The Planning Inspectorate

Appeal Decision

Site visit made on 29 September 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Appeal Ref: APP/W5780/W/20/3254008
14, Wangey Road, Chadwell Heath, Romford RM6 4AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Bilkis Sarodia on behalf of Al-Huda Welfare Foundation UK Ltd against the decision of the Council of the London Borough of Redbridge.
- The application Ref 4038/19, dated 16 October 2019, was refused by notice which is undated.
- The application sought planning permission for change of use of a police station to Islamic cultural and education centre, without complying with 2 conditions attached to planning permission Ref 0848/14, dated 3 July 2014.
- The conditions in dispute are Nos 3 and 4.
  Condition No 3 states: the premises shall not be open for the admission outside of the following: 10:00-20:00 Mondays to Sundays; except during Ramadan where the premises shall not be open for the admission of users outside following times: 10:00-23:00.
  Condition No 4 states: No more than 60 people shall be allowed on the premises at any one time.
- The reason given for the condition No 3 is: In order to ensure that the operation of this site has no undue effect on the amenity enjoyed by occupants of neighbouring property and to comply with Policies R1 & BD1 of the Council's Borough Wide Primary Policies Development Plan Document.
  The reason given for Condition No 4 is: In order to prevent the use causing an undue disturbance to occupants of neighbouring property at unreasonable hours of the day and to accord with Policy BD1 of the Council's Borough Wide Primary policies Development Plan Document.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal follows the refusal of an application for planning permission to carry out development without complying with 2 conditions imposed on planning permission 0848/14. The appellant sought a variation of condition No 3 which currently restricts opening hours and also condition No 4, which limits numbers of visitors to the site. The appellant is seeking to increase the opening hours to 09:00-23:00 Mondays to Sundays; except during Ramadan where the premises shall not be open for the admission of users outside the following times:

09:00–midnight. The appellant is also seeking to increase the number of visitors at any one time from 60 to 150.

3. The decision notice is undated. However, main parties have submitted that the decision was made on the 11 December 2019 and I have no reason to dispute this.

4. The appellant has submitted a separate appeal[1] relating to other proposed development. Irrespective of the outcome of that other appeal, as it has not been implemented and, there is no means for me to secure such implementation, I must determine the appeal before me on the basis of the existing situation which is governed by the parent planning permission 0848/14.

Main Issues

5. The main issues are the effect that the proposed variation of conditions Nos 3 and 4 of planning permission 0848/14 would have upon:

   - highway safety, with particular regard to the potential for increased on-street car parking; and
   - the living conditions of nearby residents, with particular regard to noise, disturbance and general visitor activity and on-street car parking at and in the vicinity of the site.

Reasons

Highway Safety

6. Main parties have concurred that the existing on-site parking layout has capacity for up to 18 cars, albeit some practical limitations to this have been drawn to my attention. There are also opportunities to access the nearby pay and display public car park.

7. During my site inspection, I observed that the majority of residents in the surrounding residential streets had access to private parking. Parking restrictions were evident in the vicinity of junctions and these appeared to be largely observed. However, during this time car parking both on-site and on-street within the locality was nearing capacity. Although this was a 'snap shot' in time, it was consistent with the Council's submission.

8. By their nature, both condition Nos 3 and 4, as currently worded, either individually or collectively will supress demand and therefore pressure on existing parking capacity in the vicinity of the site in terms of numbers and timings.

9. The appellant's parking stress and travel surveys in respect to their assessment of the existing parking situation are plausible, as is the argument that the extension of the hours of opening could provide an opportunity to 'flatten out' the demand for parking.

10. However, I share the Council's concerns about the basis for reaching the additional on-site parking requirements that would arise. Therefore, the appellant's parking related evidence does not sufficiently convince me that an

[1] APP/W5780/W/20/3254007

extension to opening hours or an increase in visitor numbers would not unduly disturb the overall existing parking levels in the area, including when residents would be more likely to be at home. Furthermore, that evidence does not sufficiently convince me that the consequential rise in the demand for parking would not tip the balance towards greater parking stress in the area to an extent that would be harmful to highway safety.

11. Therefore, I find that the proposed variation to either condition Nos 3 or 4 would be harmful to highway safety, with particular regard to the potential for increased on-street car parking.

12. Furthermore, there is an absence of any evidence that would indicate that an alternative visitor number or set of opening hours would be appropriate to this particular context.

13. Consequently, both condition Nos 3 and 4, as currently worded, are necessary to safeguard the safety of users of the highway.

14. The Council has cited conflict with Policy LP22 of the Redbridge Local Plan 2015-2030 (the Local Plan). However, that policy seeks to reduce car dependency and encourage sustainable forms of transport, which is consistent with the appellant's proposed Travel Plan. There is no conflict with that policy.

15. However, Policy LP23 states that the Council will ensure that new development provides sufficient car parking. Where standards set out in the London Plan are not met proposals will be considered on the basis of a Transport Assessment, which indicates adherence to a Travel Plan, levels of transport accessibility, availability of public on-street parking and the outcomes of any parking stress survey. Given the identified harm, the proposed variation to conditions Nos 3 and 4 would conflict with that policy.

Living Conditions

16. The appeal site is located within a mixed use area. There are a number of residential properties within close proximity of the appeal building and its access, particularly those on Cedar Park Gardens. The number of visitors, the timing and duration of these visits and the chosen mode of travel would determine the actual level and incidence of any noise and disturbance from activity at and close to the appeal site and parking demands. Necessarily, my assessment is based on the maximum scenario in terms of timings and visitor levels, as that is what the appellant has sought.

17. The existing opening hours largely limit the potential for noise, disturbance and other visitor activity to within sociable hours. A degree of flexibility has been included during Ramadan.

18. The proposed opening hours would encroach into unsociable hours in the vicinity of noise sensitive residential properties throughout the year. These hours would coincide with other evening uses within the vicinity of the site which attract visitors and would have scope to exacerbate the potential frequency and level of noise and disturbance for local residents.

19. Furthermore, the proposed opening hours would significantly extend the duration of when noise, disturbance and general visitor activity, including on-street parking could occur either at or near to the appeal site.

20. The level of visitors currently permitted at any one time is modest for a community use. However, that permitted level is already at the upper end of the scale to what would ordinarily generated from the majority of the surrounding uses, including a number of residential properties.

21. In the absence of any breakdown and under current access arrangements, it is reasonable for me to conclude that a significant number of visitors could exit the site via Cedar Park Gardens. An intensification of that activity could prove to be unduly intrusive to the existing living conditions of residents of that street.

22. I note that the appellant has sought the proposed change in visitor numbers to avoid the need for repeat meetings. However, there would be no reasonable means to prohibit the use from operating at its maximum capacity whatever the opening hours.

23. Evidence to demonstrate that the resulting noise levels arising from the intensification of use could be contained within the acceptable tolerances for this context, that are set out in the original planning permission, have not been submitted to this appeal.

24. There is an absence of evidence that would indicate to me that an alternative visitor number or set of opening hours would be appropriate to this context.

25. I have already concluded upon the effect of the appeal proposal on parking demands in the area. Sufficient evidence has not been submitted that would direct me to conclude that the potential for indiscriminate parking and conflict would not arise. Furthermore, if the current opening hours were to be varied, this impact would have the potential to arise over a significantly extended period.

26. Although I recognise the appellant's assurances and management arrangements to reduce the potential for harm to living conditions, that is insufficient to lead me to arrive at a different conclusion.

27. Consequently, I find the proposed variations to either condition Nos 3 and 4 would be harmful to the living conditions of nearby residents, with particular regard to noise, disturbance and general visitor activity and on-street car parking at and in the vicinity of the site.

28. For the reasons given, I find that both condition Nos 3 and 4 as currently worded are necessary to safeguard the living conditions of nearby residents.

29. Policy LP26 of the Local Plan states that development must not result in an adverse impact upon the amenity of neighbouring occupiers in relation to matters including noise. Given the identified harm, the proposed variation to conditions Nos 3 and 4 would conflict with this policy.

Other Matters

30. 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 is made in connection with the use of the site as a cultural and education centre and the

current users include members of the black and ethnic minority community, they are persons who share protected characteristics for the purposes of the PSED.

31. The proposal has the potential to provide a public benefit to the community who use it in terms of allowing a greater intensity of use to access local cultural and educational facilities. However, it does not follow from the PSED that the appeal should succeed. I have found that harm would arise from the appeal proposal in respect to highway safety and living conditions for the reasons given. This would conflict with the development plan. The harm that I have identified is not out-weighed by this benefit.

Conclusion

32. For the reasons given, the appeal should be dismissed.

C Dillon

INSPECTOR