



Appeal Decision

Site visit made on 5 July, 2017

by **G. Rollings, BA(Hons) MA(UD) MRTPI**

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

Decision date: 16th August, 2017

Appeal Ref: APP/W5780/W/17/3169703

Ground Floor Left, Former Balfour House, 390-398 High Road, Ilford, IG1 1TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Oasis Path Limited against the decision of the Council of the London Borough of Redbridge.
- The application Ref: 5500/16 dated 24 November, 2016 was refused by notice dated 20 January, 2017.
- The application sought planning permission for the change of use of part of ground floor offices to D1 (medical training) without complying with conditions attached to planning permission Ref 0922/09, dated 8 July 2009.
- The conditions in dispute are Nos. 4, 5 and 6, which states that:
 - "4. *The premises shall only be used for a medical training centre for graduates from abroad seeking UK qualifications and for no other purpose or use (including any other purpose or use within 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, re-enacting or amending that Order).*"
 - "5. *The use hereby permitted shall not be open for the admission of students or visitors to the premises outside the following times: 08:00-19:00 hours Mondays to Fridays and not at all on Saturdays, Sundays, Bank or Public Holidays, without the prior written permission of the Local Planning Authority.*"
 - "6. *No more than 3 tutors and 1 administrator are permitted at the premises at any one time without the prior written permission of the Local Planning Authority.*"
- The reasons given for the conditions are:
 - "4. *In order to ensure that the use of the premises accords with the terms of the application and to prevent any alternative use being made of the premises which could be a source of nuisance or disturbance to occupants of neighbouring property and to comply with Policy BD1 of the Council's Borough Wide Primary Policies Development Plan Document.*"
 - "5. *In order to prevent the use causing an undue disturbance to occupants of neighbouring property, and to accord with Policy T5 of the Council's Borough Wide Primary Policies Development Plan Document.*"
 - "6. *In order to ensure that satisfactory provision is made at all times to accommodate vehicles within the site, and to accord with Policy T5 of the Council's Borough Wide Primary Policies Development Plan Document and Policy 3C.23 of The London Plan.*"

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site comprises the rear projection of the ground floor of Balfour House, with a street-facing front entrance, rooms arranged either side of a central corridor, and a rear secondary access, together with car parking spaces in an external side yard accessed from Connaught Lane at the rear of the property. It accommodates a children's educational facility, which was operational at the time of my visit, although with no children present on site.
3. In order to operate within the terms of the extant permission, the appellant seeks alterations to the disputed conditions. These incorporate: widening the scope of condition no. 4, to allow any educational use and no other class D1 use; altering the hours of operation specified within condition no. 5, to allow operation between 08:00 and 19:00 on weekdays, 10:00 and 15:00 at weekends and not at all on bank holidays, with no operations permitted during the month of August; and increasing the number of staff allowed on the site at any time, within condition no. 6, to five tutors and two administration staff.
4. In its refusal to modify the conditions, the Council raised concerns about the current use's impact on the living conditions of residents in properties close to the site, by reason of noise and disturbance. In determining this appeal, I am mindful that of the advice given by the Planning Practice Guidance (PPG), which states that in appeals made under s73 of the Act, my considerations are restricted to only the question of the conditions subject to which the planning permission should be granted¹.
5. The main issue in this appeal is therefore the effect of modifying the conditions on the living conditions of surrounding occupiers, with particular regard to noise and disturbance.

Reasons

6. Balfour House accommodates residential flats above ground floor level, and there are other residential properties in close proximity, particularly at the rear of the site where some dwellings have access from Connaught Lane. During my visit, I observed that classrooms occupied several of the rooms on the ground floor building, and that these had double-glazed windows with limited opening angles. Additionally, the appellant's evidence states that access to the use is solely available from the front entrance, facing High Road. The layout of the rear entrance, both internally, suggests use as an emergency access only.
7. The appellant submitted a noise assessment with the appeal. Noise measurements were taken at the front of the site and I am satisfied that the report's methodology is sound.
8. High Road is a very busy trunk road, with significant noise arising from vehicle use, pedestrian activity, and users accessing existing neighbouring uses. The noise report indicates minimal difference in both existing and likely noise profiles between the Saturday and Monday measurement times. However, the absence of Sunday testing is an issue of concern. It may

¹ PPG "Use of planning conditions", Paragraph: 031; Reference ID: 21a-031-20140306 Revision date: 06 03 2014.

indeed be the case that Sunday levels would be similar to those on other days of the week, but this is not demonstrated within the evidence.

9. Weekend use is a significant concern of the Council and surrounding residential occupiers objecting to the proposal and I am mindful of their complaints regarding existing weekend occupation. Residential occupiers have a right to a reasonable standard of living with a welcoming and peaceful environment, which includes considerations of noise and disturbance, and in this instance I cannot be fully satisfied that the use does not contribute to detrimental weekend conditions.
10. An additional concern is noise emanating from within the building. I observed that although the building is fitted with double-glazed windows, these are not fixed in position and can be opened. I have also taken into account the Council's concerns that the accommodation of children may lead to additional noise generation in comparison with the previously approved use of adult learning. Any noise from within the building, when the windows are open, would potentially be heard at the rear of the site. I appreciate that management of the facility could potentially address internal noise generation. However, given that these issues, and particularly noise levels at the rear of the site, are not addressed in detail within the evidence, I cannot be convinced that the development would not preserve the living conditions of the occupiers of nearby residential properties.
11. An additional Council concern related to the leaving and collection of children at the front entrance of the building. I noticed that the existing parking area was well utilised and that there were limited legal stopping opportunities on the road within close proximity of the building. There was a high amount of pedestrian activity outside the building, which included people entering and leaving premises, and congregating groups. Additional volumes of users, concentrated within short periods, would potentially add to existing pedestrian traffic volumes and congestion which, given the existing congestion, would be potentially harmful to highway safety as well as contributing to additional noise and disturbance for residents, which in itself would be significantly harmful. Surrounding occupiers have stated that this is an existing problem to which the development contributes and the Council notes that despite the existence of a travel plan, significant traffic volumes are generated by the school. In this context, I am not satisfied that the development has not led to additional congestion when compared with the previous use.
12. I acknowledge that the development provides significant benefits in providing a local facility that is both well used and supported by its users and the wider community. However, this consideration does not outweigh my concerns regarding its impact on the immediate community, for the reasons that I have described above. The appellant has also noted that the development's impacts are less than that of the previous use or an alternative, but the Council considered these in allowing the former, and I have limited information against which I can assess the latter. I have considered the appellant's suggestion of a temporary permission, but this would not sufficiently address the impacts to residents that I have set out above, and as such, does not alleviate my concerns.

13. I therefore conclude that the modifying the conditions would have a harmful effect on the living conditions of surrounding occupiers, with particular regard to noise and disturbance. This would conflict with the Council's adopted *Borough Wide Primary Policies* (2008) Policy BD1, which requires development to be compatible with the amenity of its area, demonstrate that there is no significant adverse impact on surrounding uses, amongst other factors.

Conclusion

14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR