauthorised change of use of the premises from a D2 use (Assembly and Leisure) to a mixed use comprising a D2 use (Assembly and Leisure) along with an A4 use (Drinking Establishment) and an A3 use (Restaurant).
 - The requirements of the Enforcement Notice are to cease the use of the premises as a drinking establishment (A4) and restaurant (A3) and ensure it is only used as a clubhouse associated with a rugby or sports team who play at the site, in accordance with the original planning approval (Ref: K/APP/4866 - granted 21st April 1980).
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground set out in Section 174(2)(a) of the 1990 Act.
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Procedural Matters

1. I will refer:
 - (a) To the land and premises to which the Enforcement Notice relates as "the Appeal Site".
 - (b) To the building within which the restaurant and drinking establishment are contained as "the Clubhouse"
2. The Appeal Site is within the Green Belt. The Council confirmed that the change of use carried out does not conflict with any Green Belt policies.
3. The address given for the Appeal Site in paragraph 2 of the Enforcement Notice differs in some minor details from the postal address specified in the Heading above.
4. It was agreed at the Hearing that the breach of planning control as set out in paragraph 3 of the Enforcement Notice is better described as the unauthorised change of use of the Appeal Site from an assembly and leisure use to a mixed use comprising assembly and leisure, a drinking establishment and a restaurant.

5. When the appeal against the Enforcement Notice was originally submitted the Appellants relied on grounds (a), (b), (c), (d), (f) & (g) of Section 174(2) of the 1990 Act. During the appeal process the Appellants and the Council have had discussions regarding the mixed use of the Appeal Site and subject to the imposition of the Conditions set out in the Schedule of Conditions below the Council consider that the mixed use would be acceptable and would comply with the relevant parts of the Development Plan for the area.
6. I was informed that the Council have explained their current position to local residents. No local residents attended the Hearing.

Policy

7. The Development Plan for the area includes Policies CS2, CS5, CS19 and SD1 of the Knowsley Local Plan Core Strategy 2016 ("the Core Strategy") and saved Policies G6 and ENV2 of the Knowsley Replacement Unitary Development Plan 2006 ("the UDP").
8. The Core Strategy and/or the UDP explain that:
 - 1) Development that will cause an unacceptable increase in noise will not be permitted.
 - 2) Proposals for the change of use of existing buildings in the Green Belt will be permitted provided that they meet specified criteria including that there would not be an unacceptable impact on the amenity of existing neighbouring occupiers or that the traffic would not be detrimental to either highway safety or environmental quality.
 - 3) To maintain a good standard of amenity for all existing and future occupants of buildings development proposals will be required to, amongst other things,
 - a) Avoid unacceptable impacts on existing residents.
 - b) Minimise crime, fear of crime and anti-social behaviour.

Reasons

Would the change of use, subject to the proposed conditions, cause unacceptable noise and disturbance for nearby local residents?

9. Complaints have been made by local residents that patrons leave the Clubhouse very late at night or early in the morning and in so doing have caused unacceptable noise and disturbance. The Appellants explained, amongst other things, that there are at least ten other licensed premises in the nearby area and they did not accept that all of the problems/incidents enumerated by local residents emanated from the mixed use of the Appeal Site.

10. The Appellants explained that they have a bar-licence to sell alcohol every day until midnight. There are no limitations on the hours of general use of the Clubhouse at the present time and there is no suggestion that food and drink could not be served within the Clubhouse to the users of the sports facilities at the Appeal Site and their guests / supporters. The proposed conditions would introduce controls whereby Members and their guests would have to vacate the Clubhouse by 23:00 on Sundays to Thursdays (inclusive) and by 23:30 on Fridays and Saturdays. The only exception to this is that the Clubhouse could be used until 00:30 on New Year's Day. Other exceptions could be agreed by the Council but they retain control over those exceptions.
11. Further, the proposed Conditions would mean that the Clubhouse would only be used by Members and their guests (not the general public). The Appellants would have a record of the names and addresses of the Members who had guests at the Clubhouse at any given time and in my assessment this would result in the Members taking responsibility for the conduct of their guests both within the Clubhouse and when leaving the Appeal Site.
12. Further, the areas of the Appeal Site outside the Clubhouse could not be used after 21:00 (September to February) or after 22:00 (March to August) save for the smoking shelters and the use of the car parking areas. This provides a reasonable balance between customers wanting to sit outside and eat and drink during periods of good weather and local residents being able to use their gardens without being upset by loud noises or unacceptable behaviour within the Appeal Site.
13. Finally, as regards conditions, the number of functions that could be held within the Clubhouse such as wedding receptions, birthday celebrations and other gatherings to celebrate significant events would be limited to no more than four per week.
14. I am also aware that there are rules over the Appellants' use of the Appeal Site:
 - a) contained in the Lease under which the Appellants occupy the Appeal Site, and
 - b) through the controls imposed by the Local Authority over licensed premises.

I have also had regard to the fact that the Appellants may have little control over the conduct of persons using the Clubhouse once they have left the Appeal Site.
15. However, I was reassured that the Appellants had worked closely with the licensing authority and had introduced numerous policies to reduce the impact of the use on the living conditions of nearby residents. The Appellants assured me that there were no recommendations made by the

licensing authority regarding the use of the Appeal Site or the Clubhouse which they had not introduced.

16. Finally, the Appellants and the Council agreed that the previous incidents of anti-social behaviour reported by local residents had occurred on a relatively infrequent basis and there was no evidence before me that those types of problems were continuing.
17. I therefore conclude, for the reasons explained above, that the change of use, subject to the proposed conditions, would not cause unacceptable noise and disturbance for nearby local residents.

Would the change of use, subject to the proposed conditions, cause unacceptable highway safety issues or inconvenience for nearby local residents arising from the parking of customers' vehicles on nearby residential roads?

18. Local residents have confirmed that on occasions events held at the Appeal Site have resulted in on-street parking which had effectively reduced the width of the carriageway to a single car's width. Due to the alignment of the roads it was often not possible to proceed along the road with any confidence that you would not meet a vehicle travelling in the opposite direction. When this happened one of the cars would have to reverse between cars parked on either side of the road and residents were concerned that this may result in accidental damage to their cars or the cars belonging to their visitors.
19. The Planning Officer attending the Hearing confirmed that the section within the Council that was responsible for highway safety matters had been consulted and those Officers considered that there was sufficient off-street car parking provided within the Appeal Site to meet the needs of the mixed uses carried on. Clearly, from time to time there may be events e.g. a rugby match between local rival teams or a large community charity event held at the Appeal Site when the car parking areas within the Appeal Site are insufficient to meet demand. It was clear from the evidence which I had read that such events had, from time to time, also occurred prior to the Appellants' use of the Appeal Site. If the problems associated with on-street car parking occurred on a regular basis the relevant Highway Authority for the affected streets would have to consider whether the imposition of on-street parking controls in the area was an appropriate measure.
20. I therefore conclude, for the reasons explained above, that the change of use, subject to the proposed conditions, would not cause unacceptable highway safety issues or inconvenience for nearby local residents arising from the parking of customers' vehicles on nearby residential roads.

Does the change of use cause unacceptable litter problems for nearby local residents?

21. Complaints have been made that some of the users of the Clubhouse have caused broken glass to be left on nearby footways / grass verges which has caused inconvenience / potential dangers especially for animals and children using those footways / grass verges.
22. The Appellants assured me that they did not allow bottled drinks to be taken off the Appeal Site but clearly they cannot control customers who hide bottles about their person, take them away and dispose of them in an anti-social manner.
23. I do not consider that the problem identified by the local residents is sufficient to withhold consent for the change of use.
24. I therefore conclude, for the reasons explained above, that the change of use, does not cause unacceptable litter problems for nearby local residents

Overall Conclusions

25. For the reasons given above I conclude that the appeal should succeed on Ground (a) and planning permission will be granted.

Formal Decision

26. The appeal is allowed, the Enforcement Notice is quashed and planning permission is granted on the application deemed to have been made under Section 177(5) of the 1990 Act for the development already carried out, namely the use of the land and buildings at Parklands Sports and Social Club, 1A Parklands, Widnes, WA8 4NQ, as shown on the plan attached to the Enforcement Notice, for a mixed use comprising assembly and leisure, a drinking establishment and a restaurant subject to the conditions set out in the Schedule of Conditions below.

Tim Belcher

Inspector

Schedule of Conditions

1. The Clubhouse shall be for the use of Members in attendance and their guests and shall not be for the benefit of any other persons at any time. For the avoidance of doubt Members must be on site with their guests and guests shall not be granted access in the absence of the Member.
2. No Members or their guests shall be accommodated on the Appeal Site outside the following times:
 - a) 07:00 to 23:00 (Sunday to Thursday, Bank Holidays and Public Holidays).
 - b) 07:00 to 23.30 (Friday and Saturday)save for exception identified below unless previously agreed in writing by the Local Planning Authority.

Agreed exception:
New Year's Eve open 07:00 to 00.30 New Year's Day.
3. The outside areas of the Appeal Site shall not be used by Members or their guests between:
 - a) 21:00 and 07:00 during the autumn/winter months (September — February inclusive),
 - b) 22:00 and 07:00 during the spring/summer months (March — August inclusive)except for:
 - i) The use of either the two existing smoking shelter areas attached to the Clubhouse (as identified on Drawing No. 100 Rev C), or
 - ii) The parking of vehicles within the area edged red on Drawing No. 100 Rev C and identified as the "Main Car Park" and "Surplus Parking".
4. The number of functions held at the Clubhouse shall be limited to no more than four per week.
5. The car parking areas referred to in Condition 3 above shall be accessible for car parking use by Members and their guests at all times when the Clubhouse and/or the Appeal Site are open.
6. The use hereby permitted shall cease within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within one month of the date of this Appeal Decision a scheme for the landscaping of part of the site between the main car park and Parklands/Chapel Lane shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. The submitted scheme for landscaping shall include:
 - the exact location and species of all existing trees and other planting to be retained;
 - all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities per square metre of all new planting and an outline specification for ground preparation;
 - all proposed hard landscape elements and paving, including layout, materials and colours;
 - the proposed arrangements and specifications for initial establishment, maintenance and longer term maintenance of all planted and/or turfed areas.
- ii) If within 11 months of the date of this Appeal Decision the local planning authority refuse to approve the submitted landscaping scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State. The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- iv) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained in accordance with the approved scheme.

In the event of a legal challenge to this Appeal Decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

APPEARANCES

FOR THE APPELLANTS

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The Appellants

FOR THE COUNCIL

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