



Appeal Decision

Site visit made on 5 October 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 3rd November 2017

Appeal Ref: APP/Y5420/W/17/3179492

22 Moorfield Road, Tottenham, London N17 6PY

- 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 Turkish and Kurdish Community Centre against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2017/0783, dated 20 February 2017, was refused by notice dated 25 April 2017.
 - The application sought planning permission for the change of use from Postal Sorting Office to Community Centre (D1), with associated alterations to attached side building to provide canteen without complying with a condition attached to planning permission Ref HGY/2007/2150, dated 12 December 2007.
 - The condition in dispute is No 4 which states that *the use hereby permitted shall not be operated: Before 0800 or after 2200 hours on Monday to Friday and before 0900 or after 2200 hours on Saturdays, Sundays, or Bank Holidays.*
 - The reason given for the condition is *this permission is given to facilitate the beneficial use of the premises whilst ensuring that the amenities of adjacent residential properties are not diminished.*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the condition is reasonable and necessary in order to protect the living conditions of existing neighbouring occupiers.

Reasons

3. The appeal building, an adjacent café and nearby builder's yard aside, is in a predominantly residential area. It is located to the eastern side of Moorfield Road, both opposite and within a street scene of densely laid out two storey terraced dwellings. There is an elevated railway line to the rear serving Bruce Grove Station.
4. With the above context in mind, it would not be amiss to consider that operating until 22:00 seven days per week (as per the existing condition) is already a late night hour. As premises where a number of functions can and evidently do take place there is some inevitable conflict with its location in a mainly residential area. The size of the premises is such that it can reasonably attract a large number of people congregating in one place at the same time.

Comings and goings associated with such functions can have a noise and disturbance effect which, whilst I shall come onto this matter in more detail later, can be a difficult thing to be able to police effectively.

5. I acknowledge that the appeal site is in close proximity to a busy main road which hosts a number of other late night uses. There would be a degree of existing disturbance from these. However, the appeal building is distinct from these, in very close proximity to existing dwellings and on a noticeably quieter secondary road.
6. The existing condition wording controls the operation of the premises. It does not control the time that patrons have to leave by and as such they may remain in the vicinity of the appeal building for some time after 22:00. Whilst this is not an unusual situation for a late night use, or indeed any other use for that matter, permitting a later night opening, even for a further hour, has the potential to push departure times yet further, later into the night.

Other Matters

7. As a not for profit community run organisation, I acknowledge that the hiring out of the premises for functions constitutes a reasonable amount of the income it receives. Be this as it may, there is no compelling evidence before me arguing specifically why the existing cessation time of 22:00 so significantly affects that income that a later time can be justified in its light. The evidence suggests that the venue operates well for its purpose. In essence, there is no case before me setting out how opening an hour later would make a significant difference to income or why ceasing operations at 22:00 restricts what they can use the premises for. This aside, this does not change where the premises are, which is in a predominantly residential area, distinct in my view, from the main centre of town.
8. I have come to my views here based on an assessment of the evidence before me. This includes my observations of the appeal building's context as part of my site visit, the case from the appellant and the Council as well as both support and objections from local residents. Whilst not determinative, the potential exacerbation of existing problems is another strand to my concerns. However, the main area of concern I have is the effect of the later night operation of a venue for functions in close proximity to residential dwellings.
9. The appellant has set out a case explaining the measures that have been taken to reduce the effect of noise disturbance following past complaints. These include, but are not limited to, window operation, restricting congregating outside and designated entry points. I am encouraged by these measures but recognise they are inherently difficult to adequately control through granting a planning permission and more importantly enforce going forward. The appellant has offered a legal agreement to provide onsite management presence for the duration of bookings to control noise and ensure patrons leave when they should. However, I have no such document before me to consider how this would work in reality.

Conclusion

10. Taking all of the above into account, I am of the view that the increase in the operating hours for the premises would have an adverse effect in terms of noise disturbance on the local area. To the point that the living conditions of

neighbouring residents would be compromised unacceptably. This effect would lead to conflict with Policy 7.6 of the London Plan 2016 and saved Policy UD3 of the UDP¹. Together, these policies seek to ensure, amongst other things, that new development is not harmful to the living conditions of existing and future occupiers. It would also be contrary to one of the core principles of the Framework² which seeks to provide a good standard of amenity for existing and future users of land and buildings.

11. The condition as it stands assists in mitigating the effects of the operation of the premises which was the subject of the proposed development under the original planning permission such to make it acceptable in planning terms. It does so in a reasonable and necessary way. It therefore stands following the dismissal of this appeal.

John Morrison

INSPECTOR

¹ Haringey Unitary Development Plan 2006

² The National Planning Policy Framework 2012