



Appeal Decision

Site visit made on 8 October 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/B4215/C/19/3222696

Land at 67 Derby Street, Manchester M8 8HE

- 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 Mr Dharminder Singh Kasbia against an enforcement notice issued by Manchester City Council.
 - The enforcement notice was issued on 11 January 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from light industrial (Class B1) to a church/community use (Class D1).
 - The requirements of the notice are:
 1. Cease to use the premises as a Church/Community Centre, together with any associated ancillary activities related to that use.
 2. Remove all furniture, furnishings, equipment and paraphernalia associated with the use or any associated ancillary activity.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is corrected at paragraph 3 by deleting the wording "light industrial (Class B1)".
2. Subject to the correction above the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Enforcement Notice

3. The breach of planning control alleges a material change of use from a light industrial use (Class B1). However, the Council in their statement refer to the building as a former warehouse building and the Design and Access Statement describes it as formerly an electronic gadgets warehouse. In the absence of any clear evidence of the building's lawful use, my decision will correct the notice at paragraph 3 by deleting the wording "from light industrial (Class B1)". I am satisfied that there would be no injustice to the local planning authority or the appellant by my correcting the notice which I have done purely to ensure that the lawful use of the site is not prejudiced by this decision.

Appeal on ground (a), deemed planning application

Main Issues

4. The main issues in this case are:

- Whether or not the appeal site is an appropriate location in principle for this development in the light of local planning policies; and
- Whether or not the appeal site includes adequate car parking provision and, if not, whether the living conditions of local residents, business needs of neighbouring businesses and/or highway safety would be compromised as a result.

Reasons

Appropriate location in principle

5. The appeal site is located within an area of Cheetham Hill and the Strangeways Employment area which in this location is predominantly characterised by wholesale trade warehouses/distributors. It is a two-storey purpose-built warehouse/industrial building which is situated on the corner of Derby Street and Waterloo Road. Cheetwood Community Primary School is situated on the opposite side of Waterloo Road where the area is more residential in character. The closest residential properties are situated above a raised embankment with pedestrian access from Waterloo Road.
6. The site is occupied by The Mountain of Fire and Miracles as a place of worship and a community centre. The ground floor space is used for worshiping with the upper floors intended for community use with space for vocational training, including after-school homework groups and social activities for the elderly. The premises are used seven days a week with some evening prayer meetings going on until the early hours of the morning.
7. One of the key spatial principles set out in Policy SP1 of Manchester's Core Strategy, adopted July 2012 (CS) is that The Regional Centre will be the focus for economic and commercial development, retail, leisure and cultural activity, alongside high-quality living. Policy CC1 of the CS provides for the primary economic development focus to be within the City Centre and Fringe, with the City Centre and Fringe area including the location of the appeal site as part of The Strangeways Employment Area. Policy EC4 of the CS relates specifically to North Manchester and seeks to retain and grow the Strangeways Employment Area for general industry, warehousing and distribution. This policy complements Saved Policy CC10 of Manchester's Unitary Development Plan, adopted 1995 (UDP) which states that the Council will encourage the continued high level of economic activity in Strangeways and lower Cheetham Hill Road area, recognising the regional role and needs of the wholesale trades which dominate these areas.
8. To that end Policy EC2 of the CS seeks to retain and enhance existing employment space and sites and advises that alternative uses will only be supported on sites allocated accordingly, or if it can be demonstrated that: the existing use is unviable in terms of business operations, building age and format; the existing use is incompatible with adjacent uses; the existing use is unsuitable for employment having regard to the Manchester-Salford-Trafford SFRA; or on balance, proposals are able to offer greater benefits in terms of the Core Strategy's vision and spatial objectives than the existing use.
9. In this case, I have not been provided with any evidence that would suggest that the previous lawful business use of the building was unviable or unsuitable for employment. Furthermore, given the site's location within an area where

employment uses are encouraged by the CS, that use would be clearly compatible with adjacent uses, which in this location are predominantly wholesale trade outlets. Taking into account the provisions of Policy EC2 of the CS it is therefore necessary to consider whether or not the church/community use offers greater benefits in terms of the Core Strategy vision and spatial objectives than the lawful business use.

10. I have had due regard to the Public Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people which share a protected characteristics and people who do not share it. Since the current occupiers of the site are a religious group, they are persons who share a protected characteristic for the purposes of the PSED.
11. The church and its associated community activities clearly make a positive contribution to the well being of some members of the community. I also recognise that their vocational work supports some of the educational needs of the church community and may also improve their access to jobs and further education. In those respects, by meeting the needs of members of the community and improving access to jobs and education, the church and community use meet some of the core development principles set out in Policy SP1 of the CS. I also appreciate that the church currently employs five members of staff and that the number of employees is likely to increase in the future and as the church grows.
12. However, it was clear from my observations on site, which was mid-day in the week, that this local area is a vibrant business area where there is a high level of business activity. Taking into account the development plan policies as a whole, it is clear to me that the thrust of the spatial objectives of the CS and UDP set out in the paragraphs above, are to retain and grow this particular area of the city as an area for general industry, warehousing and distribution. The introduction of a non-residential institution in this location (Class D1 Use) is not entirely compatible with the adjacent land uses and despite some socio-economic benefits, does not to my mind bring about greater benefits in terms of the CS vision, than the retention of a business use on the site.
13. I conclude that the appeal site is not an appropriate location in principle for this development in the light of local planning policies. The development conflicts with the development plan, and in particular with Policies CC1, EC2 and EC4 of the CS and Saved Policy CC10 of the UPD the aims of which are set out above.

Parking

14. The appeal site is located on the corner of Waterloo Road (B6180) and Derby Street. Access to the site is from Derby Street and there are 12 car parking bays including two disabled bays laid out within the site forecourt. It is understood that these spaces are intended for use by staff only, and during church programmes the car parking is managed by security officers. Visitors to the site are expected to park on the surrounding streets, cycle or utilise public transport. There is a bus stop close to the site on Waterloo Road and a

Church shuttle bus provides a service to and from the appeal site for followers alighting from bus services on Cheetham Hill Road.

15. At the time of my visit there was a church service taking place. The resultant vehicle and pedestrian activity associated with the church at that time was significant. I would estimate that there was a congregation of between 100 and 150 at that time, which is generally consistent with the the Design and Access Statement which states that 60-80 families attend services. There were security officers at the site entrance directing vehicles, and the vehicles of worshippers were parked all along the unrestricted part of Waterloo Road and below the embankment where the nearest residential properties are situated. Vehicles were also being parked along Derby Street, both close to the appeal site and on the opposite side of Waterloo Road where the street is more residential in character. There were also several taxis dropping off.
16. Despite the availability of public transport during the middle of the day and a shuttle bus, it is clear to me that there is insufficient space within the site to accommodate the vehicles of users and visitors to the site. There are services, study, worship and prayer throughout the week, and it is clear from the evidence of third parties and my observations on site that the associated congestion is disruptive to the operation of neighbouring businesses. Furthermore, should this level of activity also take place during the late evening and early morning, there would undoubtedly be disturbance to neighbouring residents as a result of car doors opening and shutting and associated pedestrian activity. Particularly as background noise levels at those unsociable hours would be significantly less than during the working day.
17. Waterloo Road is a relatively wide classified road which I observed had a constant flow of traffic on it. There are no pedestrian crossing points close to the appeal site, and at the time of my visit there was considerable congestion at its crossroads with Derby Street and adjacent to the appeal site. With many congregation members having to park on the opposite side of Waterloo Road from the appeal site, there was also considerable pedestrian activity. It seems to me that a use which attracts such significant numbers of pedestrians, close to a busy crossroads where there are also numerous service/delivery vehicles connected with this busy employment area, and in a location where there are no pedestrian crossing facilities, the use is not in the best interests of highway or pedestrian safety.
18. I conclude that the appeal site does not provide adequate car parking, and as a consequence the use has a harmful effect on the living conditions of local residents, the business needs of neighbouring businesses and highway/pedestrian safety. I therefore find conflict with the development plan and in particular with Policies SP1, T2 and DM1 of the CS and Saved Policy CC10 of the UDP which seek to ensure, amongst other criteria, that proposals have sufficient parking for their own needs and regard is had to road safety, effects on amenity and takes into account the needs of the wholesale traders that dominate this local area. I also find conflict with the National Planning Policy Framework which seeks to ensure that development should be prevented on highway grounds if there would be an unacceptable impact on highway safety.

Conclusion

19. For the reasons given above, and having taken account of all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with the correction and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR