



Appeal Decision

Site visit made on 23 April 2024

by C Livingstone MA(SocSci) (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/M5450/W/23/3327956

227 Whitchurch Lane, Edgware HA8 6QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Banerjee, Gaur Govinda Trust, against the decision of the Council of the London Borough of Harrow.
 - The application Ref is P/1838/22.
 - The development proposed is change of use on ground floor from residential to mixed-use with private events by invitation. Retained, permanent residential accommodation for trustees on first floor.
-

Decision

1. The appeal is allowed, and planning permission is granted for change of use from dwellinghouse (Class C3) to charity use with private events by invitation and ancillary accommodation (Sui generis) at 227 Whitchurch Lane, Edgware HA8 6QT in accordance with the terms of the application, Ref P/1838/22, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.
3. In the second reason for refusal the Council state that the proposal would 'not' result in an adverse impact on neighbouring residential amenities. Based on the overall wording of this reason for refusal and the Committee Report, I assume the word 'not' has been entered in error and I have determined the appeal on that basis.
4. The description of the development in the banner heading above was taken from the planning application form. I have used the Council's description, which is also used on the appeal form, in the decision notice as this provides a clearer and more accurate description of the development.

Main Issues

5. The main issues are:
 - the principle of the proposal having regard to its location and the provision of family housing, including whether there would be any other considerations that would indicate that the proposal should be determined otherwise that in accordance with the development plan; and

- the effect of the proposal on the living conditions of the occupants of neighbouring properties in particular regard to noise and disturbance.

Reasons

Family Housing

6. The appeal building is currently a family dwellinghouse and the proposal would allow for the primary use of the building to be changed to charity use as part of the work of the Guar Govinda Trust. The upper floor of the dwelling would be retained as bedrooms and the ground floor would be in use by the charity through the day and return to living accommodation in the evening. The rear garden would be used by the occupants of the property and access would be restricted by people utilising the charity.
7. The purpose of Policy H8 of the London Plan 2021 (LonP) is to address the loss of existing housing in London, for which there is an identified need. I have no evidence to show that this need no longer remains. Criterion A of this policy states that the 'loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace'. The proposal would involve the primary use of the building to change from housing to a mixed housing and charity use and result in a partial loss of housing which is contrary to policy H8 and undermines the aim of the London Plan to prevent the loss of existing housing to meet the housing needs of Londoners.

Location

8. Under the terms of criterion B of Policy DM 46 the Harrow Council Development Management Policies 2013 (DMP) the Council requires that new community facilities are located in the community that they are intended to serve, are in an accessible location and don't harm residential amenity. This is in order to ensure public transport accessibility and reduce the need to travel longer distances, and also engender a sense of ownership of the facility by the local community. I assess the impact of the proposal on residential amenity under the second main issue below.
9. The Gaur Govinda Trust seeks to support the Hindu religion through a number of activities including celebration of Hindu festivals, holding of prayer meetings, lectures and fundraising as well as the promotion of racial equality and diversity. The events held by the charity would be of a small scale, with a maximum of twelve attendees at any one time. The information provided indicates that the nearest Hindu faith based establishments are two temples and a school that serve the Gujarati community. The appellant states that the work of the charity also provides spiritual counselling in a number of different languages in order to serve a broader range of the Hindu community. The evidence before me states that approximately 25% of Harrow's population prescribes to the Hindu faith and there is no substantive evidence to demonstrate that this is not the case. This indicates that the work of the charity supports the faith of a large proportion of the local community.
10. The application site is located within an area that has a PTAL rating of 3, which indicates that the site has adequate transport links. I note that Canons Park underground station is a short walk from the appeal site and there are several bus routes on Whitchurch Lane. The Council are satisfied that the appeal site is

in an accessible location, and I have no reason to disagree with this assessment.

11. The proposed operations of the charity would be relatively modest. Notwithstanding this, several letters of support have been submitted from members of the public, I acknowledge that while these letters do not expressly state that the individuals would attend the events and meeting held by the charity, they do indicate that the local community is in support of the charity and consider that it would have a beneficial impact on the area.

Conclusions on the Principle of Development

12. The evidence before me suggests that the proposed development would be located within the community it intends to serve. While the evidence of the existing demand for the proposal is restricted, to several supportive representations from members of the local community I consider these to be a suitable and proportionate indicator that the development would serve and is supported by the local community.
13. While technically the proposal would result in a partial loss of housing during the hours of operation of the charity, the use of the ground floor would be shared, and the occupants of the dwelling would also utilise the ground floor as living accommodation. As such the extent of the loss of housing would be limited and the occupancy capacity of the building would remain unchanged.
14. Religion is an identified protected characteristic under the terms of the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010 and I have a duty to have due regard to protected characteristics with the aim of avoiding discrimination and to proactively seek equality. In having due regard to the need to advance equality of opportunity between people who share a protected characteristic and those who don't. The proposed charity includes Hindu faith based support and activities in several languages to meet the needs of the Hindu community that are currently underserved. This is a material consideration of considerable weight in my assessment of the appeal.
15. In conclusion the principle of the proposed partial change of use would be acceptable with particular regard to the provision of family housing and location. The proposed scheme is in accordance with Policy DM 46 of the DMP which requires that new community facilities are located within the community that the intend to serve, with good transport links. It is acknowledged that the proposal is contrary to Policy H8 of the LonP to a degree. However, the temporary loss of housing to charity use is limited and my duty under s149 of the Equality Act 2010 is a material consideration of sufficient weight to justify a decision other than in accordance with the development plan in this instance.

Living conditions of neighbours

16. The proposed change of use from a family home would allow group classes of up to 12 people and smaller individual and family meetings by invite only. The activities of the group include spiritual education classes, meditation, and silent prayers. As such, it is anticipated that the level of noise generated by the proposal would not be dissimilar a typical family home. Notwithstanding this the number of people coming and going from the building may be greater than a single family household on occasion. However, Whitchurch Lane is a busy

road and the mix of residential and commercial uses in the area is such that increased levels of noise and disturbance would be expected.

17. It is acknowledged that the partial use of the building for residential accommodation would add a degree of complexity in terms of enforcement. However, there is no evidence before me to suggest that conditions restricting hours of operation or the effective management of the activities of the charity would be unenforceable. As all meeting would be by invite only, the number of people attending the building would be restricted. Given the established character of the area, and the nature of the proposed use; the effective management of the charity and its hours of operation are suitable measures to mitigate and manage the impacts of the development in terms of noise and disturbance.
18. Concerns have also been raised regarding the impact on the established character of the area, that the proposal would set a precedent for increased commercial development. As detailed within my assessment the area includes a mix of commercial and residential uses. As such concerns relating to a precedent for commercial uses as a result of the proposal are not a significant consideration.
19. For the reasons detailed above the proposal would not have a harmful impact on the living conditions of the occupants of neighbouring properties in relation to noise and disturbance. The proposal is therefore in accordance with policies D3, D13 and D14 of the LonP and Policies DM 1 and DM 46 (criterion B part c) of the DMP, which require that new developments should not be detrimental to the residential amenity of neighbouring occupiers and avoid significant adverse noise impacts on health and quality of life.

Other Matters

20. Concerns have been raised regarding the legitimacy of the application, and subsequent appeal, based on the opinion that the partial change of use of the building is permitted development. However, as the proposal represents a material change of use from a dwelling to a sui generis use, planning permission is required in this instance.
21. The proposal includes parking provision within part of the rear garden as well as the front garden which would serve the participants at charity events, as well as occupants of the property. Given the limited number of attendees and access to public transport links in the area; the development would not result in an increased number of vehicular movements sufficient to give rise in a material increase in exhaust or noise pollution, or road safety risk.
22. The change of use would involve relatively minor alterations and any effects from construction would be short-term.
23. Concerns regarding the necessity of the proposed change of use is not a matter which would justify withholding permission.

Conditions

24. I have considered the conditions put forward by the Council and the appellant's comments on them. I have included those conditions, as well as additional conditions, that meet the tests set out at paragraph 56 of the Framework.

25. A condition relating to the timing of the commencement of development is necessary to comply with Section 92 of the Town and Country Planning Act 1990. Conditions are also needed to require the development to accord with the approved plans as the proposal has been assessed on those terms and in the interests of visual amenity.
26. Given that the description of the development lacks precision it is necessary to define the use as a Hindu faith based charity as described in the Design and Access Statement
27. In order to minimise any potential disturbance arising from the proposed change of use, it is necessary to impose a condition requiring the submission of a management plan which sets out the booking system of classes and groups held at the building and restrict the hours of operation.
28. A condition relating to the management of surface water run-off is required in the interests of road safety.

Conclusion

29. The proposal would conflict with the development plan but other considerations indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal, the appeal should be allowed.

C Livingstone

INSPECTOR

Schedule of 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:
 - PI Location Plan
 - 268-04-COU-A-01 Rev4
 - 268-04-COU-A-04 Rev4
 - 268-04-COU-A-05 Rev4,
 - 268-04-COU-A-06 Rev4
- 3) The approved use is restricted to a Hindu faith based charity on the ground floor and no other use.
- 4) Prior to the commencement of the approved use, a Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority which includes details of a booking system for classes, meeting or events held by the charity, including a maximum number of attendees. Thereafter the premises shall be operated in accordance with the measures set out in the approved Management Plan.

- 5) The use hereby permitted shall only take place between the following hours:
9am to 8pm Mondays - Fridays
10.30am to 3.30pm Saturdays – Sundays
- 6) Before the hard surfacing hereby permitted is brought into use the surfacing shall either be constructed from porous materials, for example, gravel, permeable block paving or porous asphalt, or provision shall be made to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the site.

**** END OF CONDIITONS ****