



Appeal Decision

Site visit made on 4 September 2020

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/G4620/W/20/3249204

5 Ionic Buildings, Grove Street, Smethwick, West Midlands B66 2QS

- 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 as amended by the Planning and Compensation Act 1991 for use of the first and second floor as prayer/community centre with associated parking for which a previous planning permission was granted for a limited period.
- The appeal is made by Mr Abdul Rahman of the Afghan Society in the West Midlands against the decision of Sandwell Metropolitan Borough Council.
- The application Ref DC/19/63631 is dated 10 September 2019.
- The application sought planning permission for use of the first and second floor as prayer/community centre with associated parking without complying with a condition (the disputed condition) attached to planning permission Ref DC/17/60914, dated 25 September 2017.
- The disputed condition is Condition 2, which says:
The use authorised by this permission shall be discontinued at the expiration of a period of 2 years from the date of this permission.
- The reason given for the condition is:
To enable the Local Planning Authority to review the development at the expiration of the permitted period in the light of its impact on:
 - (i) *surrounding land users given that the adopted Smethwick AAP has allocated the adjoining site to the west of Grove Street for a new acute hospital with permission granted and will be completed by July 2018 and that the land relating to application site is allocated for residential use;*
 - (ii) *parking and highway safety.*

Decision

1. The appeal is allowed and planning permission is granted for use of the first and second floor as prayer/community centre with associated parking at 5 Ionic Buildings, Grove Street, Smethwick, West Midlands B66 2QS in accordance with the application Ref DC/19/63631 dated 10 September 2019, without compliance with Condition 2 on planning permission Ref DC/17/60914, dated 25 September 2017 but subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 2 years from the date of this decision and shall be discontinued on or before that date.
 - 2) The car parking area to the ground floor shall be retained for the purposes of parking cars for the life of the permission.

Procedural matters

2. Notwithstanding what is stated on the original application form and its reference to permission DC/15/58579, this appeal seeks to use the site in non-compliance with Condition 2 of permission DC/17/60914.
3. In his statement the appellant has said he is seeking to use the building as a prayer room for 4 years more. However, the application was to allow the use to continue for a further 2 years, and I have considered it accordingly.

Main Issues

4. The main issues in this case are
 - a) the effect of the development on highway safety and
 - b) its impact on the comprehensive redevelopment of the area.

Reasons

Highway safety

5. The appeal premises lie in an industrial area on the east side of Grove Street, and they have been subject to a series of temporary permissions since 2011 to permit their use as a prayer room and community centre.
6. The concerns of the Council with regard to the existing impact on highway safety focus on vehicular activity around Friday prayers. As a result, I arrived at the site at 1225h and observed the situation until 1420h. I appreciate that this was just a single visit, and slightly different results may be apparent had I been present on other days, at other times or even between the same times but on another week. However, despite that I have no reason to consider what I saw was not broadly representative. Indeed, I am mindful that the Council has placed great weight on a parking report that too was based on one day's observations only. There could well be traffic demands arising from the use at other times during the week, but I have no reason to consider they would be more acute than those connected with Friday prayers.
7. Based on my observations and the submissions, even when there is no activity associated with the prayer room there is extensive kerbside parking on the road during the working day. Moreover, the siting of some adjacent commercial premises at the back of the pavement means goods or vehicles are loaded or unloaded on Grove Street while there is a certain amount of traffic reversing onto or off the carriageway. However, it is a relatively wide road with good forward visibility, and it does not seem to carry a particularly heavy flow of traffic or pedestrians. As a result, these activities do not result in any highway danger and vehicles appeared to travel safely.
8. I anticipate that parking pressures from people visiting the prayer room are confined to relatively short periods and the amount of traffic involved would be limited. During Friday prayers I saw the ground floor parking area was used to capacity. Moreover, I consider the remaining cars that could not fit into the parking area could be reasonably accommodated within the existing pattern of parked vehicles along the road without compromising safety further. While most of those attending prayers will be leaving at about the

same time, given the amount of traffic likely to be involved and the character of the road this is not problematic.

9. In the light of the above, and subject to a condition requiring the retention of the car park, I have no reason to consider that this use causes harm to highway safety at present.
10. In the future the context of the site will change, as a large new hospital is currently under construction on the opposite side of Grove Street, and the Council says it is due to be operational in 2022. Although that will, no doubt, attract sizeable traffic flows once it opens, I have no details as to the role Grove Street would play in serving that hospital, or whether accesses from other roads would exist for either vehicles or pedestrians. Mindful of these points, and also taking into account the limited effect of the vehicular activity connected with the prayer room, I cannot conclude the traffic flows round the hospital would be affected unacceptably by this use.
11. Finally, I understand parking surveys need to be undertaken as part of the planning permission for the hospital. While the use of the prayer room may affect traffic in the area when the surveys are undertaken, again I have no reason to consider that would be to any appreciable degree. In any event, it is fair to assume the other commercial uses on Grove Street would have an influence on the results as well, and, given how often this must occur when undertaking such surveys, I anticipate they could be readily accommodated in any conclusions that were drawn. I therefore find that the development's impact on any such survey would not be misleading.
12. Accordingly, I conclude the development does not adversely affect highway safety at present, and I have no basis to consider it would harm highway safety once the hospital opened or result in any parking surveys being misleading. As such, the proposal does not conflict with Policy SAD DM6 of the *Site Allocations and Delivery Development Plan Document* (DPD), which requires community facilities and places of worship to have regard to highway safety, or the *National Planning Policy Framework*.

The effect on the redevelopment of the area

13. The site falls within an area identified for wider residential/commercial development. Although a faith use is not necessarily incompatible with residential units, I accept that retaining the building could well inhibit the comprehensive redevelopment of the area. Therefore, I can appreciate why temporary permissions have been issued in the past.
14. However, it is unclear as to when such redevelopment would start, with the Council just stating that the timescales for completion of the hospital development mean there is '*more certainty*' the allocation for residential development '*will come forward*'. Given this lack of clarity, it has not been shown the Council's long-term intentions for the area would be prejudiced by allowing the use to operate for a further 2 years.
15. Accordingly, I conclude the proposal would not compromise the redevelopment of the area and so would not be contrary to Policy SAD H1 of the DPD, or Policy Sme4 of the *Smethwick Area Action Plan*, which seek to

protect housing allocations either in general or more specifically on this allocation.

Conclusions

16. The *Planning Practice Guidance* says

A temporary planning permission may ... be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use'). It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities).

In this instance there is a clear intention that longer-term proposals will be coming forward in due course, and that seems to have been a basis on which the Council has allowed temporary permissions on the site in the past. As the hospital nears completion it is reasonable to assume the prospect of those longer-term proposals materialising is increasing, but given the apparent uncertainty that still exists I have no basis to find they are to occur in the short-term. In my view, this constitutes a clear rationale for allowing the use for a further temporary period.

17. In the light of the above, and in order to ensure the use does not stand in the way of the longer-term proposals for the area, I therefore conclude a fresh temporary permission for a period of 2 years should be granted, subject to the parking condition referred to above. A condition was also imposed on permission DC/17/60914 requiring conformity with the plans, but I see no justification for its re-imposition in this instance.

JP Sargent

INSPECTOR