



Appeal Decision

Site visit made on 4 November 2011

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 24 November 2011

Appeal Ref: APP/B5480/C/11/2155474

First floor, 13 Bridge Close, Romford, Essex RM7 0AU

- The appeal is made by Mr Oluyemi Adesiyan under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF488/08/RT & AP2207) issued by the Council of the London Borough of Havering on 12 May 2011.
- The breach of planning control alleged in the notice is "the material change of use of use [sic] of the said Land from Class B1 (offices) and Class B8 (storage and distribution) to a place of worship and assembly Class (D1)".
- The requirements of the notice are as follows: -
 - "1. Stop using the Land as a place of worship and assembly."
 - "2. Remove from the Land all equipment including seating, audio and amplified equipment and musical instruments associated with the unauthorised use."
 - "3. Restore the Land back to its authorised use for B1 (offices) and B8 (storage and distribution) use."
- The period for compliance with these requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g).

Decision

1. It is directed that the enforcement notice be corrected by (i) inserting "(first floor only)" after the postcode in paragraph 2 and (ii) deleting "of use" where it is included for the second time in paragraph 3.
2. Subject to these directions, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the use of the first floor of 13 Bridge Close, Romford, Essex RM7 0AU as a place of worship and assembly, subject to the following conditions: -
 1. The use of the premises as a place of worship and assembly shall cease on or before 31 December 2014.
 2. The use of the premises as a place of worship and assembly shall not take place other than between 1800 and 2300 hours on Mondays to Fridays inclusive, 1300 and 2300 hours on Saturdays and 0700 and 2300 on Sundays.
 3. If the shared parking spaces at the front, side and rear of the premises cease to be available for the parking of vehicles used by the occupiers of the premises and their visitors, the use of the premises as a place of worship and assembly shall cease within three months of the date on which the spaces ceased to be available.

4. If any of the six spaces at Unit 5, Bridge Close, or any of the thirty spaces in the Romford Homebase store car park cease to be available on Sundays for the parking of vehicles used by the congregation, the use of the premises as a place of worship and assembly on Sundays shall cease within three months of the date on which the spaces ceased to be available, until such time as an equivalent number of parking spaces has been provided elsewhere for the use of the congregation on Sundays in accordance with details that have been approved in writing by the local planning authority.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no doors, windows or other openings shall be constructed in the premises.
6. The rear windows of the premises shall be kept shut when the premises are being used as a place of worship and assembly.
7. Sound-amplification equipment shall not be operated within the premises so as to generate noise that is audible within any residential curtilage in Regarth Avenue.
8. Within three months of the date of a failure to comply with any of the requirements in (i) to (iii) below and within three months of the dismissal of the appeal made pursuant to (ii) below or of it ceasing to be a valid appeal, the use of the premises as a place of worship and assembly shall cease.
 - (i) Within one month of the date of this decision, full details of the following matters shall be submitted in writing to the local planning authority for their written approval: -
 - (a) The measures to be taken to adapt the premises so as to provide sound insulation against internally-generated noise, together with a timetable for the implementation of the measures.
 - (b) The measures to be taken to control the use of sound-amplification equipment, together with a timetable for the implementation of the measures.
 - (c) The means of storage of refuse and recycling containers, together with a timetable for the implementation of the proposals.
 - (d) The means of storage of cycles, together with a timetable for the implementation of the proposals.
 - (ii) Within nine months of the date of this decision a valid appeal shall be made to the Secretary of State if the local planning authority have not given written approval to all the details submitted pursuant to (i) above or have failed to give notice of their decision within the prescribed period.

- (iii) All matters comprised in the approved details shall be completed and retained as approved and in accordance with the approved timetables.

Reasons for the decision

Correction of the notice

3. I have corrected the notice because the description of the premises should be limited to the part of the building where the breach of planning control has occurred, which is the first floor only. I have also corrected the drafting error.
4. I have not altered the description of the previous use of the premises in the notice, since information now available indicates that both parties were under a misunderstanding about the dance studio and that the description of the previous use is correct.

Ground (a)

5. The main issues in assessing whether planning permission should be granted for the use of the premises as a place of worship and assembly are (a) the effect of granting permission on the objectives of the Romford Area Action Plan, (b) whether the use would be detrimental to pedestrian or highway safety and (c) whether nearby residents would be likely to be disturbed by noise.
6. The Action Plan identifies the Bridge Close employment area as a site suitable for residential redevelopment with some commercial uses, and a site in single ownership is being assembled for redevelopment. In view of the likely timescale for the implementation of this proposal, the Council consider that granting temporary planning permissions can be appropriate in this area. The appellant has stated that a three-year permission would be acceptable and the Council have indicated that they would want the permission to be limited to three years if the appeal were allowed. This would allow the future use of the premises to be kept under review in the light of the redevelopment proposals.
7. Policy CP8 of the Havering Core Strategy and Development Control Policies Development Plan Document (DPD) seeks to ensure that a range of community facilities is provided to meet demand and that they are in accessible locations. Policy DC26 of the DPD deals with the location of community facilities and identifies Romford as a preferred location. It indicates that community facilities should only be located where they are accessible by a range of transport modes and any on-street parking can be accommodated without detriment to pedestrian and highway safety, and that they should not significantly harm residential amenity. (It also states that, where practicable, they should be provided in buildings that are multi-use, flexible and adaptable, but this is not a concern that has been raised in relation to 13 Bridge Close.)
8. The premises are close to the centre of Romford and are highly accessible by a range of transport modes. They have been used as a place of worship since 2008. The Council have not supplied me with any information which shows that this has caused on-street parking problems: their case is based on the likelihood of this occurring, and this was the reason why the appeal against the

refusal of planning permission to use the premises as a place of worship was dismissed in 2010 (ref: APP/B5480/A/10/2121533).

9. Policies CP8 and DC26 do not require community facilities to have off-street parking spaces and the parking standards referred to in DPD Policy DC33 do not refer to places of worship. The DPD parking standard for church halls is a maximum of one space per 4m² and for places of assembly it is a maximum of one space per six seats. The Council indicate that, after taking into account the size, location and accessibility of the premises, at least thirty to thirty-five parking spaces should be provided.
10. There are about ten parking spaces at the front of the premises and several more at the side and rear. These spaces are shared with the gym on the ground floor. Agreements have been made that allow the congregation, on Sundays only, to use six spaces at Unit 5 and thirty spaces in the nearby Homebase store car park.
11. As long as these agreements are kept in place, or replaced if necessary by other acceptable arrangements for parking spaces, the Council's requirement for at least thirty to thirty-five parking spaces will be satisfied on Sundays, and I would not expect Sunday services to result in on-street parking detrimental to pedestrian or highway safety. The premises are also used for evening bible lectures and prayer meetings without, it appears, causing parking problems – the numbers attending being lower than on Sundays. However, if services were held on days other than Sundays, it is possible that there would not be enough parking spaces available and that on-street parking would occur.
12. I turn now to the third main issue – whether nearby residents would be likely to be disturbed by noise. The rear of the premises is near to houses in Regarth Avenue and a footbridge provides pedestrian access here between the Avenue and Bridge Close. The level of background noise is not particularly high here. The Council state that residents have been disturbed by the amplified sound of musical instruments and voices emanating from the premises in the late evening and early morning, and this has been confirmed by an email received from a resident. I noted at my visit that music was being played in the gym, with the rear windows open, and the resident confirms that this has been audible, but only up to 2100 hours.
13. DPD Policy DC55 states that planning permission will not be granted if it will result in residents being exposed to unacceptable noise levels and Policy DC61 indicates that development must not result in unreasonable adverse effects on the environment by reason of noise impact and hours of operation. These policies would be complied with if noise from within the premises was kept to a level where it was not audible at residential premises and the hours of use were limited to prevent the noise of people and vehicles outside the premises causing a disturbance at unsociable hours.
14. I have carefully considered the issues that arise in the appeal. The objective of Policy CP8 is to ensure that a range of community facilities is provided to meet demand and that they are in accessible locations. The use of the premises as a place of worship and assembly accords with that objective and the premises are highly accessible, and in a preferred location identified by Policy DC26. Different circumstances pertained when a similar proposal relating to 1 Bridge

Close was rejected on appeal in 2009 (ref: APP/B5480/A/09/2105463) and when the 2010 appeal referred to above was dismissed. In the former, a temporary permission was found to be inappropriate at that time and only six off-street parking spaces were available; in the latter, the off-street parking spaces then available were significantly less than the Council's requirement; and Policies CP8 and DC26 were not referred to in either of the decisions.

15. Permission should therefore be granted, in my opinion, if planning conditions can deal satisfactorily with the concerns that have arisen about the use of the premises as a place of worship and assembly. There would be some uncertainty about the sufficiency of parking spaces if the premises were used more intensively on weekdays and Saturdays than they are at present. On balance, I consider that this matter can be dealt with by limiting the hours of use on weekdays and Saturdays to the times when the demand for parking spaces arising from other activities in the area would be low. A range of conditions can deal with the remaining concerns. I have taken account of the representations received about the sewerage system, but it seems unlikely that the volume of sewage will be significantly different from the amount that could be discharged if the premises were fully used for employment purposes.
16. I have therefore decided to allow the appeal and to grant planning permission subject to the range of conditions set out in paragraph 2 above. The reasons for these conditions are as follows – 1 to allow the future use of the premises to be kept under review in the light of the redevelopment proposals; 2 to protect residential amenities and to maintain pedestrian and highway safety; 3 & 4 to maintain pedestrian and highway safety; 5, 6 & 7 to protect residential amenities; and 8 to protect residential amenities and ensure that satisfactory provision is made for the storage of refuse and recycling containers and cycles.
17. These conditions do not incorporate all the conditions suggested by the Council in the event of the appeal being allowed, and revise some of the suggestions. I have not required the restoration of the premises to their former condition on the expiry of the permission, in view of the redevelopment proposals. The use has not been limited to a place of worship with associated prayer/education facilities, because I am not satisfied that other uses within Class D1 would be unacceptable. Plans, etc, have not been referred to because there are none, this being an enforcement appeal. I have restricted the hours of use more than has been suggested, for the reason given in paragraph 15 above. Additional conditions have been imposed to protect residential amenities. A limit on the number of people who could be present in the premises at any time has not been imposed, because its enforcement would require excessive supervision by the Council. I have not required a transport scheme to be submitted for approval, since the proposals comply with Policy CP8 and DC26.
18. The appeal has succeeded on ground (a) and permission has been granted.

Grounds (f) and (g)

19. As a result of the success of the appeal on ground (a), the notice has been quashed. Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR