



Appeal Decision

Site visit made on 7 April 2021

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 29 April 2021.

Appeal Ref: APP/W5780/W/20/3252206

1078-1082 High Road, Chadwell Heath, Romford RM6 4BD

- 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 Mr Wazid Hassan against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 4721/19, dated 12 December 2019, was refused by notice dated 6 February 2020.
 - The development proposed is "change of use from bingo hall to wedding/events venue and community facility (D2/D1), and erection of metal railing/fencing to rear elevation".
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Decision

1. The appeal is allowed and planning permission is granted for change of use to wedding/events venue and community facility, and erection of metal railing/fencing, at 1078-1082 High Road, Chadwell Heath, Romford RM6 4BD, in accordance with the application Ref 4721/19, dated 12 December 2019, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. As set out above, the proposed use is described in the application form as "wedding/events venue and community facility (D2/D1)". Since the date of the application, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 have come into force, and as a result Use Classes D1 and D2 have now been abolished. However, for the purposes of this appeal it seems to me that it is not necessary for me to determine which new Use Class, if any, the proposed use would now fall into. I have therefore dealt with the appeal on the basis that permission is sought simply for use as a wedding and events venue and community facility.
3. The appeal building has a history of unauthorised use as a wedding venue and as a hall for hire, as described further below. At the time of my visit, lockdown restrictions related to the Covid-19 pandemic were in place, and the building appeared to have been closed for some time. From the evidence available to me, it is not clear whether the use now proposed would be the same as that which has previously operated at the site. In the circumstances, I have dealt with the appeal on the basis that what is proposed would be a new use, albeit with close similarities to the use which has been carried on in the recent past.
4. The appeal proposal also seeks permission for a metal palisade-type fence. The submitted plans make it clear that this is proposed to be erected on the site's rear boundary.

Planning Background

5. From the information before me, the appeal building was originally a cinema. From 1966 to 2014 it was used, with planning permission, as a bingo hall and social club. At some time after this, the use changed to a banqueting hall and venue for hire, operating as the 'Mayfair Venue'. In June 2018, the Council served an enforcement notice against this change of use.
6. In the subsequent appeal¹ in 2019, although at that time both the permitted and new uses were agreed to be within the same Use Class, the Council argued that the change was restricted by a condition on the original 1966 permission. Whilst the Council was unable to produce a copy of that permission, the Inspector found on the balance of probability that it was likely that such a condition did exist. On that basis, it was held that the change of use was a breach of planning control, and the enforcement notice was upheld.
7. The Inspector's decision makes clear that this 2019 appeal was determined solely on Ground (c), i.e. whether the change of use amounted to a breach of control. In the absence of a valid appeal on Ground (a), it was not open to her to consider the case on its planning merits. In the circumstances, whilst the 2019 appeal decision is a matter of record, the conclusions reached by the Inspector in that case are not directly relevant to the present appeal. I am required by law to determine this appeal by reference to the development plan and other material planning considerations.

Main Issues

8. Having regard to all the submissions before me, I consider that the main issue in the appeal is whether the appeal site is a suitable location for the proposed use, having regard to the relevant planning policies, and the likely effects in terms of noise, traffic and parking.
9. The Council has no objection to the proposed metal fence, and I see no reason to disagree.

Reasons for Decision

Planning policies relating to leisure uses and town centres

10. The development plan for the area comprises the Redbridge Local Plan (the RLP), adopted in March 2018. On the Policies Map, the appeal site lies within the district centre of Chadwell Heath. As I saw on my visit, the district centre has a range of shops and other facilities, straddling the boundary with the neighbouring Borough of Barking and Dagenham, and is served by both bus and rail services.
11. Policy LP9 states that the Council will support the vitality and viability of the Borough's town centres, which include the district centres, as well as one metropolitan centre and several local centres. In the case of the district centres, this is to be achieved by promoting them to provide a mix of complementary retail, leisure and evening uses.
12. Policy LP10 states that town centre uses, including leisure, will be required to locate in the town centres. Outside those centres, a sequential test will be applied. Developments in town centres which adversely affect neighbouring

¹ Appeal Ref APP/W5780/C/18/3208939

- occupiers, or traffic and parking, are to be resisted. The evening economy is to be managed, to create a safe, clean and vibrant leisure-oriented environment.
13. Policy LP12 states that the Council will support and foster a diverse and safe night-time economy, by supporting night-time uses within the town centres, whilst protecting local residents from noise, and supporting measures to address issues of safety and litter.
 14. The primary purpose behind all of these policies, as set out in the RLP's supporting text, is to support local businesses and the Borough's economy by strengthening the role of the town centres, enhancing opportunities for leisure activities, and providing good accessibility with a choice of transport modes. These aims seem to me to be fully aligned with relevant national policies as set out in the National Planning Policy Framework (the NPPF) including, in particular, paragraphs 80, 85-87, 103 and 108.
 15. RLP Policies LP9, LP10 and LP12 are therefore strategic locational policies of direct relevance to the present appeal site. The appeal proposal, in so far as it seeks to continue the existing use as a venue for weddings and similar events, is clearly for a mainly leisure-related use. It is also one which, although not exclusively an evening use, would contribute to the evening or night-time economy. The continued use for these purposes would contribute to the range of facilities available in the district centre. It would help to attract footfall and promote the centre's vitality. It would have the potential for linked trips, benefitting other local businesses. It would be served by a range of transport options. As such, it seems to me that in principle the proposed use is one which is positively encouraged in this type of location, and indeed the location is one to which this type of use is primarily directed.
 16. Whilst Policies LP10 and LP12 also seek to provide some degree of protection for residential occupiers, it is clear in both cases that in the context of town centres that aim is a secondary one. The main purposes of these relevant town centre policies as set out above, are concerned with promoting vitality and vibrancy. In any event, the issues relating to impacts on neighbouring properties are discussed in the next two sections of this decision.
 17. For the reasons given above, I consider that the locational policies relevant to the appeal are RLP Policies LP9, LP10 and LP12. To my mind, the appeal proposal clearly accords with these policies.

Noise

18. The appeal site is adjoined by residential properties in the High Road and Cedar Park Gardens, and further dwellings in Birchdale Gardens are close by. From the submissions of local residents, it is clear that in recent years, they have suffered what they regard as excessive and unwanted noise, including from the Mayfair Venue. This includes noise from customers arriving and leaving, and from vehicles, and from staff clearing-up and disposing of bottles and other refuse. I can fully appreciate the level of annoyance that has been experienced by some neighbours, especially when events have continued late into the night.
19. But nevertheless, this impact has to be considered in its planning context. As already set out above, the appeal site forms part of a designated town centre, where the adopted policies are expressly designed to encourage a mix of uses that will create a vibrant town centre, with a thriving evening economy. The affected dwellings lie either within or adjacent to that area. In this type of

location, it would not be realistic to expect a very quiet environment, like that which might be found in a wholly residential area. Indeed, to seek to limit noise to that extent would frustrate the development plan's aims for the Chadwell Heath area, and thus weaken the planning strategy for the Borough as a whole.

20. Furthermore, the appeal building is an existing facility, and an asset of community value. As such, it is clearly desirable that some form of beneficial use should be permitted. The building's previous lawful uses were related to entertainment and leisure, and its design clearly lends itself principally to uses of this nature. To be viable, any such use would almost certainly need to attract fairly large attendances, as indeed the site has clearly done throughout its history. This being so, it seems unlikely that any other future use which made reasonably beneficial economic use of the building would be noise-free.
21. In these circumstances, it seems to me that the most realistic approach is to seek to achieve a balance between the interests of local residents and those of the wider community, through reasonable noise mitigation measures where possible. To my mind, this balance can be achieved by the conditions that I intend to impose. These include limits on the hours during which customers and staff may be on the site, and when amplified music may be played, and also when deliveries and refuse clearing and collection operations may be carried out. In some cases the times that I have chosen are different from those suggested by the Council, but that is because conditions must meet the tests set out in NPPF paragraph 55. In addition, a further condition is also imposed to prevent the playing of amplified music or other sounds outside the building itself. Together, I consider that these conditions would be effective in avoiding unacceptable noise impacts, whilst not exceeding the minimum necessary to achieve that outcome.
22. I note the Council's additional suggested condition for a noise assessment, but from the appellants' submissions it appears that such an assessment has been carried out and submitted previously, and sound-proofing works and a sound limiter subsequently installed, and inspected by Council officers in 2017. None of this evidence has been contradicted by the Council. On the assumption that these facts are therefore correct, it seems to me that if any further measures are considered to be needed, it should be possible for these to be identified from the information already available. But no such evidence has been brought forward by the Council. Nor is there any evidence of any involvement by any relevant officer with technical expertise in noise matters, or indeed any other technical basis for the request for further noise assessment. In the absence of such evidence, I see no purpose in requiring any such assessment at the post-decision stage.
23. It is notable that many of the representations from local residents refer to various kinds of unruly and antisocial behaviour, by some users of the appeal site, which not only contribute to the level of noise but also make them feel threatened or abused. I fully agree that such behaviour is to be deplored. But the control of antisocial or potentially criminal behaviour is primarily a matter for the police and other authorities. The appeal proposal is simply for the use of the site for the purposes described in the application. The actions giving rise to these objections, even if committed by persons attending the site, are not part of the use for which permission is sought, nor are they an inevitable

consequence. In the present case therefore, these matters are not a reasonable ground for refusing planning permission.

24. In the light of the above considerations I am satisfied that, with the benefit of the conditions that I have outlined, the proposed use need not give rise to unacceptable noise impacts. In this respect therefore, the proposal does not conflict with the relevant provisions relating to noise in RLP Policies LP10 or LP12, which are referred to above. Nor do I find any conflict with Policy LP24 dealing specifically with noise matters, or with Policy LP26 which requires noise and antisocial behaviour to be considered as part of the design process.

Traffic and parking

25. The Council's principal objection with regard to traffic is that the development would fail to provide sufficient on-site car parking. In support of that view, reference is made to RLP Policy LP23, which suggests that new development should meet "the minimum and maximum parking standards set out in the London Plan".
26. However, the reference in this policy to minimum standards seems somewhat misleading, as the parking standards set out in the London Plan are for the most part not minimum but maximum levels, designed to reduce private car use and encourage more sustainable modes of transport. This approach is especially advocated in town centres and other locations with good accessibility by public transport. This London Plan approach seems to me to be generally in line with national policy as set out in the NPPF. In the present appeal, Chadwell Heath town centre is well served by rail and bus services, with a 'PTAL' rating of 4, which is classed as good. Chadwell Heath Station, which is just over 300m from the appeal site, also forms part of the Crossrail route, which is due to open soon. In this case therefore, the London Plan provides no basis for an objection based on a lack of car parking, and consequently neither does Policy LP23 of the RLP.
27. Moreover, RLP Policy LP22 states that the Council will support the delivery of the Mayor's transport strategy, and direct development that generates high transport demands to highly accessible locations, including town centres. In the light of the above, the appeal proposal clearly accords with this RLP policy. In terms of the relevant strategic and local transport strategies therefore, the appeal site is an appropriate location for the development now proposed, and it seems to me that the issues relating to car parking must be viewed in this context.
28. Turning to the appeal proposal, the existing car park currently accommodates around 40 vehicles. Whilst the alterations proposed by the appellants would have several benefits, including disabled spaces, cycle parking, easier manoeuvring, and landscaping, they would also slightly reduce the overall capacity, to 38 spaces. This number may be enough to cater for some smaller events, but larger events at the site have attracted several hundred attendees, and the intention is for this to continue. It is therefore likely that the number of vehicles generated by the proposed use will often exceed the on-site capacity. However, for the reasons explained above, there is no policy in any plan that requires the appeal site to meet its own parking needs in full.
29. I fully appreciate that, for local residents, car parking is a major bone of contention. When there is an overspill of parking from the appeal site, this

adds to the demand for on-street spaces in Cedar Park Gardens and Birchdale Gardens, so that local residents often have to contend with increased competition for spaces close to their homes. I have no doubt that this is a source of inconvenience and frustration. But in this type of location, on the edge of a town centre, this is not an unusual situation. In many other streets in the area, controlled parking zones and residents' permits have been introduced, for similar reasons. There is no evidence that this approach could not be used here. In the absence of the Council having explored this or other options for giving priority to residents, and particularly in this town centre location, the effect of the proposed use on the demand for on-street parking is not a strong ground for refusing permission.

30. I am well aware that the perceived conflicts in relation to parking do not end there, because according to many local residents, the excess demand for kerbside space leads some drivers to park badly, blocking access to private spaces in front gardens and driveways. I do not doubt that this kind of inconsiderate behaviour occurs, and again I sympathise with those affected. But nonetheless, a large public car park is available almost opposite the site in Cedar Park Gardens, and the Station Road car park is within easy walking distance; the evidence suggests that vacant spaces are usually available in these. Metered parking is also available in the High Road. Alternative modes of transport are plentiful, as discussed above. And in any event, powers are available to the relevant authorities to penalise and prevent parking which obstructs the highway. Inconsiderate and obstructive parking is therefore neither a necessary nor an inevitable consequence of the appeal proposal. Again, in the circumstances of this case, these issues are not sufficient to justify refusal.
31. I note the Council's criticisms of the appellants' parking surveys, as regards their timing and coverage. However, there appears to be no substantive dispute as to their accuracy. To my mind, the surveys carried out appear to be proportionate and reasonable, and no other quantified evidence of local parking conditions appears to be available. In the circumstances, the lack of more comprehensive survey evidence does not change my conclusions.
32. In any event, none of the evidence or information available suggests that the use now proposed would have a materially different impact on parking compared to the previous lawful uses as a cinema or a bingo hall. Having regard to NPPF paragraph 109, there is no evidence that the effect of the development would be to cause an unacceptable impact on highway safety or that the residual impact on the road network would be severe.
33. I conclude that there is no evidence that the proposed development would have any material adverse impact on the safe and efficient operation of highway network by reason of traffic generation or car parking. In this regard I can find no conflict with RLP Policy LP23 or with the relevant provisions of Policy LP10. For the reasons given, I consider the scheme to accord with the transport strategy in Policy LP22.

Conclusion as to the suitability of the appeal site for the proposed use

34. Overall, having regard to the relevant policies, and the likely effects on noise, and on traffic and parking, I conclude that the appeal site is an appropriate location for the use now proposed as a wedding venue and community facility.

Other Matters

35. The Council draws particular attention to RLP Policy LP17, relating to community infrastructure. However, that policy seems to me to be directed principally at ensuring adequate provision of infrastructure to support new housing. The supporting text refers mainly to schools, health facilities and the like. In my view any relationship between this policy and the present appeal proposal is tenuous, to say the least. For the reasons already stated, I consider the most important and relevant policies to be those that I have identified, namely Policies LP9, LP10, LP12 and LP22, relating to town centres, the evening economy and transport.
36. It follows from this that the reference in Policy LP17 to demonstrating a local need has no relevance to the appeal proposal. No such requirement is contained in the more relevant policies that I have identified. Nor is there any basis in national policy for imposing such a requirement.
37. I note all the other matters raised by residents, including aggressive behaviour, crime, drugs and litter. But all of these activities are subject to the law, and can best be enforced by other means than planning. Refusing permission for the proposed new use, simply because of the alleged behaviour of some customers, would unnecessarily deprive the wider community of the opportunity to enjoy the proposed facility in a law-abiding manner. Refusal on these grounds would not be justifiable in planning terms.
38. I note also the submissions made by the Theatres Trust. I have no reason to doubt that physically the existing building could be converted back to a theatre or cinema, and that such a facility would be of potential value to the community, and would be in keeping with the building's original design and history. But that is not the proposal that is before me. As I have found the use now proposed to be acceptable, there is no need for me to consider the merits of any other uses.

Conditions

39. For the reasons already rehearsed, I consider that a condition restricting the hours of operation is justified in order to protect the living conditions of neighbouring occupiers. The condition that I intend to impose sets different limits on the hours for customers and staff, and for the playing of music, and for noisy activities including deliveries and the disposal and collection of refuse. The times that I have chosen are intended to balance the interests of residents with the need to allow the use to operate in a reasonably efficient manner. For similar reasons, a condition restricting the playing of music outside the building is also justified.
40. A condition to secure the proposed improvements to the car park, including provision for the disabled, and for cycles and electric vehicles, is justified for reasons of promoting sustainable travel in accordance with the relevant policies that I have identified. However, a fixed timescale for the provision of these improvements is not needed because, as explained elsewhere, the proposed use as now described would effectively be a new use, and the appropriate trigger is therefore the commencement of that use. A separate condition relating to the proposed fencing is necessary to ensure certainty with regard to this element.

41. I have considered carefully all of the other suggested conditions. However, for various reasons the majority do not pass the tests in NPPF paragraph 55. A restriction on changes of use within Class D1 is no longer needed in view of the changes to the Use Classes Order. A noise assessment and mitigation plan is unnecessary for the reasons that I have stated elsewhere, and a car park management plan is not needed in the light of the conclusions that I have come to on that matter. The proposed conditions relating to marquees and open storage or display are unnecessary, in view of the condition that I have imposed which requires the car park to be kept available as such. A waste management plan is unnecessary, except for control over the hours of refuse collections, which is already provided for in the hours condition that I have imposed. The proposed limits on the number of events and numbers of customers would not be reasonable. The suggested condition prohibiting the keeping of vehicles on the highway would not be enforceable.

Conclusion

42. For the reasons set out in this decision, I have concluded that the appeal site is an appropriate location for the use now proposed, in accordance with RLP Policies LP9, LP10, LP12 and LP22.
43. I have found no evidence that the effects on car parking would be unacceptable, and the impacts in terms of noise can be adequately controlled by conditions. There is therefore no conflict with any relevant policies in these respects.
44. The proposed development therefore accords with the development plan as a whole. This accordance with the development plan is not outweighed by the other material considerations raised.
45. I have taken into account all the other matters raised but none changes these conclusions. The appeal is therefore allowed, subject to the conditions set out in the attached schedule.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The use hereby permitted shall not be commenced until the proposed alterations to the car park, including the provision of two disabled spaces, electric vehicle charging points, cycle parking, and landscaping along the site frontage to Cedar Park Gardens, have been carried out in accordance with Plan No 18/219/003. Thereafter, the car park and aforementioned facilities shall be retained and made available for the use of customers and staff at all times when the building is in use.
- 3) The proposed fencing on the rear boundary shall be carried out in accordance with the details shown on Plans Nos 18/219/003 and 18/219/004.
- 4) The use hereby permitted shall be operated in accordance with the following hours:
 - i) No customers shall be permitted to be on the premises outside the following hours:
Sundays – Thursdays: 09.00 – 23.00
Fridays and Saturdays: 09.00 – 01.00
 - ii) No amplified music shall be played on the premises outside the following hours:
Sundays – Thursdays: 09.00 – 22.30
Fridays and Saturdays: 09.00 – 00.30
 - iii) No staff shall be permitted to be on the premises outside the following hours:
Sundays – Thursdays: 08.00 – 24.00
Fridays and Saturdays: 08.00 – 02.00
 - iv) No disposal of refuse or waste outside the building shall be carried out outside the following hours:
Sundays – Thursdays: 09.00 – 23.30
Fridays and Saturdays: 09.00 – 01.30
 - v) No deliveries to the site or waste collections from the site shall be carried out outside the following hours:
Mondays – Saturdays: 07.00 – 20.00
Sundays: 09.00 – 18.00
- 5) No amplified music or other amplified sound of any kind shall be played or broadcast from within the car park or elsewhere outside the building at any time.

[End of schedule]