
Appeal Decision

Site visit made on 18 June 2019

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/Z5060/W/19/3219664

Unit G7, Chadwell Heath Industrial Park, Kemp Road, Dagenham RM8 1SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Rev E Adjei (c/o Pentecostal Revival Assemblies of God Church) against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 18/00794/FUL, dated 17 July 2018, was refused by notice dated 5 October 2018.
 - The development proposed is described as *'retention of use of premises as a church'*.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It was evident from my site visit and the evidence before me that the appeal property has been in use for the development applied for since November 2014. I have determined the appeal on this basis.

Main Issues

3. The main issues in this appeal are:
 - Whether the loss of employment floorspace would be acceptable.
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to noise and general disturbance.
 - Highway safety, with particular regard to parking provision and pedestrian access.

Reasons

Employment floorspace

4. The site lies within a Locally Significant Industrial Area ('LSIA') and the objectives of Policies CE3 and CE4 of the Planning for the Future of Barking and Dagenham Core Strategy 2010 ('CS') are to safeguard such industrial areas to retain and encourage employment opportunities in the Borough by ensuring no net loss in employment floorspace. Policy CE3 also requires that a local, or strategic assessment of industrial demand should form the basis of any such proposals in LSIA's.
5. For Development Management purposes the Council has adopted a non-statutory Planning Advice Note Religious Meeting Places 2012 ('PAN') which is

consistent with and expands upon the policies in the CS. It advises that religious meeting places within such areas will not be permitted except in exceptional circumstances and could be granted if, amongst other things, the premises have been unused for at least 12 months and marketed during that time at reasonable rents for the permitted uses.

6. The appellant refers to the lack of evidence to the contrary from the Council but in my view the onus is on the appellant to demonstrate that the floorspace, regardless of its size, is no longer required for industrial use. The appellant's evidence refers to vacancies in the unit between January 2009 and November 2014 and that the unit was vacant for 37 out of 70 months. However, no substantive evidence is before me to demonstrate that any marketing took place within those vacant periods.
7. Further, the unit has been occupied during that period and I have been provided with no details of why those occupiers left or why the unit was not deemed suitable for industrial purposes. Whilst the appellant refers to the nature and small size of the unit, I observed a number of small units used for a variety of different industrial and commercial uses within the LSIA. The contention that this is not a suitable unit for an industrial use is simply not borne out in the evidence before me and from my own observations.
8. For these reasons, the proposal results in the loss of employment floorspace and in the absence of the necessary evidence to demonstrate it is no longer required for such purposes, its loss is not acceptable. Accordingly, the proposal conflicts with Policies CE3 and CE4 of the CS, the objectives of which are set out above.

Living conditions

9. Religious services are held on Fridays (1830 to 2030 hours); Saturdays (once per month for a meeting); Sundays (1000 to 1300 hours); and Bank Holidays (midday to 1400 hours) with a congregation on average of 50-55 people. The evidence suggests that there have been reports from the occupants of neighbouring residential properties of late night anti-social behaviour. Whilst CCTV confirms that a large number of the congregation were seen approaching the unit, the relevant authorities have been unable to confirm they were associated with the unit although objections from local residents appear to suggest otherwise. Whatever the case may have been, the gates to the estate now appear to be locked during the evening, albeit no times are given.
10. I observed that the ground floor hall contained an array of musical instruments and given its size, design and layout, in the summer months in particular, entrance doors would need to be open for ventilation. In such proximity to the residential rear gardens of properties on Lymington Road and despite the best efforts of the appellants, the level of disturbance as people come and go from additional vehicle movements, footfall, conversations, musical instruments, singing and general activity is at a time when residents can reasonably expect to enjoy peace and quiet in their homes and private gardens, which are already subjected to some noise during the day from the LSIA. There is also likely to be an overlap before and after those time periods as members dwell in and around the property and enter and exit the industrial estate, close to the residential properties.

11. The appellant refers to 50-55 people but this not 'low level' and moreover, I observed at my visit the main hall was laid out with substantially more seating capacity¹. Consequently, although the number of meetings is not great, they are regular and I consider there is a propensity for a significantly greater level of activity than that likely to be generated by surrounding uses or previous uses. Given the intimate nature of the estate and the relationship and proximity of the appeal property to residential properties, at these times there will be harm to the living conditions of neighbouring occupiers in terms of noise and general disturbance. In reaching this view I am also mindful that there are a number of objections from local residents on these grounds.
12. I accept the industrial occupation unit would generate some noise, but this is likely to be at materially different times even taking account of some evening working. I have also considered whether the imposition of conditions would address this harm as indicated by the appellant, albeit no such conditions have been put before me. The Council have only suggested a restriction of 0700 hours to 2300 hours but this would be too late in the evening and would not address the harm to neighbouring occupiers.
13. For these reasons, the proposal does result in some harm to the living conditions of neighbouring occupiers in terms of unacceptable noise and general disturbance and therefore conflicts with Policy BP8 of the Borough Wide Development Policies Development Plan Document 2011 ('the DPD') which, requires all developments to ensure existing and proposed occupiers are not exposed to unacceptable levels of noise and disturbance.

Highway safety

14. For the avoidance of doubt, I have included both reason 3 and 4 in this issue as they are both essentially concerned with highway safety. The industrial estate is roughly square in shape with a narrow vehicular access around the outer edge in this location and characterised by small general and other industrial units and commercial uses. There is no footway and I observed that the small forecourts and aprons of the units, including some of the associated activity and storage, spills out onto the carriageway.
15. The site has a PTAL rating of 3 which means that it is considered to have moderate accessibility by sustainable modes of transport. The PAN requires a robust transport assessment for such proposals which demonstrates that such development will not lead to unacceptable impacts on the existing highway network, car parking demand can be met within the curtilage of the development and there would be no conflict between the proposed use and the day to day operation of existing businesses in the area.
16. The surrounding highway network is busy and I observed that Kemp Road was heavily parked, albeit that is only a snapshot. There are on-street parking restrictions for residents only between the hours of 0830 to 1730 hours Monday to Friday along Lymington Road, where the majority of properties had front curtilage parking, a significant number of which are accessed across parking bays located on the footway.
17. The appellant estimates only 5 families arrive by car but there did not appear to be any parking within the narrow confines of the access road. For a

¹ I observed approximately 80-90 seats.

congregation of 50-55 and taking account of my own observations as to the number of seats within the hall, the number could be much greater. Although the church provides a 17 seat bus and is within 200m of a bus stop I have been provided with no details of the routes in order to assess whether it provides a realistic alternative or whether walking and cycling is also a realistic option for members. Whilst I was shown an additional off-street parking space available to the Church at a residential property on Lymington Road, there is nothing before me to secure its use.

18. The operation of the use during the evening and at weekends would be at times when pressure for parking in the industrial estate is reduced but in adjoining residential streets is at its highest albeit with fewer restrictions on the available spaces. There is also likely to be additional parking pressure from other places of worship within the locality as well as from other industrial and other uses operating in the evening. The Council's Transport Development Management Officer has also raised concerns over 'serious parking issues' and 'illegal and inconsiderate parking' in Kemp Road and Lymington Road. Whilst this is not evidenced and I cannot be certain it is down to the appeal proposal, it does add weight to my concerns that there would be some additional parking stress at times of high demand in the locality, were I to allow the appeal.
19. Turning to pedestrian safety, the estate does not have any street lighting but given the narrow carriageway and evidence of activity spilling out onto the access road, I observed vehicle speeds were low. Pedestrians would be accessing the site when some of the units are likely to be closed and although not an ideal relationship, pedestrian safety would not be materially harmed as care and caution would be taken given they are entering an industrial area.
20. Nonetheless, although the detailed information from both sides is sparse, it seems to me that the potential size of the congregation and the lack of substantive evidence in terms of travel surveys and overall accessibility, leads me to conclude that the proposal results in increased traffic and parking problems in the locality. In turn this has the potential to lead to inconvenience and additional conflicts between all users of the highway network and is supported in the representations made by third parties.
21. Taking account of the number of occasions per week the harm is limited but nonetheless, still weighs against allowing permission for the church use to continue in this particular location. Accordingly, there would be some limited conflict with Policies BR9,10 and 11 of the DPD which, when taken as a whole, require all developments with appropriate parking provision subject to a number of considerations, including the local environment and accessibility of the site and highway safety.

Other Matters

22. My attention has been drawn to existing places of worship within the LSIA and other employment areas in the Borough². I observed the nearby examples but I have not been provided with the full details, background or circumstances of any of the cases. Further, the existing place of worship at the entrance to the LSIA appeared to benefit from its own car park, is on a much larger site and has a different spatial relationship with surrounding residential properties.

² 6.0 Appeal Precedent – Appellant's statement of case.

23. In any event the Council has an up to date policy in place to deal with the change of use of such floorspace along with detailed guidance, clearly recognising and responding to the issues in finding appropriate locations for such uses. Given its content each site is clearly subject to bespoke site specific circumstances and considerations over a specific time period. The examples do not alter my views in relation to the main issues and in any event, each case must be determined on its own merits. Whilst I also have some sympathy with the appellant given the use has been in operation since 2014, that has no bearing on the planning merits of this appeal.
24. The Council's second reason refers to conflict with neighbouring units contrary to the aims of Strategic Objective SO.6 which relates to the growth, retention and competitiveness of businesses in the borough. The Council has neither explained this sufficiently or given evidence of any such conflict which has actually occurred and so justified this reason. Given my conclusion to dismiss the appeal I have not found it necessary to consider this any further.

Planning balance and conclusion

25. I have had regard to the National Planning Policy Framework ('the Framework') which encourages the promotion of sustainable healthy communities and the efficient use of land. However, this is also subject to safeguarding and improving the environment and ensuring safe and healthy living conditions. I also recognise that the Church provides a wide range of services which are no doubt valued by many within the community. Retaining the proposal would also meet the specific needs of a religious group and encourage social interaction.
26. Set against this, there is little before me that this property is the only one available to the Church and that there are no other alternatives. Ultimately, the benefits have to be balanced against the effects on existing communities, including access to employment opportunities. In this case I give greater weight to the harm and conflicts with the CS and DPD that I have identified in terms of the absence of sufficient justification for the loss of the employment floorspace and the limited harm to the living conditions of neighbouring occupiers and highway safety.
27. Although there is compliance with some aspects of the development plan, the harm and the conflicts are such that the proposal should be regarded as being in conflict with the development plan, when taken as a whole. Material considerations, including the Framework do not indicate to me that in this particular case a decision should be taken other than in accordance with the development plan.
28. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR