



Appeal Decision

Site Visit made on 3 August 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 28 September 2021

Appeal Ref: APP/B1930/W/21/3267845

London Colney Islamic Centre, 174 High Street, London Colney AL2 1JY

- 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 F Paraouty (London Colney Islamic Centre) against the decision of St Albans City Council.
 - The application Ref 5/20/0947, dated 24 April 2020, was refused by notice dated 7 August 2020.
 - The development proposed is erection of a two-storey side/rear extension to form a two-bedroom dwelling at first floor and main entrance lobby at ground floor, conversion of existing first floor two-bedroom flat to additional prayer and community use, erection of first floor dormer extension, insertion of two lanterns at ground floor, provision of two external stairways, new first floor external door at front and other alterations.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a two-storey side/rear extension to form a two-bedroom dwelling at first floor and main entrance lobby at ground floor, conversion of existing first floor two-bedroom flat to additional prayer and community use, erection of first floor dormer extension, insertion of two lanterns at ground floor, provision of two external stairways, new first floor external door at front and other alterations at London Colney Islamic Centre, 174 High Street, London Colney AL2 1JY in accordance with the terms of the application, Ref 5/20/0947, dated 24 April 2020, and subject to the conditions set out at the attached Schedule.

Preliminary Matters

2. The appeal proposal is indicated to be partly retrospective in nature, with some elements proposed having already been undertaken pursuant to a planning permission granted in 2019 which included works similar to those sought under the present appeal. Whilst these works are indicated to be the same, I have, for the avoidance of doubt, considered the appeal on the basis of the proposed plans.
3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance of this revision to the Framework to their respective cases.

Main Issue

4. The main issue is whether the proposal would add to parking pressure in the area and the effect of this on the living conditions of local residents, in terms of disturbance and inconvenience.

Reasons

5. The appeal site is a two storey building occupied by the London Colney Islamic Centre (LCIC) on the ground floor and part of the first floor. A self-contained 2-bed residential flat also exists on the first floor, though this is subject to a planning condition requiring it to be ancillary to the occupation of the main building by LCIC. The building has been previously extended significantly at the rear through single storey additions.
6. Planning permission was granted in 2019 for a two storey side/rear extension, which appears largely constructed on site. The approved scheme also involved relocation of a first floor flat to the new extension and an enlarged prayer room created in its place. An external staircase was also approved and appeared to have been constructed on site.
7. The scheme now before me seeks permission for similar works, but also seeks a rear dormer extension to facilitate an office, library/classroom and kitchenette, roof lanterns to the rear flat roof, external staircase to the front and to infill the previously open undercroft of the side extension to create a new lobby to the building.
8. The application was refused, contrary to officer recommendation, on the basis that the loss of on-site parking, alongside the proposed increase in the capacity of the site would lead to a significant increase in parking stress in the area, which would not be adequately mitigated through the available public parking on Haseldine Road or surrounding roads without impacting on the living conditions of neighbouring occupants.
9. The proposal in this case would reduce the on-site parking provision from six spaces to four with the infilling of the undercroft. The stated intention is for these spaces to be used for disabled parking. However, the submitted plans show four cars in a tight, double parked arrangement parallel to the front elevation, which I saw was the case on site. This arrangement would be too constrained for disabled users. Consequently, I am doubtful that four cars would be able to comfortably park on the site.
10. The Council's Revised Parking Policies and Standards Supplementary Planning Guidance 2002 (RPPS) sets out that for a place of worship under Class D1, a maximum of 1 space per 10m² of floorspace should be provided, but that any previous shortfall in provision is not required to be made up. The additional floorspace in this case is given at 208m², which would equate to an additional 21 spaces. However, the RPPS also indicates that for a Class D1 use in a neighbourhood centre, of less than 500m² in floorspace and within 300 metres of a public car park, no on-site parking will be required. The appeal scheme is indicated to result in a total floorspace of 430m² and is within 200 metres of the public car park at Haseldine Road. Therefore, the proposal would accord with the requirements of the RPPS in these respects.
11. Moreover, the RPPS does not require a parking assessment to be carried out for development of the type or scale proposed. Nor do I see such a requirement in the relevant development plan policies put to me, namely Saved Policies 9, 34 and 39 of the St Albans District Local Plan 1994 (the SADLP). The Council's basis for seeking an assessment instead appears to stem from local concern over traffic and parking impacts caused by visitors to the LCIC.

12. The proposal, on its face, would result in an almost doubling of the floorspace of the building, but it is a significant material consideration that much of this additional space, including the three prayer rooms totalling 220 users has already been granted planning permission and is under construction or already completed. Therefore, regardless of the outcome of this appeal, a substantial increase in floorspace and capacity can occur under the 2019 scheme.
13. The additional floorspace not previously subject to an application comprises the enclosure of the undercroft to form a lobby, and a large rear dormer window providing space for a library, office and kitchenette. To my mind, none of these spaces would be expected to accommodate significant numbers of additional people in the way that the prayer rooms would. Rather, they appear to be more ancillary or functional spaces. When compared to the parts of the building already granted permission, these additional elements would not lead to a significant increase in the capacity or likely number of visitors to the LCIC.
14. I have had regard to the representations made by interested parties, including London Colney Parish Council. It is evident that the LCIC has increased in size over recent years, both in terms of the physical building and the size of its congregation. As with most places of worship, there are likely to be busy periods, indicated in this case to include Friday prayers and during religious festivals, when more people will attend the centre. The accounts provided by several interested parties suggest incidents of indiscriminate parking have taken place at various times, though this evidence is largely anecdotal and does not provide precise detail as to the frequency or scale of these incidents.
15. However, whilst I empathise with local residents who have suffered from indiscriminate parking, it is the case that existing visitor numbers and parking patterns relate to facilities which the Council has already given permission for, and for which no planning conditions appear to have been imposed limiting the number of people on site. Therefore, the Council has had the opportunity to consider parking on several occasions over recent years as applications have been made, and has not found the cumulative situation unacceptable. There is no evidence that a parking assessment was sought previously, nor has the Council offered substantive evidence to support its view that an assessment should be provided now, particularly as such a requirement would run contrary to its own guidance in the RPPS.
16. Consequently, I am limited to considering whether there would be an unacceptable effect from the additional works now sought, but for the reasons set out, I find that compared to the existing facilities on the site, they would not lead to significant increase in capacity or parking pressure as alleged by the Council.
17. In reaching a view, I am mindful that the Council's Parking Services team and Hertfordshire County Council (HCC) as the Local Highway Authority both raised no objection to the proposal, the former noting the loss of two spaces on site, but stating that parking capacity is sufficient in the area, and the latter noting the site's town centre location and access to car parks and bus services. I visited the car park on Haseldine Road and saw it had good availability of spaces at the time of my visit at lunchtime, which is indicated to be the time at which Friday prayers takes place. None of the comments made refer to parking problems around the site, nor is any indication given that HCC considers additional parking restrictions are necessary on surrounding streets.

18. Moreover, there are bus stops a short distance away with regular services. Worshippers living in the surrounding residential area would also be able to walk to the centre. The accessible location of the site therefore provides the opportunity for worshippers to visit by means other than the private car, and it adds to my overall view that the additional proposed facilities would result in a very limited increase in car-borne trips to the facility, which would have a negligible effect on parking stress in the area, when compared to the scale of facilities already approved on the site.
19. I am also cognisant of the fact that the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. On the basis of the evidence before me, I am not persuaded that the effects on the road network would be severe, such that permission should be withheld on this basis.
20. For these reasons, I conclude that the proposal would not result in increased parking pressure of a scale that would cause disturbance or inconvenience to neighbouring residents. Therefore, I find no conflict with Saved Policies 9, 34 and 39 of the SADLP, which together address highways and parking matters and support non-residential uses in residential areas of towns where they will not adversely affect the amenity and character of the area by reason of, among other things, excessive traffic generation.

Other Material Considerations

Neighbours' Living Conditions

21. The Council did not refuse the application on the basis of any other matter, but several letters of objection submitted by neighbouring residents raise additional concerns over the potential effect on their living conditions as a result of the proposal. I observed the appeal site from the neighbouring property immediately to the rear during my site visit.
22. The main aspect of the proposal raising concern is the proposed rear dormer window. This would span the width of the main rear roof slope and would extend rearward of the eaves and partly over the flat roof of the ground floor rear extension below. The dormer would contain part of an office, library/classroom and kitchenette, and would replace an inset balcony formerly in place within the roof slope which served the now relocated flat.
23. The dormer would be a further, substantial addition to the building. However, from the rear, it would be viewed within the massing of the rear roof slope and would be set back from the shared boundary with 1 White Horse Lane. I also saw that the dormer would be partially obscured from view from the ground floor of No 1 by its garage. In terms of outlook, the dormer would be visible but would not significantly alter the views enjoyed by neighbouring occupants, given its offset position to the side when viewing from the rear windows within a vista that would remain relatively open as development at the rear of the gardens is limited to a single storey.
24. The proposed windows within the dormer would be at high level internally, and indicated to be obscurely glazed. This would prevent overlooking of the neighbouring windows and garden of No 1. The possibility of light pollution from the ground floor skylights is also raised, but given the urban environment

and presence of multiple windows and other light sources to surrounding properties, I am satisfied this would not pose a significant risk for neighbouring occupants.

25. I also note comments regarding past use of the flat roofs of the building by occupants of the flat. However, the dormer would occupy part of this flat roof and plans do not show door access to the roof. Nonetheless, the Council has suggested conditions which would restrict access to the flat roof, along with conditions to restrict sound transfer during times of worship. Subject to these, I am satisfied that the proposal would not lead to significant harm to the living conditions of neighbouring occupants in terms of overlooking, noise or disturbance. Overall, the proposal would not conflict with the Framework aims of ensuring development creates places with a high standard of amenity for existing and future users.

Other Matters Raised

26. The number of applications made by the LCIC over recent years, and their cumulative impact, has been raised by interested parties. I can understand that repeated applications can be frustrating and time-consuming to review and respond to. However, it is the right of the appellant to make applications for development of the property, and to have these determined by the Council. I have considered the cumulative impact in respect of the main issue above, but as set out, the majority of development on site has planning permission, and I have found that the additional works in this case would not lead to the overall development being unacceptable.
27. Reference is made to the Council's refusal of an application for redevelopment of a site on White Horse Lane for housing on the basis of insufficient parking provision. I do not have full details of this application, but there are evident differences between this application and the appeal scheme before me in terms of scale, planning history and site circumstances. As such, I do not regard this as a comparable proposal or one that sets precedent for a decision on this appeal, which I have considered on its own planning merits.
28. Concern is expressed over the proximity of the proposed rear extension to neighbouring properties in terms of fire safety. However, construction of the development would be subject to meeting the Building Regulations, including with respect to fire safety. I have no evidence to suggest this would not occur, or that the proposal involves materials carrying greater fire risk. As such, this is not a matter that weighs against the proposal.
29. Further criticism is directed at the appellant for repeatedly promoting the need for the same additional facilities in successive applications. However, I have not found harm in respect of the main issue, and therefore it is not necessary to consider whether there are tangible public benefits that would outweigh any development plan conflict. These purported benefits are not therefore decisive to my reasoning.
30. The Council did not oppose the proposal in terms of the effects on the character and appearance of the area or the standard of accommodation to the proposed flat. I have no compelling reasons to conclude differently in these matters, and they do not weigh against the proposal. I note comments regarding the prevalence of air conditioning units on the building, but these do not form part of the appeal scheme before me.

Conditions

31. I have had regard to the list of suggested conditions advanced by the Council. Where necessary, I have amended the wording to ensure the conditions meet the relevant tests for conditions set out in the Framework.
32. A condition specifying the approved plans is necessary to provide certainty. It is also necessary to condition the external materials to match the existing building or as specified on the plans to ensure a satisfactory appearance.
33. Several conditions are necessary to ensure the living conditions of neighbouring residents are not adversely affected. These include requiring windows and doors to remain closed during times of worship, prohibiting the use of loudspeaker systems, requiring a scheme of insulation against noise and vibration, restricting access to flat roof areas, preventing the gathering of people for worship externally, requiring the side staircase to be obscurely glazed and requiring rear facing windows to be obscurely glazed and non-opening below a height of 1.7 metres from the internal finished floor.
34. It is also necessary that the residential flat is occupied as an ancillary part of the overall LCIC, as occupation as a private flat would be incompatible with the use of the wider centre as a place of worship.

Conclusion

35. For the reasons set out above, I conclude that the proposal would accord with the development plan, taken as a whole. Material considerations in this case do not lead me to conclude that a decision should be taken other than in accordance with the development plan. Therefore, the appeal should be allowed.

K. Savage

INSPECTOR

Schedule – Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LCIC 101-OS REV A, LCIC 102-1 REV J, LCC 102-10 REV C.
- 3) The external surfaces of the development hereby permitted shall be constructed only of materials the type and colour of which match exactly those of the existing building, or as otherwise specified on the plans hereby approved.
- 4) All doors, windows or skylights on the building (apart from those serving the proposed residential flat), shall be kept closed at all times during the times of prayer, children's activities or any other activities which may result in an excess of noise, except when access is required to/from the premises.
- 5) No external loudspeaker systems shall be installed or operated without the prior approval in writing of the Local Planning Authority.
- 6) The first floor residential unit shall be permanently maintained as ancillary to the occupation of the building by the London Colney Islamic Centre and shall not at any time be severed and occupied as an independent unit for market housing without the prior written consent of the Local Planning Authority.
- 7) Prior to the first use of the development hereby permitted, a scheme providing for the insulation of the building against the transmission of noise and vibration from the building shall be submitted to and approved in writing by the Local Planning Authority, this should include the details and specification of the installed insulation. The scheme so approved shall be carried out before the use commences and retained as such thereafter.
- 8) The windows to be created in the first floor north-east (rear) facing elevation of the dormer window serving the kitchenette, library, classroom and office shown on the plans hereby approved shall be glazed in obscure glass, as specified on Drawing No. LCIC 102-1 Rev J, and shall be non-opening below a height of 1.7 metres taken from internal finished floor level. Prior to the occupation of the residential flat, the windows serving the two bedrooms shall be constructed as shown on Drawing No. LCIC 102-1 Rev J. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.
- 9) The obscure screen to the side external staircase as shown on the plans hereby approved shall be constructed of obscure glass and shall be erected on site prior to the first use of the development hereby permitted, and it shall be retained as such thereafter.
- 10) No access shall be provided to any flat roof of the building by way of windows, doors or staircase and the flat roof areas at the site shall not be used as a balcony, roof garden or standing out area without the grant of further specific permission from the Local Planning Authority.
- 11) No outside/external public gathering or worship shall take place anywhere within the site.