



Appeal Decision

Site visit made on 3 January 2018

by **M Seaton DipTP MRTPI**

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

Decision date: 20 March 2018

Appeal Ref: APP/N5090/W/17/3179750

The Sternberg Centre for Judaism, 80 East End Road, London, N3 2SY

- 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 Ms. Claire Mandel (on behalf of New North London Synagogue) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 14/07798/S73, dated 8 December 2014, was refused by notice dated 27 January 2017.
 - The application sought planning permission for the erection of a synagogue (variation of planning permission C00403CL/05 dated 30-09-2005 for demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavilion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car parking spaces, single storey refuse store and alterations to Manor House), without complying with a condition attached to planning permission Ref F/00690/08, dated 24 July 2008.
 - The condition in dispute is No 18 which states that: *The use of the premises for the purposes hereby permitted (unless otherwise agreed in writing by the local planning authority or as set out in any associated legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) shall only take place between the hours of 8.00am and 10.30pm Fridays and Saturdays and between 7.30am and 10.30pm on all other days.*
 - The reason given for the condition is: *In the interests of the amenity of occupiers of neighbouring residential properties.*
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a synagogue (variation of planning permission C00403CL/05 dated 30-09-2005 for demolition of existing Akiva School, link block, caretakers house and all timber-framed and prefabricated outbuildings, and erection of new Akiva School block adjacent Windermere Avenue and Pavilion Mews, new synagogue adjacent St. Theresa's Primary School and extension and alterations to existing stable block/Biet Limmud building including meeting/conference rooms, associated offices and canteen, together with associated changes to landscaping, provision of 50 car parking spaces, single storey refuse store and alterations to Manor House) at The Sternberg Centre for Judaism, 80 East End Road, London, N3 2SY in accordance with the application Ref 14/07798/S73, dated 8 December 2014, without compliance with condition number 18 previously imposed on planning permission Ref F/00690/08, dated 24 July

2008, but subject to a replacement condition and a further amended condition, and the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and as set out in the Annex.

Background and Main Issue

2. The Sternberg Centre occupies a site of approximately 3 hectares, and incorporates a number of uses related to the Central Facility for Reform Judaism in the UK. The wider site is surrounded predominantly by existing residential uses, with St. Teresa's Catholic Primary School to the south-east on East End Road. A members Gymnasium operated by Pure Gym is also located to the south-east of the site, opposite the junction between East End Road and Basing Way.
3. The original planning permission for the new Akiva School block, new synagogue, and extensions and alterations to existing stable block/Biet Limmud, along with other associated changes, was granted planning permission in July 2008, with it indicated within the Council's Officer Report that the works were completed in 2011.
4. The appellant has sought to amend the original planning permission to allow the synagogue to be able to be used until midnight on any given day, in addition to the already agreed relaxation of hours of use permitted by the Council, and as defined within the accompanying Section 106 legal agreement. It is stated that the amendment to the hours of use would address a reluctance by the community to use the facilities for Bar Mitzvahs and Weddings, with the existing restriction of 22:30 making the venue unattractive for many such events. Whilst the focus is the use of the synagogue as the main communal building, the effect of the proposed change would be to alter the hours of operation for the whole site.
5. The Council has indicated within the Statement of Case that concerns exist that the extension of hours of operation of the various functions and services within the site to midnight on all days would have a detrimental impact on the residential amenity of neighbours in the surrounding area. The Council has made reference to concerns which have also been expressed by neighbouring occupiers over the impact of the dispersal of visitors to the site at the end of events, with particular reference to noise and light pollution from people accessing vehicles parked within the surrounding area.
6. As a consequence, the main issue in this instance is whether the condition is reasonable or necessary in order to safeguard the living conditions of neighbouring occupiers, having regard to noise and light pollution.

Reasons

7. In assessing the impact of the activities related to the Sternberg Centre, the Council has sought to differentiate between the direct impacts from the use itself, and the impacts related to the act of arrival and dispersal of visitors from the site.
8. In respect of the impacts of the use of the site itself, the Council has highlighted within the Officer Report that the specific use of the premises had not generated any written complaints to the Council's Environmental Health Team on the basis of noise emissions directly related to the activities undertaken within buildings on the appeal site since occupation in 2011.

9. However, it was subsequently reported within the Council's Appeal Statement that a complaint was received after the planning application had been heard at Committee (but prior to the issuing of the formal Decision), regarding the use of the premises beyond 10.30pm and in respect of light pollution from the buildings lights overnight, albeit I note without reference to any specific issues regarding noise.
10. Despite the above, I have had careful regard to the contention of neighbouring occupiers about levels of noise and disturbance during evening events held on the appeal site during this period. Furthermore, I have no reason to doubt that specifically reported events of noise from open windows and fire doors may have occurred in the past. However, I am mindful that paragraph 203 of the National Planning Policy Framework (the Framework) sets out the need to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
11. In this regard, I note that an amended condition addressing permissible levels of noise emitted from the synagogue as a whole, taken as measurements from 1 metre outside the windows of neighbouring properties, would also be in place for the protection of the living conditions of the occupiers of neighbouring noise sensitive properties. If this condition were enforced by the Council in conjunction with the submitted and updated Section 106 Legal Agreement requiring adherence to the terms and restrictions of the secured Activities Management Plan (AMP) and noise mitigation measures reported within, I am satisfied that the living conditions of neighbouring occupiers would be safeguarded in conjunction with the extended hours of use of the buildings themselves.
12. I now turn to the impact of the arrival and dispersal of visitors to and from the appeal site at the beginning and end of events. In this respect, I am satisfied on the basis of the submissions that the issue at hand is concerned principally with the dispersal of visitors from the site at the end of events, and the potential for disturbance to neighbouring occupiers from noise and light pollution.
13. I note that the existing restrictions within the AMP controlling the maximum number of attendees on the site at any one time would remain in force as a part of the updated Section 106 Legal Agreement. However, as a consequence of the extension to the hours, another probable effect of the variation of the condition would be that the potential number of incidences where such numbers would be in attendance at the site would be likely to increase during the course of the year.
14. The appellant has referred me to the availability of car parking within the site, the operation of a Green Travel Plan, and also that many members of the New North London Synagogue live in close proximity to the site and do not therefore use their cars. Furthermore, the appellant has indicated that parking is either discouraged on certain streets due to the prevalence of existing residents parking, or is restricted elsewhere through parking controls. Whilst I accept that these are all points which would provide some mitigation of the impact of the use of the site, none of the Council, appellant nor interested parties have provided me with any detailed technical evidence related to the numbers of vehicles associated with attendance at events, and which currently would park in surrounding streets. Nevertheless, on the basis of the submissions, I have

no doubt that overspill parking in surrounding streets does occur to a greater or lesser degree dependent on the scale of individual events.

15. I have carefully considered the availability of off-street parking within the wider area, and the locations where overspill parking from the appeal site would be likely to occur. In this respect, I consider that the principal areas for additional on-street parking would appear to be along East End Road, with a number of unrestricted areas observed both to the south-east and north-west of the site. I acknowledge that some of the available areas for on-street parking are located immediately outside of existing dwellings, and also that East End Road is likely to remain comparatively busy as a local link road and bus route later into the evening. I have also noted further concerns have been expressed regarding parking on other streets such as Windermere Avenue and Manor View.
16. Whilst I am satisfied that the underlying background noise environment would reasonably be expected to be quieter at 12:00am rather than 10:30pm, I am not persuaded that the likely intensity, frequency or nature of noise generated by cars leaving the area at this time would in itself give rise to an unacceptable impact on living conditions. I accept that departures from the synagogue are likely to occur within a relatively concentrated period of time. However, as a consequence of existing reported high levels of on-street parking related to residences and other uses in the area, overspill parking from the appeal site is unlikely to be concentrated in a single location but spread or dotted over a wider area as and where available spaces can be found, reducing the intensity of any impact.
17. In respect of other noise, I accept that there would always be the potential for individual incidences of anti-social behaviour from visitors related to the volume of conversation and other noise generation, but note that the appellants have actively put in place procedures through the AMP to allow complaints to be received and addressed, with the AMP ultimately monitored by the Council. This I consider to be a proportionate response to the potential for incidences of unacceptable noise and disturbance, and provides a mechanism for the Council to enforce against such incidences.
18. In assessing the potential for the impact of light pollution, I have been particularly mindful of the parking arrangements within Manor View, and the effect of headlights shining directly towards dwellings within this street. However, I am not persuaded that the impact for all intents and purposes would be any different from that of a car leaving a driveway at a similar time. Furthermore, in the context of cars parked parallel to dwellings within other streets, I am not persuaded in the absence of any compelling evidence before me to the contrary, that the practical impact of light pollution from headlights would be any more severe than from that of cars passing or manoeuvring on the general highway. Irrespective of the later incidence of headlights, I am satisfied that this is not a matter which would warrant the refusal of permission to vary the condition.
19. I have additionally noted references to the impact of light from 'un-shuttered' windows within the buildings on site, and in particular where lights have been left on overnight. However, from my observations of the position of windows within the main synagogue building, the location of mature screening and planting within the appeal site, and the distance and relationship between

windows and neighbouring dwellings, I am not persuaded that any impact from light would be so severe as to be injurious.

20. On the basis of the evidence placed before me, and my own observations of the site and surrounding area, I am satisfied that the proposed development would safeguard the living conditions of neighbouring occupiers, having regard to noise and light pollution not result in an adverse effect on the character and appearance of the area. As a consequence, the existing condition would not be reasonable or necessary, subject to the imposition of a replacement condition as proposed, and the amendment of a further condition relating to noise levels at neighbouring noise sensitive properties. I do not therefore find the proposal to conflict with Policies DM01 and DM13 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012, which seek to ensure that development protects the character and amenity of the Borough, as well as being expected to protect the amenity of residential properties.

Other Matters

21. Interested parties have raised a number of additional objections to the proposed variation to the approved scheme. In respect of these concerns, I am mindful that many of the matters including issues related to changes to landscaping and the building, noise during construction, and impact on ecological interests, are matters which would have been assessed and resolved at the time of the grant of the original planning permission.
22. I have also noted concerns over parking congestion in the area, including with reference to the school and nursery on the site, combined with the contention that issues around parking provision have yet to be resolved in conjunction with the Section 106 Legal Agreement. However, whilst I have had regard to the concerns over the enforcement of the legal agreement and failure to adhere to its terms, this is a matter to be resolved between the appellant and the Council, a point seemingly acknowledged within the Council Officer Report. Similarly, the accuracy and comprehensibility of figures related to attendance on the site submitted to the Council in conjunction with the requirements of the AMP, would also be a matter for agreement between the appellant and Council to ensure that the AMP is being adhered to, and I am satisfied does not have any significant bearing on the planning merits of the assessment of the main issue.

Conclusion

23. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I note from the Council's suggested list of conditions that a number of the original conditions would appear to have been discharged, with the conditions now solely worded as requiring compliance, and adherence with previously approved plans and documents. With the exception of the unnecessary re-application of a condition relating to the commencement of development, I am satisfied that it is reasonable and necessary to re-impose all conditions that have been re-suggested, but in the event that some others have in fact been discharged, that this is a matter which can be addressed by the parties.

24. I have concluded that the existing condition related to the hours of operation may be replaced with a condition detailing revised hours of operation, and an amended condition restricting noise levels at neighbouring noise sensitive properties. Therefore, for the reasons given above I conclude that the planning permission should be varied as set out in the formal decision.

M Seaton

INSPECTOR

Annex

Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Access Statement, Design Statement, Extended Phase 1 Habitat Survey of Land at the Sternberg Centre reference CAPPRO-STECCEN-1168, Visualisations, Ecological Strategy meeting minutes, Tree felling approvals, Arboricultural Survey / Arboricultural Impact Assessment / Method Statement reference AR/1233/06, Ambient noise survey AAc/112563/R01-sj, Supporting Planning Statement, Ventilation Report Issue C, N[2-]000 Option B only, U[--]001A/B, U[--]002A/B, U[--]003A/B, U[--]040A/A, T[31]020/B, Arboricultural Survey drawing 155/02/P2, 155/12/P7, 155/500/P6, 155/501/P5, 411-A- 100A, 411-L-010, 411-L-011, 411-L-011, 411-L-100H, 411-L-105A, 411-L-110J, 411-L- 120G, 411-L-200J, 411-L-230G, 411-L-240H, 411-L-250D, 411-L-300F, 411-L-320G, 411- L-330G, 411-L-315D, 411-L-310F, 411-L-305D, Acoustic Report from Arup Acoustics dated 09/06/08 and numbered 123813/MJW.
2. The pedestrian access in the boundary wall fronting East End Road and the secondary access in the boundary wall with Pavilion Mews shall only be used for the purpose of the emergency evacuation of the site and shall be used for no other purpose.
3. No external lighting, floodlighting or other means of external illumination shall be affixed to the external elevations of the building, or placed/erected within the site without the prior written consent of the local planning authority pursuant to a planning application. Any external lighting, floodlighting or other means of external illumination shall be installed and thereafter retained in full accordance with the approved details.
4. Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
5. The use of the premises for the purposes hereby permitted (unless otherwise agreed in writing by the local planning authority or as set out in any associated legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) shall only take place between the hours of 8.00am and midnight Fridays and Saturdays and between 7.30am and midnight on all other days.
6. The level of noise emitted from the operation and use of the synagogue hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of any neighbouring property which existed at the time of this decision notice. If the noise emitted has a distinguishable, discreet continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1metre outside the window of any room of any existing neighbouring property at the time of this decision notice.