

Appeal Decision

Site visit made on 20 December 2019

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/U5360/C/19/3226160

69 Ravensdale Road, Hackney, London N16 6TJ

- The appeal is made by Bnos Zion D'Bobov under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 2016/0428/ENF) issued by the Council of the London Borough of Hackney on 4 March 2019.
 - The breach of planning control alleged in the notice is "the material change of use [of the Property] from residential (C3) into a School (D1) use and the construction of a first floor rear extension".
 - The requirements of the notice are as follows: -
 - Cease the use of the Property as a school
 - Remove all fixtures and fittings facilitating the use of the Property as a school.
 - Remove the first floor rear extension from the property
 - Make good all damage to the Property resulting from the removal of the unauthorised works and restore the relevant parts of the Property to the condition they were before the unauthorised extension was constructed;
 - Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises."
 - The period for compliance with these requirements is ten months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g). Since there is an appeal on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting breaches of planning control.
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Decision

1. It is directed that paragraph 6 of the enforcement notice be varied by replacing "Ten (10) months" by "Nineteen (19) months".
2. Subject to this direction, the appeal is dismissed, the enforcement notice is upheld as varied and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

Background

3. The school was established at Nos 65 and 67 Ravensdale Road as a primary school around ten years ago, with planning permission, and these two former semi-detached houses have been combined into a detached school building with playing facilities at the rear. The school has now expanded into No 69, which is a semi-detached property that was previously in residential use. The
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property has been adapted internally for educational use, but the lawned residential garden at the rear had not been altered at the time of my visit. The next-door semi, No 71, remains in residential use and the surrounding properties all appear to be in residential use.

4. The planning permission for Nos 65 and 67 has conditions imposed that restrict the use of the premises to a nursery/primary school for no more than 120 pupils at any one time and limit the use of the playing facilities to no more than 40 pupils at any one time. No 69 is being used to teach older pupils and a site inspection carried out in April 2018 noted that approximately 65 to 70 pupils were being taught in that building at that time. According to the appellants' appeal statement dated 20 October 2019, the school at that date had, as a whole, 251 pupils aged between three and sixteen years and 90 staff.
5. I have received a large number of representations from nearby residents and from supporters of the school. The representations divide fairly evenly between those opposed to the continued use of No 69 as a school because of traffic and noise considerations and those that speak well of the education provided by the school and identify a continuing need for such facilities in this area.
6. All the representations have been taken into account in my consideration of the appeal. In particular, I have respected the right of parents to ensure education and teaching in conformity with their religious convictions and have had due regard to the need to take steps to meet their needs in this respect and those of their children.

Ground (a) and the deemed planning application

Introduction

7. The appellants have not sought planning permission under ground (a) for the retention of the first-floor extension, since it is not intended to be a permanent feature. In my view, it has an unattractive appearance, which is out of keeping with its prominent, elevated position and contrary to national and local design policies. I have therefore upheld the enforcement notice in this respect.
8. Paragraph 94 of the National Planning Policy Framework states that it is important that a sufficient choice of school places is available to meet the needs of communities. It indicates that great weight should be given to the need to create, expand or alter schools when planning applications are decided.
9. The Council have agreed that the loss of the residential accommodation that was previously available at No 69 should be accepted, having regard to the community benefits provided by the use of the property as a school. I agree with the Council's assessment.
10. In my opinion, the decision as to whether planning permission should be granted for the use of No 69 as a school turns on the outcome of the following issues. Firstly, an assessment is required of the traffic, parking, pick-up and drop-off considerations and the noise considerations raised by the Council and objectors. Secondly, consideration is required as to the extent to which planning conditions could be imposed on the planning permission that would deal satisfactorily with issues arising from this assessment. Thirdly, an assessment is needed about the extent to which any unresolved objections

may be outweighed by other considerations, in particular those identified in paragraphs 6 and 8 above.

Traffic, parking, drop-off and pick-up considerations

11. Most schools are situated in residential areas, close to the communities they serve, and the school at No 69 is no exception. It is well located to minimise the length of journeys to and from school and to support alternatives to transport by car. As such, it is in conformity with the objective of Policy DM45 of the Hackney Development Management Local Plan 2015 "to encourage the closer integration of transport and development in order to reduce the need to travel and to achieve sustainable development".
12. The highways reason given by the Council in the enforcement notice for its issue focusses on the impact of the dropping off and picking up of pupils at No 69, but the Council's appeal statement refers in addition to more extensive traffic and road safety matters. Ravensdale Road is wide, has a 20mph speed limit and is not heavily trafficked. There does not appear to be a substantial issue about its capacity to cater for the additional traffic resulting from the use of No 69 as a school, apart from the impact of parking and dropping-off and picking-up activities. The accident data for the area as a whole includes the busy Stamford Hill and its junctions with Ravensdale Road and other side roads. It does not show that there are serious safety issues arising along Ravensdale Road itself. If the use of No 69 as a school ceased and the school was, as could be expected, replaced by another school serving this community, pupils going to and from school would probably encounter similar road safety issues in the area.
13. Although Ravensdale Road is wide, it has no parking restrictions; as a result the road is fully parked-up on both sides at most times. No 69 does not have any off-street parking facilities. The evidence before me indicates that the free flow of traffic has been obstructed by double and sometimes triple parking occurring when pupils are dropped off or picked up at No 69 in addition to those being dropped off and picked up at Nos 65 and 67.
14. In my experience problems associated with the dropping-off and picking-up of pupils at schools are widespread. Efforts to tackle them usually require a concerted effort by drivers, schools and public bodies. In this instance, the appellants for their part have proposed a range of measures, including (i) a detailed new School Travel Plan incorporating an action plan, which is designed to promote sustainable travel to and from school by pupils and staff and which would be monitored, reviewed and updated annually and (ii) an Operational School Management Plan that contains arrangements for the supervision of pupils arriving and leaving school, with staff monitoring the dropping off and picking up of pupils. For their part, the Council's policies and strategies include encouraging development that reduces the need to travel, particularly by car, and bringing about an increase in the number of children who walk to school in the Borough.
15. The information available to me indicates that at present about 15% of pupils are driven to and from No 69 and only 2% of the staff do not arrive on foot. The steps proposed by the appellants can be supported by enforceable planning conditions and, together with measures fulfilling the Council's policies and

strategies, should reduce the problems currently arising at No 69 to an extent that avoids significant conflict with Policy DM45 as regards highway obstruction and road safety and makes it unnecessary to cease the use of No 69 as a school on these grounds.

Noise considerations

16. As stated above, most schools are situated in residential areas. The noise associated with them is therefore generally considered to be an acceptable feature of residential areas, particularly the familiar sound of children playing outdoors, which many people may in fact find pleasantly acceptable. Many schools and their playgrounds are indeed very close to houses and, if an exceptionally rigorous stance were taken to their expansion or alteration because of noise, the objectives of paragraph 94 of the National Planning Policy Framework referred to above would be impossible to achieve. That said, there should be a realistic degree of separation between a school and the nearest residents, to avoid, in the words of Policy DM2 of the Development Management Local Plan, "significant adverse impacts on the amenity of occupiers and neighbours" as a result of noise.
17. Whilst I appreciate the concerns of residents in Olinda Road whose short back gardens adjoin the end of the long back garden of No 69, I do not consider that the noise that would be likely to arise in and around the school at No 69 would have a significant adverse impact on their standard of amenity. The effect of noise on the occupiers of No 71 is far more serious, however. As mentioned above, this is the semi-detached house that is paired with No 69. It has three storeys and a basement. Externally, there is a conventional housing layout, the front and rear gardens of the properties being side by side and the front entrance doors being separated by bay-windowed front rooms. Internally, No 71 has been divided into flats, with bedrooms and other habitable rooms sharing the party wall between the two properties.
18. The April 2018 inspection noted that approximately 65 to 70 pupils were being taught in No 69 at that time. This is a very large number of pupils to be using a semi-detached property that is attached to living accommodation.
19. It is in my view inevitable that the occupiers of No 71 will be seriously disturbed by the comings and goings of pupils, staff, visitors and vehicles at the front and by the use of the garden that adjoins the full length of their own rear garden for pupils' recreation. These activities could not be effectively controlled or mitigated in practice by planning conditions that were reasonable and enforceable.
20. The party wall between Nos 69 and 71 has been assumed by the appellants' acoustic consultants to be solid 200-220mm brickwork with a plaster skin on both sides. I have no reason to take a different view. From the representations I have received from the occupiers of No 71, it is clear that the party wall is ineffective in preventing the transmission of noise from school activities that is seriously damaging to the enjoyment of their living conditions.
21. The appellants have responded to this problem by proposing to install the sound insulation scheme recommended in the Acoustic Design Review prepared by the acoustic consultants. This is something that could be required by a planning condition, but the consultants' report identifies uncertainties and

difficulties that could affect the scheme's effectiveness. I note also that the report states that it establishes performance specifications which reflect a pragmatic approach without comprising the appellants' use of No 69 and that the scheme is based on performance standards relating to acoustic conditions enabling effective teaching within schools, rather than the protection of external noise-sensitive premises from activities within schools. On the information available to me, I am not convinced that the scheme proposed would adequately protect the occupiers of No 71.

Conclusion

22. I have sought to reach a balanced and proportionate conclusion on ground (a) having regard to the harm done to the amenities of the occupiers of No 71, the findings relating to traffic, parking, drop-off and pick-up, the extent of support for and the need for the school at No 69 and the particular considerations identified in paragraphs 6 and 8 above. After very careful deliberation I have come to the conclusion that the greatest weight should be given to the protection of the amenities of the occupiers of No 71. The appeal on ground (a) has therefore been dismissed and planning permission has been refused.

Ground (g)

23. In the event that the ground (a) appeal has failed, the appellants have requested an extension of the period for compliance with the notice from 10 months to 18 months, in order to avoid disruption to pupils' education. The Council accept that disruption should be avoided, but consider that 10 months is long enough.
24. I have considered the effect of extending the period on the continuing impact on the amenities of the occupiers of No 71. This impact is, in my view, not as important as the need to reduce potential disruption to pupils' education, bearing in mind, in particular, the considerations identified in paragraph 6 above. A reasonable compliance period in these circumstances is 19 months, since this will allow the next school year to be completed and the steps required by the notice that cannot be carried out until the school has closed to be undertaken. The notice has therefore been varied accordingly and the appeal has succeeded to this extent.

D.A.Hainsworth

INSPECTOR