



Appeal Decision

Site visit made on 9 August 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Appeal Ref: APP/W5780/W/19/3229302

Unit 1 Kataria Point, 1 Riches Road, Ilford IG1 1JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Syed Kashif Zafar against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0150/19, dated 14 February 2019, was approved on 9 May 2019 and planning permission was granted subject to conditions.
 - The development permitted is Change of Use from A1 (Shops), A2 (Financial and professional services), B1 (Business) to A2 (Financial and professional services), B1 (Business) and D1 (Non-residential institutions).
 - The condition in dispute is No 3 which states that: The D1 (training & education centre) use shall not be open to customers outside the following times:- 08:00 – 21:00 hours Monday to Friday, 09:00 – 21:00 on Saturday, 10:00 – 16:00 on Sundays, and not at all on Bank or Public Holidays.
 - The reason given for the condition is: In order to prevent the use causing an undue disturbance to occupants of neighbouring property at unreasonable hours of the day, and to accord with Policies LP26 of the Council's Local Plan.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I note the address stated on the application form is different to the appeal form and decision notice. In the interests of clarity, I have used the address from the decision notice in the header above.

Background and Main Issue

3. The Council granted permission for the appeal site to be used for use class D1 (Non-residential institutions) purposes that allows the premises to be used to provide educational support and tuition services. A condition restricting the hours of use of the training and education centre by customers to certain times including between 1000 and 1600 on Sundays and not at any time on bank or public holidays was imposed on the planning permission.
4. The application which is the subject of this appeal seeks to remove this condition to allow the training and education centre to be used at any time.
5. Therefore, the main issue is whether the condition is necessary in the interests of the living conditions of neighbouring occupiers with particular regard to noise.

Reasons

6. From the evidence before me and my observations during the site visit, Unit 1 Kataria Point (Unit 1) is sited at the ground floor of a residential apartment building and there are some houses near the site. There is also a church opposite the site on Riches Road. The training and education centre is likely to result in reasonably large groups of people using the premises. Therefore, it is reasonably likely that the coming and going of such groups of people would cause a degree of noise disturbance to neighbouring occupiers.
7. The period before 1000 and after 1600 on Sundays and during bank or public holidays are likely to be quieter than other times of day, as such there would be less background noise during these times. Therefore, any noise generated by the coming and going of people from Unit 1 and from the running of the training and education centre during these times would be likely to be more pronounced such that without the condition being attached to the permission the proposal would result in undue noise disturbance to adjacent occupiers. There is no evidence before me such as a noise impact assessment that demonstrates that the noise that would be generated by the proposed extended use of Unit 1 would not cause undue noise disturbance to the neighbouring occupiers.
8. I note that the Council has suggested a condition that would allow the training and education centre to remain open from 0900 until 2100 on Sundays. However, given the likelihood that levels of background noise would be lower before 1000 and after 1600 on Sundays, and the lack of any information such as a noise impact assessment, there is no certainty that such a condition would not cause undue noise disturbance to neighbouring occupiers.
9. Consequently, based on the information before me the existing condition is necessary in the interests of the living conditions of neighbouring occupiers with particular regard to noise. Therefore, the proposal would conflict with Policy LP26 of the Redbridge Local Plan 2015 - 2030 March 2018 which requires among other things that developments do not result in an adverse impact upon the amenity of neighbouring occupiers in relation to noise and vibration.

Other Matters

10. I acknowledge that the business model of the training and education centre relies primarily on providing services during weekends, bank holidays and after school timings during weekdays. Nonetheless, the condition would allow the use of the centre during weekdays and for substantial parts of the weekend such that this point has not altered my decision bearing in mind the likely harm identified.

Conclusion

11. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR