



Appeal Decision

Site visit made on 5 August 2019

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 13 August 2019

Appeal Ref: APP/N5090/C/19/3224536

Land at Menorah Grammar School, Abbots Road, Edgware HA8 0QS

- 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 appeal is made by Rabbi Avromi Cohen against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 6 February 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, operational development in the form of the installation of a portacabin to the front of the site.
 - The requirements of the notice are: 1. Permanently remove the portacabin from the site; 2. Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is: 2 months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in sections 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is hereby directed that the enforcement notice be varied by replacing the words "2 months after this notice takes effect" under paragraph 6, with "31 August 2020". Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused for the application deemed to have been made under S177(5) of the 1990 Act as amended.

The ground (a) appeal

2. The main issues are (a) whether the development has preserved or enhanced the character or appearance of the Watling Estate Conservation Area (CA) and (b) the effect on the local highway, with regard to parking.

Conservation Area

3. The Council has drawn attention to the Watling Estate Conservation Area Character Appraisal which notes that schools "are generally one and two storeys with double height windows and gabled roofs. These are traditional school buildings, attractive with traditional and quality finishes and architectural details". The Menorah Grammar School building fits this description with its tall upper floor windows, red brick façade, clay tile roof and details such as the centrally positioned "Boys" and "Girls" entrances and the brick and stone detailing around the windows. Set back from the road behind a

- traditional roadside boundary comprised of brick pillars and metal railings, the overall building makes a very positive contribution to the appearance of the CA.
4. Although the land level behind the front boundary is lower than the road where the appeal building is located, the grey plastisol coated portacabin at the front of the site with its flat roof is clearly visible through the railings from Abbots Road. Its design is entirely at odds with the appearance of the school building. Consequently, it neither preserves or enhances the character or appearance of the CA. In terms of the National Planning Policy Framework (the Framework) the harm to the designated heritage asset is less than substantial.
 5. The appellant has outlined how the extra classroom that the portacabin provides is required to deliver the increased religious and secular curriculum needs of the pupils from the Orthodox Jewish community that the school serves. On this basis the appellant has previously applied for planning permission to have a portacabin for a temporary period. This was refused by the Council (Ref: 18/6700/FUL). The appellant initially expressed the need for a temporary planning permission for three years. However, the school has since investigated a plan to build a mezzanine floor in the main building to provide the additional space they need. Once this is built the need for the portacabin would be addressed and it could be removed. Therefore, the appellant now seeks a temporary permission for an 18-month period.
 6. I am mindful that 18 months may allow the longer term and more permanent solution to the accommodation needs of the school to come forward. However, apart from some details such as plans showing the new mezzanine and an architect's fee proposal, I have no evidence to show how realistically the school is engaging with this project, such as that it has been fully costed, it is planned to go ahead with contractors lined up, or when the works would be completed. Therefore, it has not been shown that there is a clear rationale that would justify such a temporary planning permission.
 7. I have no desire to undermine the breadth of courses that the school provides or to adversely affect the special educational needs of some of the school's pupils who, due to the Darchei Noam Centre, are drawn from across London and further afield such as Manchester and Gateshead. I recognise too, having due regard to the religion and beliefs of the pupils at the school, that it plays a very important role in the Orthodox Jewish community. In this respect I note that the retention of the portacabin may meet certain planning policy aspects of the Council's Core Strategy regarding enabling inclusive and integrated community facilities and uses. Nevertheless, these public benefits do not outweigh the great weight that should be afforded to the conservation of the designated heritage asset in this case. I shall though return to the issue of how long the building may continue to be at the school below.
 8. Therefore, I find that the development conflicts with the design and conservation aims of policies DM01 and DM06 from Barnet's Local Plan (Development Management Policies) Development Plan Document (LP) and policy CS5 from Barnet's Local Plan Core Strategy (CS). The Council has also identified that the appeal scheme does not accord with its Residential Design Guide Supplementary Planning Document (SPD). However, given that the application is not for a residential scheme, the SPD would seem to have little relevance in this case.

Highways

9. The school appears to create local difficulties on the roads near to the school, particularly around dropping off and picking up times. I noticed at my site visit that many nearby houses have off road parking and it is alleged that there are times when vehicles associated with the school have blocked the use of neighbours' driveways. The appeal building has caused the loss of some on-site parking spaces as well. However, the appellant has pointed out that the school is not governed by the terms of any planning permission to provide car parking for its staff and visitors. In the absence of this development, the land where the building is could be used for any purpose incidental to the use of the school anyway.
10. Furthermore, although the Council and the appellant appear to have differing views about whether the new classroom is for extra pupils or just broadening the range of topics that can be taught, even if it is there for more pupils, given the overall number of pupils at the school and that the classroom only accommodates about 20 pupils, there is no substantive evidence that the local parking situation has materially worsened as a result.
11. All in all, I find that the appeal building has not had an unacceptable effect on the local highway, with regard to parking. As such, the development does not conflict with the travel impact and parking standard aims of LP policy DM17.

Ground (a) Conclusion

12. Although I have not found harm in respect of the highway issue, I have found harm and conflict with the development plan regarding the effect of the building on the character and appearance of the CA. That is the prevailing consideration that leads me to find the deemed planning application should be refused. Consequently, the ground (a) appeal does not succeed.

The ground (g) appeal

13. Given the purpose of the classroom, its removal within two months of the enforcement notice taking effect would be very disruptive to the pupils concerned and it would not allow enough time for the school to put in place alternative accommodation arrangements. The time period therefore falls short of what should be reasonably allowed. Moreover, an appellant is entitled to assume success under this ground of appeal and the school may well have planned at least the start of the new school year accordingly. Furthermore, since the appeal was submitted, it appears that the Council has offered an extension of time for compliance with the notice until the end of August 2020.
14. Bearing in mind that a school year spans from roughly September in one year through to July the next year, a longer period than six months would be more reasonable. A longer compliance period would also pay much better regard to my public sector duties taking account of the religious and shared beliefs of the pupils who would benefit from the classroom being in place and allow the school more time to mitigate the effect of the building eventually being removed. Despite my misgivings about granting a temporary planning permission for 18 months, a compliance period to the end of August 2020 would allow the mezzanine option to be progressed further.
15. Therefore, taken in the round, 12 months would strike the right balance between what is reasonable, but also having regard to the continuing harm to

the CA while the building remains in place. To this extent, the ground (g) appeal succeeds and I intend to vary the notice accordingly.

16. I note that the appellant is seeking assurances from the Council that it might agree a further extension of time if, by the end of August 2020, the mezzanine works were progressed significantly but were not complete. The Council has the power to do this, but it would be a decision for the Council to make based on the circumstances at the time. It is not a matter over which I have any control or should make any comment about.

Conclusion

17. Having regard to all other matters raised, I conclude that the enforcement notice should be varied and then upheld. The appeal should be dismissed and planning permission refused for the deemed planning application.

Gareth Symons

INSPECTOR