



Appeal Decision

Site visit made on 16 September 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2019

Appeal Ref: APP/M5450/W/19/3232920

Garage rear of 20 Cowbridge Road, Harrow, HA3 9QA

- 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 Kanagasabai Nirmalakanthan against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4696/18, dated 17 October 2018, was approved on 9 January 2019 and planning permission was granted subject to conditions.
 - The development permitted is part change of use of garage (Class C3) to store light weight building materials and tools (Class B8).
 - The conditions in dispute are Nos 1, 3 and 4 which state that:
 - (1) The change of use of part of the garage hereby permitted shall be carried out only by Mr Kanagasabai Nirmalakanthan for the period during which the premises are occupied by Mr Kanagasabai Nirmalakanthan.
 - (3) The change of use of part of the garage hereby approved shall be used only for storage of light weight building materials and tools as specified on the application and for no other purpose, including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that order with or without modification). No staff shall be employed on the site.
 - (4) The change of use of part of the garage hereby permitted shall only be accessible between the following times: a: 08.00 hours to 18.30 hours, Monday to Saturday inclusive, without the prior written permission of the local planning authority.
 - The reasons given for the conditions are:
 - (1) To reflect the particular circumstances of the applicant and to permit reconsideration in the light of the circumstances then prevailing should the ownership change, pursuant to policies 7.4 and 7.6 of The London Plan (2016) and policy DM1 of the Harrow Development Management Policies Local Plan (2013).
 - (3) To ensure that the use of the site is not over-intensive and to safeguard the amenity of neighbouring residential properties in accordance with Policy DM1 of the Harrow Development Management Policies Local Plan (2013).
 - (4) To safeguard the amenity of neighbouring residents in accordance with policy DM1 of the Harrow Development Management Policies Local Plan 2013.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant did not specify on the appeal form which conditions on the original permission they were appealing against. However, it is evident from the submitted evidence that the appeal relates to those conditions specified above with the only remaining condition on the planning permission and which

this appeal does not relate to, being a condition specifying the approved plans. I have therefore considered the appeal on this basis.

Background and Main Issue

3. The planning permission is a personal permission to the appellant and restricts the use of part of the garage, the non-domestic part, to the storage of building materials to be accessible during specific days and times and so that no-one can be employed.
4. The appellant's proposal is to remove the opening hours restriction, albeit no hours have been specified in the appellant's statement. However, I note in the Design and Access statement submitted with the planning application that it was proposed that the use would operate 24 hours a day and I have therefore considered the appeal on this basis. The appellant also wants to be able to rent out the storage space whilst he is resident at the property, to be able to employ 1 – 2 people and remove the restriction on what can be stored.
5. The reasons given for the conditions are in order to reflect the personal circumstances of the appellant, so that the Council can reconsider the use should the ownership change and in order to safeguard the living conditions of neighbouring residents.
6. Therefore, on the basis of the above and submitted evidence I consider the main issue is whether the conditions are reasonable or necessary in the interests of the living conditions of the occupiers of nearby properties.

Reasons

7. The garage is located at the end of the long back garden of 20 Cowbridge Road, an end of terrace house in a residential area. The garage is accessed off a relatively narrow single-track lane to the rear of the house, overgrown in large parts with a rough surface, which is also used by other houses on Cowbridge and Repton Road to access garages and outbuildings at the end of their similarly long back gardens.
8. The garage is reasonably large and around half of it would be used for storage (B8) purposes however, it was not in use at the time of my visit. The appellant states that they wish to be able to rent out the storage use, employ 1 -2 people and use the building for any storage purpose 24 hours a day.
9. The garage is a reasonable distance from the houses because of the relatively long back gardens. However, in the absence of details about the proposed storage use, including what would be stored, who would operate it and what the employees would do, I conclude that there is an unacceptable risk that the comings and goings associated with a storage use, 24 hours a day, would cause harm to the residents' enjoyment of their gardens by reason of noise and disturbance. Furthermore, noise associated with doors opening and closing, people talking, vehicles manoeuvring and engines running would harm the living conditions within the houses during the quieter times of the day and week, in particular late at night and in the early morning when background noise levels are likely to be lower.
10. Whilst such harm is likely to affect the nearest neighbours, regular use of the back lane 24 hours a day would also cause harm by way of noise and

disturbance to other residents who have gardens, garages and outbuildings adjoining the lane.

11. Consequently, the proposal would be contrary to Policy DM1 of Harrow Council Development Management Policies (July 2013) which requires that all development proposals must achieve a high standard of amenity. It would also conflict with the National Planning Policy Framework (the Framework) which requires a high standard of amenity for existing and future users. The Council also referred to Policies 7.4 and 7.6 of the London Plan (2016) however, I consider these policies are not directly relevant to the main issue in this case.
12. For the reasons given above and having regard to advice in the Framework and the Planning Practice Guidance, I conclude that the conditions are necessary and reasonable.

Other Matters

13. The appellant has provided relatively extensive details in respect of a lawful development certificate (existing use) approved by the Council in respect of the use of garages at the rear of 54 and 56 Cowbridge Road, for development described as 'use of garages for storage of hearses and excess coffins.' It is not for me in the context of this appeal to determine whether the Council were correct to issue a certificate in this case and any misgivings the appellant has about how the Council dealt with that application are matters for the appellant and Council away from this appeal and have no bearing on the planning merits of the appeal proposal.
14. Furthermore, whilst I acknowledge the existence of that use, it is located towards the end of the lane close to the access with Honeypot Lane such that vehicles do not have far to travel along the lane. Therefore, it is not comparable with the appeal scheme and its existence has no bearing on the planning merits in this case. Finally, that surface water from this use is damaging the lane is a private legal matter.
15. In support of their case the appellant, in their Design and Access Statement submitted with the planning application, stated that all of the garages along the back lane are operating 24 hours a day without planning permission. However, in the Council's officer report it is stated that planning permission has not been granted for such uses at neighbouring properties with unrestricted times. If other such uses are ongoing this is a matter for the Council away from this appeal. In any event, I have determined the appeal proposal on its own merits and the existence of other such uses does not justify the harm that would arise as a result of the appeal proposal.

Conclusion

16. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

Felicity Thompson

INSPECTOR