



Appeal Decision

Site visit made on 19 January 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2021

Appeal Ref: APP/U4610/W/20/3258614

Units 2 and 3 Heer House, Matlock Road, Coventry CV1 4JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Omolola Olywa against the decision of Coventry City Council.
 - The application Ref FUL/2019/2919, dated 11 November 2019, was refused by notice dated 2 March 2020.
 - The development proposed is change of use from B1 to D1 place of worship.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Based on the appellant's submissions, the proposed change of use has already taken place and Units 2 and 3 along the upper floor of the appeal property are used as a place of worship for the Christ Apostolic Church Outreach ('the Church').
3. The appellant has revised the days and times for when the Church is to be operational¹ from those specified on the application form. I have determined the appeal on the basis of the revised days and times, and I do not consider that the interests of any party have been prejudiced by my having done so.

Main Issues

4. The main issues are a) whether the part loss of an employment site has been justified; b) whether the location of the appeal site is suitable for a place of worship; c) the effect of the proposal on the living conditions of neighbours with regard to noise and general disturbance; and d) the effect of the proposal on highway safety.

Reasons

Loss of an employment site

5. The appeal property is a two-storey industrial building with no on-site parking, along a predominantly residential road in proximity of dwellings. Due to this, and because there would appear to be no restrictions on its hours of use, I acknowledge that certain employment uses at the appeal site which generate significant noise and demand for on-street parking are likely to be incompatible with the adjacent residential uses.

¹ Paragraphs 3.4 and 3.6 of Appellant's Statement of Case

6. On the other hand, demand for car parking can vary between different uses and there are no clear reasons to suggest why the appeal site would not be suitable for employment uses falling within Use Class B1, which are considered compatible with residential uses. Furthermore, the ground floor of the appeal property is occupied by an employment use and there is nothing to suggest that this or historic employment uses at the appeal property have resulted in any significant harm to the living conditions of neighbours.
7. In respect of marketing, the appellant advises that Units 2 and 3 had been vacant for nine years prior to being purchased in July 2018 and were subsequently marketed with several estate agents, until the appellant signed a lease for these units in September 2019. Other than a list of property websites, there is no substantive information to corroborate any marketing.
8. Therefore, the part loss of an employment site has not been justified. In particular, in accordance with the initial requirements of Policy JE3 of the Coventry Local Plan ('LP') which requires the appellant to show that the appeal property is no longer suitable for employment use and that it has been actively and substantially marketed for employment use using a variety of media, for a specified period, prior to the application. Accordingly, it is not necessary for me to assess the proposal in relation to the other parts of this Policy.

Suitability of location

9. The submitted scheme is for a community use which is located outside a designated centre. Accordingly, Policy CO1 of the LP requires a Sequential Assessment ('SA'). This aims to support such uses in accessible locations and ensure that they are compatible with neighbouring uses.
10. The submitted SA shows that at the time of the assessment there were no suitable vacant properties within, or on the edge of, either the Foleshill Road District Centre or Radford Road Local Centre which could provide for the appellant's requirements for a place of worship.
11. Subsequently, the Council suggested that the SA should extend to a number of other centres, within a 10-minute drive time catchment from the appeal site. But in an addendum to the SA, the appellant has confirmed that the Church has a local catchment with members living in nearby roads including Broad Street, Lockhurst Lane and Foleshill Road. In light of this, the SA is proportionate and acceptable for the proposal. It also demonstrates that there are no sequentially preferable sites to accommodate the appellant's requirements for a place of worship.
12. However, for the reasons set out below, I have found that the proposal has resulted in harm to the living conditions of neighbours. Therefore, the appeal site is in an unsuitable location for a place of worship and is contrary to LP Policy CO1, which states that along with demonstrating a SA for site selection, proposals for community facilities will be considered acceptable subject to there being no material impact on neighbouring amenity.

Living conditions of neighbours

13. The extant uses at the appeal property and any employment uses occupying Units 2 and 3 are likely to generate vehicular movements. There is also a large car park directly opposite the appeal site that serves a commercial site nearby. This, along with dwellings on Matlock Road generate vehicular movements. In

this context, I am not persuaded that vehicular movements associated with the Church including the movement of visitors, for limited periods of the week would unacceptably harm the living conditions of neighbours in respect of noise and disturbance.

14. Nonetheless, gatherings at the Church have resulted in complaints from nearby residents about noise nuisance in the form of loud music and voices. Indeed, the Council's investigations resulted in a noise abatement notice being served on the Church. I attach significant weight to such harm. Moreover, given the appellant's reluctance to provide a noise assessment, I cannot be certain that the proposed noise mitigation would be sufficient to safeguard the living conditions of neighbours. In particular, given that the appellant's evidence suggests that the soundproofing of a party wall may not be sufficient to resolve the noise issue.
15. Consequently, it has not been shown that the Church can operate at the appeal property without harming the living conditions of neighbours, with regard to noise from the building. I therefore find conflict with LP Policy CO1. There is also conflict with LP Policy DE1, which amongst other things requires that all development proposals respect their surroundings.

Highway safety

16. Matlock Road is a narrow cul-de-sac, mainly serving terraced housing. Due to this and the general lack of off-street parking, this road suffers from on-street parking stress and congestion.
17. The appellant has provided a letter indicating that permission is given for the use of a car park in front of 101 Lockhurst Lane, along with a plan showing two car parks. Nevertheless, this is not in the form of a legal agreement which secures the availability of vehicle parking for the Church, in perpetuity. Also, the availability of the proposed car park is not consistent with the revised operational times for the Church. As such, the proposed parking arrangement cannot be relied on.
18. Although it has been suggested that the majority of the congregation visiting the Church arrive by walking, there is limited information to substantiate this. There is also no assessment of the level of visitors arriving by public transport and the overall demand for parking spaces the Church generates.
19. Based on the foregoing and the information before me, visitors arriving at the Church by car, are most likely to park along Matlock Road in the interests of convenience. Thereby, adding to the existing parking stress which can result in inconsiderate parking and congestion, to the detriment of highway safety. In considering this matter, I am mindful that employment uses at the appeal property also generate demand for parking. However, in the absence of any comparative information, I am unable to draw any meaningful conclusions about this.
20. While the appellant suggests that cycle parking provision could be addressed by a condition. On the information available to me, I cannot be certain that the appeal site has sufficient capacity to accommodate this.
21. For the above reasons, the proposal is contrary to Policy AC2 of the LP. This requires that new development proposals which are predicted to have a negative impact on the capacity and/or safety of the highway network should

mitigate and manage the traffic growth which they are predicted to generate to ensure that they do not cause unacceptable levels of traffic congestion and highway safety problems. I also find conflict with LP Policy AC4, which requires high quality cycle parking, as part of new development proposals.

22. The Council's reason for refusal (5) refers to LP Policy AC3. Amongst other things this Policy requires that proposals for the provision of car parking associated with new development will be assessed on the basis of parking standards set out in Appendix 5. This is not in the evidence before me. In any event, having already found that the proposed parking arrangement cannot be relied on, LP Policy AC3 is not relevant.

Other matters

23. I acknowledge that the Church makes use of part of an existing building, to meet an unmet local community need, in a location with good accessibility. There is also some support for community uses in local and national policies. Nonetheless, these matters and the social and economic benefits associated with the Church do not outweigh my concerns in respect of the unjustified loss of an employment site, the significant harm to the living conditions of neighbours and highway safety.
24. Matters relating to how the appellant's planning application was processed, and the investigation of complaints about the use of the appeal premises by the Church are for the Council.

Conclusion

25. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR