
Appeal Decision

Hearing held on 11 September 2013

Site visit made on 11 September 2013

by Beverley Doward BSc BTP MRTPI

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

Decision date: 13 November 2013

Appeal Ref: APP/N5090/A/13/2197940
56A Crewys Road, London NW2 2AD

- 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 Mr Stanley Stimler (Loudwater Trade and Finance Ltd) against the decision of the Council of the London Borough of Barnet.
 - The application Ref F/00272/13, dated 21 January 2013, was refused by notice dated 8 May 2013.
 - The application sought planning permission for an extension to roof including alteration to roof height and insertion of rooflights to facilitate a loft conversion and create additional office space without complying with a condition attached to planning permission Ref F/04036/11, dated 8 November 2011.
 - The condition in dispute is No 8 which states that: "The premises as extended (including the ground floor at 56A Crewys Road) shall be occupied by a maximum of sixteen employees only unless previously approved in writing by the Local Planning Authority."
 - The reason given for the condition is: "To safeguard the amenities of occupiers of surrounding residential properties."
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Decision

1. The appeal is allowed and planning permission is granted for an extension to roof including alteration to roof height and insertion of rooflights to facilitate a loft conversion and create additional office space at 56A Crewys Road, London NW2 2AD in accordance with the application Ref F/00272/13, dated 21 January 2013, without compliance with condition number 8 previously imposed on planning permission Ref F/04036/11 dated 8 November 2011 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Application for costs

2. An application for costs was made at the hearing by Mr Stanley Stimler (Loudwater Trade and Finance Ltd) against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Procedural Matters

3. At the hearing the Council explained that the condition in dispute had been recommended for inclusion by its Officers in an addendum to the report of the Assistant Director of Planning and Development Management at the meeting of

the West Area Planning Sub-Committee on 8 November 2011 and not, as indicated in the documentation, added by members at the meeting in order to address concerns raised by residents. The reason for the original omission on the Officer's report was not known. A copy of the addendum was provided.

4. The extension to the roof to facilitate a loft conversion and create additional office space is partially complete and the business has temporarily relocated during the construction process.

Background and Main Issue

5. The appeal premises are used as offices and comprise one of a small agglomeration of commercial premises situated between Nos 52 and 60 Crewys Road, a densely developed residential street of predominantly terraced properties which do not have off-street parking spaces.
6. Planning permission was granted in June 2003 to convert Nos 56-58 Crewys Road into four separate Class B1 units. The permission did not restrict the number of employees that could occupy the individual units but did include a condition that restricted the hours of use. Based on a simple floorspace/employee ratio the ground floor of No 56A would have been capable of accommodating in excess of 40 employees.
7. In granting planning permission for the extension to the roof to facilitate a loft conversion and create additional office space at No 56A the Council considered it necessary, in order to safeguard the amenities of occupiers of surrounding residential properties, to impose the condition in dispute. The condition sought to restrict the number of employees that could occupy the premises as extended (including the ground floor at 56A Crewys Road) to a maximum of 16, which was the figure indicated on the application form as the proposed number of employees.
8. The permission was also subject to other conditions. These included a condition to restrict the use of the premises to offices and no other purposes (including any other purpose in Class B1) in order to safeguard the amenities of the area and a condition to restrict the hours of use within the additional office space to the same as those applied to the rest of the premises in order to safeguard the amenities of occupiers of adjoining residential properties.
9. At the hearing the appellant explained that prior to the application for the extension to create additional office space the appeal premises had been occupied by about 18 people. The appellant and his employees accounted for 10 of these and the remainder were employed by other businesses which at that time occupied the building on a sub lease arrangement. Since the planning permission was granted the appellant's business has expanded and he is looking to increase the workforce generally. He has also acquired two additional businesses which he wishes to relocate to the appeal premises. The appellant is now looking to employ more than the 16 people referred to on the planning application at the premises and accordingly seeks to vary the condition in dispute.
10. The concerns of the Council and local residents focus upon the potential for an increase in the number of employees occupying the appeal premises to lead to a greater intensity of activity which, when taken cumulatively with the other commercial uses in Crewys Road, would materially add to noise and

disturbance in the area to the detriment of the living conditions of neighbouring residents. Therefore, having regard to all that I have read and the discussion at the hearing I consider the main issue in this case to be whether the condition is necessary in the interests of the living conditions of neighbouring residents in relation to noise and disturbance and having regard to the tests and advice within Circular 11/95¹.

Reasons

11. No residential properties abut the appeal property, the premises either side being commercial premises which are also currently in use as offices. Therefore, no residential properties would be affected by any greater internal activity which may result from an increase in the number of employees. Consequently, the only effect on neighbouring residents would be from activity taking place within the street.
12. I note the evidence of the appellant that the majority of his employees would be from the local area and that those which were not would be likely to use public transport. Nevertheless, I appreciate that an increase in the number of employees may result in an increase, either now or at some time in the future, in the number who would seek to use their vehicles to travel to work. This being the case however, the appeal premises is located within a controlled parking zone (CPZ), where all day kerbside parking on weekdays is prevented by parking between the hours of 11am-12 noon being restricted to resident permit holders only. Whilst some employees may move their vehicle elsewhere during the restricted period, it would seem to me that, given the extent of the CPZ, it would more likely serve to discourage employees from parking in Crewys Road and nearby residential streets and encourage them to use alternative modes of transport. Therefore, I consider that any increase in noise and disturbance generated by additional vehicle movements in this respect would be somewhat limited.
13. Deliveries to and from the site would be limited in number and frequency and would comprise only those appropriate to its use as an office such as documents. Consequently, their impact on the neighbouring residents by way of noise and disturbance would be minimal. Although the size of each collection or delivery might be directly proportionate to the number of employees, it would seem to me that their number or frequency would not increase in proportion.
14. In relation to the concerns of local residents regarding the disturbance caused by employees of the commercial premises in Crewys Road conducting business on their mobile phones and congregating outside during work breaks, there is no conclusive evidence that this specifically relates to the appeal premises and it would be for the management or future management of the premises to control such activities by their employees.
15. By definition a Class B1 use can be carried out within any residential area without detriment to the amenity of that area². I appreciate that the Council in considering proposals for the expansion of existing B1 uses may seek to take the opportunity to ensure that any issues that have arisen previously in relation to the impact of such a use on neighbouring residents are mitigated in the

¹ Circular 11/95 – The Use of Planning Conditions in Planning Permissions

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

future. However, in this particular case I consider that the activity caused by the general comings and goings of employees would not materially add to noise and disturbance in the area such as to harm the living conditions of neighbouring residents. In any event, in my view the other conditions imposed on the planning permission that restrict the use of the premises to Class B1 (a) Offices and restrict its hours of operation would more appropriately safeguard the living conditions of neighbouring residents than the condition in dispute. With this in mind and taking into account my findings above, I consider that the condition in dispute or any variation which seeks to restrict the number of employees occupying the premises is not necessary in the interests of the living conditions of neighbouring residents in relation to noise and disturbance.

16. To conclude therefore, the condition in dispute is not necessary and accordingly would not meet the tests of Circular 11/95. The proposal would comply with policy DM04 of Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012, in so far as it relates to proposals likely to generate unacceptable noise levels close to noise sensitive uses, without the condition in dispute or any variation thereof.

Other matters

17. Local residents contend that an increase in the number of employees at the premises would create parking difficulties and increase vehicle movements to such an extent as to be detrimental to pedestrian and highway safety and cause harm to the residential character of the area. The Council confirmed at the hearing that it considered that the proposal to provide additional office space at the premises would be unlikely to have any significant additional impact on the public highway and is therefore considered acceptable on highway grounds. Furthermore, no substantive evidence was provided at the hearing to support the claims of local residents in relation to pedestrian and highway safety. Accordingly, I am satisfied that any additional parking demand or vehicle movements that might be generated by an increase in employees would be unlikely to cause material harm to highway safety or the residential character of the area.
18. It is for the Council to ensure that the use is operated on the basis as authorised and, if necessary, to take enforcement action against any breach of planning control with regard to the hours of operation of the business. Furthermore, any future development proposals to extend the commercial premises on Crewys Road would stand to be considered on their own merits.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed. I will vary the planning permission by removing the disputed condition.

Beverley Doward

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Alvin Ormonde	Planning & Project Management Services
Mr Stanley Stimler	Appellant
Mr Alun Alesbury	Counsel

FOR THE LOCAL PLANNING AUTHORITY:

Mr Clive Townsend	Principal Planner – Appeals/Enforcement team
Cllr Jack Cohen	Ward Councillor and member of Planning Sub Committee

INTERESTED PERSONS:

Mr David Mackenzie	Local Resident
Mr Andrew Sanger	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Notification letter.
- 2 Appellant's comments on third party correspondence submitted in response to the appeal.
- 3 West Area Planning Sub-Committee 8 November 2011 - Addendum to Assistant Director of Planning & Development Management's Report.