



Appeal Decision

Site visit made on 16 March 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2020

Appeal Ref: APP/B5480/W/19/3243037

148A Chase Cross Road, Romford RM5 3UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Iqra Educational & Cultural Centre against the decision of the Council of the London Borough of Havering.
 - The application Ref P0729.19, dated 7 May 2019, was refused by notice dated 1 October 2019.
 - The application sought planning permission for a single storey building with car parking and entrance drive for use as a meeting room without complying with a planning condition attached to planning permission Ref P0729.99, dated 5 August 1999.
 - The condition in dispute is No.8 which states that: The premises shall only operate between the hours of 6.00am and 3.00pm on a Sunday and from 6.00pm to 9.00pm on a Monday.
 - The reason given for the condition is: In order to minimise the impact of the use on the surrounding residential area.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The evidence suggests that the Iqra Educational & Cultural Centre has previously used the premises outside of the permitted hours of operation. On this basis, condition 8 of planning permission Ref P0729.99 appears to have been breached before the application was made and therefore the appeal should be dealt with under s73A of the Town and Country Planning Act 1990.

Background and Main Issue

3. The condition over which there is disagreement relates to a planning permission granted for a single storey building with car parking and entrance drive for use as a meeting room. The appellant seeks to vary condition No. 8 to allow for operating hours of 06:00-21:30 October to February and 04:00-23:30 March to September on any day of the week.

Reasons

4. The appeal site hosts a single storey building and a car park with space for approximately 9 cars and is accessed via a driveway from Chase Cross Road.

The permitted operating hours under the original planning approval are from 6.00am - 3.00pm on a Sunday and from 6.00pm - 9.00pm on a Monday. The premises are set closely to the rear of properties on Chase Cross Road. Immediately to the rear sits further residential property on Cardiff Close. The area therefore has an established residential character.

5. Whilst the evidence indicates that the site has not had any formal noise complaints upheld against it, I do not take this as indicating an absence of harm and various concerns have been raised locally as to noise disturbance associated with its use in breach of the operating hours condition.
6. Given that the evidence indicates that the premises have been used in line with the variation in operating hours that are sought, I consider that nearby residents will have suffered significant harm to their living conditions as a result of noise arising from comings and goings, including the shutting of car doors and the starting of engines early in the morning and late at night given the close proximity of surrounding residential property to the appeal site.
7. The early morning and late-night would be times when residents could reasonably expect peaceful enjoyment of their homes. There is a good amount of parking at the site and although many worshippers may travel to the premises on foot, it is likely that some worshippers arrive and leave by car.
8. The disturbance is likely to have been greater during the summer months, when residents would be likely to have their windows open, which will have aided noise transferral. The summer months also correspond with the earliest and latest operating hours sought.
9. I accept that there will still be some traffic in the area early in the morning and late at night, including buses. I also acknowledge that the site would be used as a smaller satellite place of worship and that the hours of operation at the premises would not be continuous within the daily time periods sought. However, these factors do not justify the operating hours proposed.
10. While it has been suggested that the car park could be closed for the morning and evening prayers, this would not address the issues of disturbance that could arise if on street parking close to residential property were to occur instead during these times. I note that while worship in the Islamic faith is performed in silence, the premises could also be utilised for worship by a different faith which could result in different impacts.
11. The Council planning report suggested that the opening hours of the premises should be varied on a temporary basis for 18 months, subject to a review at 12 months.
12. A temporary permission would enable monitoring of the impact of the operating hours sought and would reduce the harm to some extent as it would allow a temporary rather than permanent change. However, I do not consider that a temporary revision to operating hours on the basis of those sought would be acceptable as it would leave residents exposed to noise and disturbance both early in the morning and late at night for the duration of such a permission.
13. I do not consider that conditions relating to noise insulation for the building, the restriction of the number of worshippers on the premises at any one time, or a condition relating to the use of the premises in time slots would mitigate the harm I have identified.

14. I also note concerns in relation to parking issues. However, the premises do have their own car park and there appears to be some capacity for on street parking in the area. Further, the Council has raised no concern relating to highway safety and I have no reason to disagree.
15. I have had due regard to the Public Sector 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 who share a protected characteristic and people who do not share it. Since the appeal requests an extension of the operating hours of the premises for the purposes of Islamic worship, the attendees are persons who share a protected characteristic for the purposes of the PSED.
16. In dismissing this appeal, the opportunity to worship on the premises would be limited. However, it does not follow from the PSED that the hours should be increased to the extent of those sought. Whilst I note that the National Planning Policy Framework at paragraph 92 states that planning decisions should look positively on the provision and use of community facilities, I must also have appropriate regard to the significant harm to the living conditions of nearby occupiers that I have identified in coming to my decision.
17. The operating hours which are sought would therefore fail to accord with Policies DC55 and DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (2008). They recognise the impact that noise pollution can have on quality of life and amongst other things state that planning permission will not be granted where a proposal would have an unreasonable adverse effect on the environment by reason of noise impact and hours of operation.
18. Examples of other places of worship which it is suggested have later opening hours have been drawn to my attention. However, very limited detail has been supplied and as a result I cannot be sure that these premises share the same context as the appeal site. I can only therefore afford these examples limited weight.

Conclusion

19. Taking all matters into account, the appeal should be dismissed.

T J Burnham

INSPECTOR