



Appeal Decision

Site visit made on 7 March 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/Z5060/W/23/3326863

69 Oval Road North, Dagenham RM10 9ET

- 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 Moinul Hoque Choudhury against the decision of the Council of the London Borough of Barking and Dagenham Council.
 - The application Ref is 23/00294/FULL.
 - The development proposed is change of use of the site from surgery Class E(e) to F1(f) place of worship and non-residential accommodation including relocation of a door from the side to the rear elevation and internal alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reasons for refusal refer to conflict with policies in the emerging London Borough of Barking and Dagenham Draft Local Plan 2037. While the Council has advised that the Draft Local Plan is at an advanced stage of preparation, I have limited information about unresolved objections to the plan and I cannot be reasonably certain that these relevant policies will not be modified or that they will be adopted. Paying regard to paragraph 48 of the National Planning Policy Framework, I have not given weight to the relevant policies.
3. The appellant submitted a Travel Plan¹, Transport Statement² and Events Management Plan³ with their final comments. The Council has confirmed that these documents were submitted with the planning application and were considered at the time of their decision. I have therefore taken them into account.

Main Issues

4. The main issues are:
 - whether the principle of the proposed development would be acceptable, having regard to the location of the appeal site and the loss of the existing use,
 - the effect of the proposal on the living conditions of neighbouring occupants, with regard to noise and disturbance,
 - the effect of the proposal on parking and highway safety; and,
 - whether the proposal would provide adequate cycle storage facilities.

¹ Travel Plan – 14th February 2023

² Transport Statement – 14th February 2023

³ Events Management Plan – Feb 2023

Reasons

Principle

5. 69 Oval Road North is a single storey building previously used as a doctor's surgery. The doctor's surgery is a community facility. Policy BC6 of the Borough Wide Development Policies Development Plan Document 2011 (the DPD) seeks to protect community facilities and sets out the criteria where the loss of a community facility will be permitted. This includes where the facility is no longer needed and there are no reasonable prospects of re-use by an alternative community use.
6. The appeal building has been vacant for some time which the Council does not dispute. Whilst Policy BC6 of the DPD refers to the marketing of the facility, this is to establish there are no reasonable prospects of re-use by an alternative community facility. The proposed use would provide religious services as well as other educational and social activities. Although the services available to the community from the doctor's surgery would be different to that of the proposed use, it would result in the re-use of the building for an alternative community use. I consider that marketing evidence would not be required given that the facility would be used by an alternative community use and the policy does not require justification for the alternative community use to be provided. The proposal would therefore not conflict with the aims of Policy BC6.
7. Part G of Policy S1 of the London Plan 2021 (the LP) states that redundant social infrastructure should be considered for full or partial use as other forms of social infrastructure. Given the faith and community nature of the proposed use, it would fall within the category of social infrastructure. This policy also refers to a needs assessment of social infrastructure, however, this is in relation to the preparation of Development Plans, as opposed to development proposals.
8. Policy CC2 of the Core Strategy 2010 (the CS) sets out that community facilities should be sustainable and accessible and lists several examples, one of which includes being located where they can be accessed on foot, bicycle or public transport, rather than only by car. There is a bus stop adjacent to the appeal site and even though the nearest train stations are about a 20-minute walk away, the site can be accessed by other modes of transport other than car.
9. Although the appeal site is within a residential area, the relevant development plan policies do not prohibit such community uses from residential settings. I also have no reason to dispute the intended proposed use of the building just because of its size. The proposed use would also benefit both the religious congregation and the wider community.
10. I therefore conclude that the principle of the proposed development would be acceptable, having regard to the location of the appeal site and it would not result in the loss of a community facility. Accordingly, the proposal complies with Policies GG1 and S1 of the LP, Policy CC2 of the CS and Policy BC6 of the DPD. Amongst other things, these policies require development to provide access to good quality community spaces and provide social infrastructure to maintain and improve community wellbeing.

Living conditions of neighbouring occupants

11. The appeal building is located at the end of a terrace row of houses and is directly adjoined to one of these houses. The surrounding area is residential in character.
12. The appellant has suggested opening hours of 11:00 – 00:00, which could be secured by planning condition. However, this would result in the proposal operating late into the evening when many neighbouring residents, particularly those directly adjoining the building would be at home. It is reasonable for residents to expect relief from noise and disturbance in the evening.
13. Although an events management plan has been provided, it provides limited details on how noise and disturbance through car doors, vehicle movements, and the conversations between people outside the building when either arriving or leaving late into the evening would be managed. The use and associated activity from the proposal would therefore be detrimental to the living conditions of the occupants of the nearby houses due to the proposed opening hours. These sporadic episodes of activity could not be controlled by planning condition without changes to the opening hours. Were a condition reducing the hours to earlier in the evening be imposed, I cannot be certain that this would meet the appellant's needs, so it would not be reasonable.
14. Even if there are no restrictions on the opening hours of the doctor's surgery, the potential effects are likely to be different from those of the proposal. The doctor's surgery is likely to have operated during hours when noise and disturbance from comings and goings are generally accepted, and background noise levels are usually higher. The proposal would have a greater likelihood of people visiting late in the evening, at weekends, and on bank holidays.
15. The doctor's surgery falls within the Use Class E category which covers a wide range of uses. However, I have not been provided with sufficient evidence to demonstrate that there is a greater than theoretical possibility of another Class E use being implemented or if any such interest has been shown in the building, nor that this would result in a similar level of harm in terms of noise and disturbance. Therefore, I have attributed this limited weight as a fallback position.
16. Noise mitigation measures such as sound insulation and restrictions on sound amplification equipment could be secured by planning condition. However, this would manage noise internally and would do little to address the external noise generated from the comings and goings late in the evening. This external noise through car doors banging, vehicle movements and conversations would also not be resolved by limiting the number of people within the building at one time.
17. For these reasons, I conclude that the proposal would cause adverse harm to the living conditions of the neighbouring occupants, with regard to noise and disturbance. Accordingly, the proposal conflicts with Policies D13 and D14 of the LP and Policies BP8, BD11 and BR13 of the DPD which amongst other things, require development proposals to manage and avoid significant adverse noise impacts to ensure occupiers are not exposed to unacceptable levels of general disturbance.

Parking and highway safety

18. The appeal site is located on a corner plot adjacent to a busy signal-controlled junction which is subject to parking restrictions. A controlled parking zone (CPZ) is

in operation and the on-street parking spaces are limited. There is no parking survey or other detailed evidence to indicate otherwise.

19. Although there is a bus stop nearby, the nearest train stations are about a 20-minute walk away which reflects why the site has a low Public Transport Accessibility Level score. Whilst the appellant intends to encourage the attendees to use more sustainable methods of travel, by encouraging car sharing and providing visitors with public transport details, the proposal would provide a range of services. It is therefore likely to attract various people, some of whom may have disabilities or mobility issues. The building would also open later into the evening when public transport options may not be as frequent. As such, the opportunities to minimise extensive car use from future visitors are more limited.
20. The Transport Statement forecasts that the proposal is expected to generate 21 vehicle trips each way with vehicles expected to be either dropping off or picking up visitors, or parking at the off-site car parks. Given the parking restrictions along the road, it is not clear where the dropping off and picking up would safely be accommodated. As Dagenham Dock Station Car Park appears to not be under the control of the appellant, it could not be relied upon to manage parking stress associated with the proposal. Beam Avenue is also within the CPZ with limited on-street parking provision.
21. As there would be no parking provided, the proposal would likely lead to some overspill car parking along the road and the surrounding roads. Any overspill parking would also be likely to be greater on festivals and other celebrations throughout the year when more visitors would be likely to attend the site. Even if 5% of people arrived by car as detailed in the Travel Plan, this would further erode the already limited parking capacity in the area. The proposal would therefore be likely to increase the competition for on-street parking spaces. Increased demand would result in undue parking pressure and consequent illegal or unsafe parking, which would be harmful to pedestrian and highway safety.
22. It has been suggested that marshals would be in attendance to ensure visitors are parking responsibly where the numbers of those attending are above the daily norm. However, I have no substantive evidence to demonstrate how this would be achieved and how this would be managed at times when fewer people are in attendance. I therefore give this limited weight as a means of mitigation.
23. The doctor's surgery would have generated some vehicle trips. However, the vehicle trips associated with a doctor's surgery are likely to be different from those associated with the proposal which would see groups of people arriving at the site at the same time throughout the day and into the evening. Whereas visitors to the doctor's surgery would have been likely to be staggered across the day. I am therefore unable to conclude that the proposal would result in a similar level of harm to the proposal in terms of the parking implications and pedestrian and highway safety. I have therefore attributed limited weight to this.
24. Whilst I have found that the appeal site can be accessed by modes of transport other than car and complies with Policy CC2 of the CS in this regard, this policy does not require consideration to be had on how the community facility would affect parking and highway safety. For the reasons given above, I conclude the proposal would give rise to increased on-street parking pressure and would cause harm to highway safety. Accordingly, it conflicts with Policy T6 of the LP and Policy BR9 of the DPD in relation to car parking and ensuring that on-street parking does

not inconvenience pedestrians. The aims of these policies are different to those of Policy CC2 of the CS.

25. I am unable to identify any conflict with Table 10.2 of the LP as it relates to minimum cycle parking standards and is not determinative in the context of this main issue.

Cycle storage

26. No cycle storage provision is proposed. However, this could be resolved by the imposition of a planning condition, if the appeal were to succeed as there is ample space around the perimeter of the building for cycle storage to be provided. Subject to a condition, I conclude that the proposal would provide adequate cycle storage facilities and would therefore comply with Policy T5 of the LP and Policies BR9 and BR11 of the DPD. Amongst other things, these policies require development to remove barriers to cycling and improve conditions for cyclists.

Conclusion

27. Although I have found that the principle of the development would be acceptable and the proposal could provide adequate cycle storage facilities, the proposal would cause harm to parking and highway safety and the living conditions of neighbouring occupants, with regard to noise and disturbance. It therefore conflicts with the development plan taken as a whole.
28. The proposal would provide a place of worship and education facilities for the Muslim community. It would also provide for the continuation of community facilities from the appeal site in circumstances where the building appears to have been vacant for some time. These are benefits of the proposal deserving of significant weight in the planning balance. The material considerations do not however indicate that the appeal should be decided other than in accordance with the development plan.
29. In reaching a view on this appeal, including attribution of weight to a use that would serve the Muslim community and that I see no reason why it could not be attended by women, the elderly and those who are pregnant or disabled, I have had due regard to the Public Sector Equality Duty set out under Section 149 of the Equality Act 2010, including the need to eliminate discrimination against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. However, for the reasons explained, dismissal of the appeal is both proportionate and necessary.
30. The appeal is therefore dismissed.

L Reid

INSPECTOR