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## Appeal Decision

Site visit made on 14 April 2021

**by Paul T Hocking BA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 April 2021**

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**Appeal Ref: APP/U5360/C/20/3249402**

**Land at 49-51 Ravensdale Road, Hackney, London N16 6TJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Benzion Rudzinsky of Bnei Zion Community School against an enforcement notice issued by the Council of the London Borough of Hackney.
  - The enforcement notice was issued on 17 February 2020.
  - The breach of planning control as alleged in the notice is: Without planning permission the material change of use from four residential flats (Class C3) to a School (Class D1).
  - The requirements of the notice are: 1) Cease the use of the property as a school. 2) Remove from the property all fixtures and fittings facilitating the use of the property as a school. 3) 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 the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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### Summary of Decision

1. The appeal is allowed and the enforcement notice is quashed.

### Preliminary Matters

2. The appeal was to be heard by means of Inquiry as a ground (d) appeal had been lodged. The appellant subsequently withdrew that ground of appeal and consequently there is no need for evidence to be taken on oath and cross-examined. The parties, including third parties, were then given a further opportunity to make written submissions, and I have proceeded to determine the appeal by means of all the written representations received. Injustice to the parties would not subsequently arise.
3. Since the issue of the enforcement notice both the Hackney Local Plan 2033, July 2020 (the HLP) and The London Plan<sup>1</sup>, March 2021 (the LP) have been adopted, which supersede the policies cited in the notice. In light of the more recent written submissions, the parties have been able to provide copies of the relevant adopted policies and make comments and so injustice does not arise. I have therefore determined the appeal against the current development plans.

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<sup>1</sup> The Spatial Development Strategy for Greater London

4. Since the issue of the enforcement notice, use Class D1 has been absorbed into a new use Class titled: Class F.1. Learning and non-residential institutions. Aside from the specific wording of planning conditions, no new matters however arise from this.

## **The ground (a) appeal**

### **Main Issues**

5. The main issues are the effects of the use of the property as a school on:
  - the local housing stock;
  - highway safety; and,
  - the living conditions of neighbouring occupiers.

### **Reasons**

6. The site is situated on the northern side of Ravensdale Road and comprises a four-story building. Ravensdale Road is predominantly residential in character with a mix of terraced, semi-detached and detached properties, as well as blocks of flats, albeit there is another faith school nearby in the road<sup>2</sup>.
7. The enforcement notice concerns the use of four residential flats (the property) as a school and then requires the cessation of that school use. Whilst based upon the evidence before me the parties differ as to when the school use commenced, the Council's enforcement history dates from 2015. The school then provides nursery and educational facilities for some 200 pupils.
8. Since the issue of the enforcement notice the parties have worked together to reach a resolution. The Council is of the view that the principle of the development is acceptable but planning permission should not be granted unconditionally in the interests of proper planning. The parties have then submitted a list of agreed planning conditions within a Statement of Common Ground.
9. The Council notes that Policy LP24 of the HLP seeks to resist the loss of housing, however, the educational need within Stamford Hill is said to be unique to its Jewish community. Given the rate of population increase in the area and shortage of future school places, there is a need for small schools to meet the needs of the community. There is accordingly a demonstrable need for this essential community use. That approach is also supported by the Stamford Hill Projections Technical Note, December 2016.
10. In my view the provision of educational facilities at the site should be afforded significant weight. This outweighs the loss of housing and I am satisfied, including from observations during my site visit concerning the width of the road and location of residential properties, that the agreed planning conditions will ameliorate the highway safety and living conditions concerns that were originally raised by the Council, so that harm does not arise. The use is therefore compatible and appropriate to its location. The appellant has also provided evidence in the form of a School Travel Plan and Noise Impact Assessment. I therefore accept that the agreed planning conditions are necessary and reasonable, and in the interests of proper planning.

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<sup>2</sup> Bnos Zion of Bobov Girl's School is located at 65-67 Ravensdale Road

11. Accordingly, I conclude that the use of the property as a school is not harmful to the local housing stock, highway safety or the living conditions of neighbouring occupiers, subject to planning conditions, and therefore accords with Policies LP1, LP2, LP8, LP24 and LP43 of the HLP and Policies S3, T3, D1 and D14 of the LP. These policies, amongst other things, require the school use to be compatible, appropriate to its location, meet current or future identified need, be an essential community use, minimise the demand for car trips, ensure a sufficient supply of good quality education and childcare, and, avoid significant adverse noise impacts on health and quality of life.

### **Overall Conclusion**

12. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

### **Formal Decision**

13. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of the property as a school on land at 49-51 Ravensdale Road, Hackney, London N16 6TJ referred to in the notice, subject to the Schedule of Conditions attached to this decision.

*Paul T Hocking*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The school use hereby permitted shall only be used for purposes within Use Class F.1(a) of the Schedule to the Town and Country Planning (Use Classes) Order (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order and for no other purposes within use class F.1.
2. The school and nursery uses hereby permitted shall only be carried out between the hours of 08.00 and 18:30 hours Monday to Friday, not at all on Saturdays and between 09:30 and 15.00 hours on Sundays and Bank Holidays.
3. Within three months of the date of this appeal decision, a nursery and school management plan covering both uses within the property, shall be submitted to and approved in writing by the Local Planning Authority. This management plan shall include details of:
  - a) staggered school play times including times and pupil numbers;
  - b) supervision of the pupils during play times;
  - c) arrangements for children arriving and leaving school.The school management plan shall be fully implemented in accordance with the details approved within two months of the date of the approval of details decision and shall be carried out in accordance with the details approved in perpetuity of the hereby approved use.
4. No more than 200 pupils shall be accommodated at the premises at any one time, with no more than 40 pupils permitted to use the outdoor garden / play areas at any one time.
5. Within three months of the date of this appeal decision, details of the provision to be made for the parking of cycles, pushchairs/buggies and child scooters within the site, shall be submitted to, and approved in writing by, the Local Planning Authority, such details shall include the number of spaces, type, location and enclosure of the storage, making reference to the requirements of the Local Plan 2033 (2020). The cycle spaces shall be provided within two months of the date of the approval of details application decision and retained permanently.
6. Within three months of the date of this appeal decision, an updated travel plan outlining the following details shall be submitted to, and approved in writing by, the Local Planning Authority:
  - a) a parking beat survey of the existing on street parking situation
  - b) initiatives to be implemented to encourage access to and from the site by a variety of non-car means (including walking, cycling and public transport)
  - c) monitoring arrangements for the operation of the use to ensure compliance with the travel plan objectives.The travel plan shall in all respects be implemented in accordance with the details approved pursuant to this condition within two months of the date of the approval of detail application decision and retained in accordance with the approved details in perpetuity.

7. Within three months of the date of this appeal decision, a detailed minibus service management plan addressing the matters set out below shall be submitted to and approved in writing by the Local Planning Authority:
  - a) Bus dimensions
  - b) Frequency
  - c) Seat numbers
  - d) Management of stopping and collectionThe management of the service shall operate in accordance with the details approved in perpetuity.
8. There shall be no use of an amplified PA system or a school bell at any time (except in times of emergency) outside the school buildings.
9. There shall be no group singing sessions at any time held outside school buildings.
10. Within three months of the date of this appeal decision, detailed drawings/full particulars of the proposed development showing the matters set out below must be submitted to and approved by the Local Planning Authority, in writing:
  - a) Refuse storage and management.The matters shall not be carried out otherwise than in accordance with the details thus approved which shall be implemented in full within two months of the decision of the approval of details application and retained in perpetuity.