



Appeal Decision

Site visit made on 17 August 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/M5450/W/21/3270021

36 Masons Avenue, Wealdstone, London HA3 5AR

- 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 London Sri Ayyappan Kovil Temple against the decision of the Council of the London Borough of Harrow.
- The application Ref P/3772/20, dated 31 July 2020, was refused by notice dated 21 December 2020.
- The application sought planning permission for first floor extension and alterations to ground floor access without complying with conditions attached to planning permission Ref P/1004/19, dated 22 November 2019.
- The conditions in dispute are No's 11 and 13 which state, respectively, that:
- *Unless otherwise agreed in writing by the local planning authority, the temple and community hall shall only be open to the public between: 8:00am and 22:30pm Mondays to Sundays inclusive of Public Holidays; and Unless otherwise agreed in writing with the Local Planning Authority, the maximum number of staff and patrons in the premises shall not exceed 150 persons at any one time, in accordance with the submitted information as part of the Planning Application.*
- The reasons given for the conditions are: *To safeguard the amenities of neighbouring properties in accordance with policy DM1 of the Harrow Development Management Local Policies Plan (2013); and To ensure that the use of the site is not over-intensive and to safeguard the amenity of neighbouring residential properties in accordance with Policy DM1 of the Harrow Development Management Policies Local Plan (2013)*

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, revised versions of both the London Plan (the LP) and the National Planning Policy Framework (the Framework) were published. I note both parties have referenced policies from the publication draft of the LP in their submissions which do not differ from those in the adopted version of the plan. I am satisfied therefore neither party would be prejudiced in my consideration of this appeal with regards to the LP. Parties were invited to comment as to the relevance of the revisions to the Framework and any comments received have been taken into consideration in the determination of this appeal.

Main Issues

3. The main issue is whether the conditions are reasonable and necessary in the interests of the living conditions of occupiers of nearby properties and highway safety.

Reasons

Living Conditions

4. The appeal site comprises a place of worship located in a predominantly residential area. The appeal proposal seeks to vary conditions which sought to control opening hours and the number of visitors and staff at the premises. The effect of the proposed variations would see an increase in the total occupancy of the building from 150 to 330 people and opening hours extended by 30 minutes from Monday to Saturday and for special events overnight on 31 December, 1 January and a 12-day festival period in July.
5. These changes would mean a substantial increase in the potential number of people visiting the site for longer periods of time. There are a number of dwellings located in close proximity to the appeal site along Mason's Avenue and Herga Road. Occupiers of these properties would be affected by increased conversational noise, disturbance from comings and goings and noise from the parking of cars and car doors opening and closing. Under the controls of the existing conditions, these effects can already be felt into later night-time hours. An extension thereto could only make that situation worse, encroaching further into more unsociable hours throughout the year, particularly during the weeklong festival in July. I do not dispute that the increased space within the building could accommodate the greater number of people. Although this would inevitably lead to more people coming and going and congregating externally.
6. I appreciate there are no current restrictions on the level of visitor or staff numbers at the site or opening hours. However, the proposal would significantly increase the intensity of the use of the site following the approved plans to extend the building. It is argued the increased space within the building could accommodate the greater number of people. This is not disputed, although this would inevitably lead to more people coming and going and congregating externally thereby exacerbating the harm.
7. There are existing sources of noise in the area, such as the auto repair and car wash adjacent, as well as vehicular traffic on Mason's Avenue, the flyover and from the railway line. However, these noise levels would likely decrease during evening and night-time hours when businesses close and commuter levels drop. Reference is made to other regulatory procedures and licence requirements to control noise issues, although I have only assessed those matters subject to the appeal based on the evidence before me and my own observations.
8. For the above reasons, the proposals would lead to harm to the living conditions of occupiers of nearby residential properties with regards to noise and disturbance. This would be contrary to Policies DM1 of the Harrow Council Development Management Policies (the DMP) (July 2013) and D14 of the LP. These seek to limit the impact of a proposed use and activity upon noise, including hours of operation. In regard to this main issue therefore, conditions 11 and 13 are both reasonable and necessary to safeguard against this as far as is reasonably possible within the scope of their controls.

Highway Safety

9. A substantial increase in visitor numbers, such as that proposed by the effect of the variations, would lead to highway safety issues related to parking and

increased traffic. This would be caused by users of the building attempting to find somewhere to park their vehicle or stopping to drop off or pick up visitors. Mason's Avenue is restricted by both double and single yellow lines on the appeal side of the road, while on-street parking here and on Herga Road is restricted to residents with permits. As such, street parking would be at a premium.

10. The appellant refers to the Wealdstone Traffic Study (November 2017), but I do not have this information before me and references to footpaths do not address the matters subject to this appeal with regards to highway safety. Moreover, the Transport Assessment submitted in support of the approved planning application for the first-floor extension has not been updated to provide clarity on the matters at hand. On my site visit, I observed traffic levels were high even during the daytime outside of traditional rush hour times and there was little on-street parking available.
11. With the above in mind, due to the substantial increase in the capacity of the premises, the variation to the conditions would lead to a harmful effect on highway safety with specific regard to the availability of car parking and how an additional strain thereon could detrimentally affect the free flow of traffic. Accordingly, these conditions are reasonable and necessary to ensure this does not come to pass. As well as ensuring that the proposed development would comply with Policies DM1, DM43 and DM46 of the DMP, T4 and T6 of the LP and AAP19 of the Harrow and Wealdstone Area Action Plan. These advise, among other things, that proposals which fail to satisfactorily mitigate the transport impacts of development will be resisted.

Other Matters

12. While I appreciate financial viability of the approved first floor extension may be contingent on an increased number of visitors and opening hours, this is not relevant to my determination of the appeal. Moreover, I have no substantial information on this matter before me. As such I have had regards only to the planning merits of the proposal as they have been presented to me.

Conclusion

13. For the reasons given above I conclude that the conditions are reasonable and necessary to control the matters subject to this decision. Further, they ensure the development would accord with the policies I have cited. The appeal should therefore be dismissed.

C McDonagh

INSPECTOR