

Appeal Decision

Site visit made on 19 September 2016

by J L Cheesley BA(Hons) DIPTP MRTPI

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

Decision date: 22 September 2016

Appeal Ref: APP/U5930/W/16/3153876

286 Hoe Street, Walthamstow, London E17 9QD

- 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 Choudhary Mohammed Waqar, Top Cars and Executive Cars against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 160613 dated 11 February 2016 was refused by notice dated 8 April 2016.
 - The development proposed is change of use from hot food takeaway to minicab office.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be:

the effect of the proposal on the living conditions of occupiers of nearby residential properties, with particular reference to noise and disturbance; and

the effect of the proposal on highway safety.

Reasons

Living Conditions

3. The proposal is for a minicab office that would be open 24 hours a day. Whilst the appellant has stated that passengers would not be picked up from the office, it is clear from the plans that there would be a waiting room. Therefore, whatever the booking arrangements, it would not be possible to enforce against passengers being picked up from the premises.
 4. The appeal property is the ground floor commercial premises and has residential accommodation above. There is further residential accommodation above adjacent commercial premises in this terrace. The appeal premises is situated on the corner of Priory Avenue, which is a primarily residential road.
 5. The appeal premises is situated in a commercial area on a busy principal road and I consider it reasonable to assume that residents already experience a high level of noise and disturbance. Nevertheless, due to the unlimited opening hours and general comings and goings from the site, together with the
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potential for cars to pick up passengers at any time from at or near the premises, I consider that nearby residents would experience an unacceptable additional level of localised noise and disturbance.

6. For the above reasons, and having taken into consideration all matters raised, I conclude on this matter that the proposal would have an adverse effect on the living conditions of nearby residents. Thus, the proposal would be contrary to Policy CS13 in the Waltham Forest Local Plan Core Strategy (2012) and Policy DM27 in the Waltham Forest Local Plan Development Management Policies (2013), where they seek to ensure that night time economy users protect residential amenity.

Highway Safety

7. The appeal premises are situated on the A112, which is a principal road. I note the creation of a 'mini Holland' encouraging cycling in the area. The adjacent traffic island, double yellow lines, pedestrian crossing and controlled parking clearly makes this an area of parking stress. In my opinion, any possibility that passengers would be picked up at or near the appeal premises would significantly adversely affect highway safety at this location. I realise that satellite parking is provided elsewhere and I note that taxi booking technology would be used. However, as mentioned above, the possibility of passengers being picked up near or outside the premises cannot be ruled out.
8. For the above reasons, and having taken into consideration all matters raised, I conclude on this matter that the proposal would have an adverse effect on highway safety. Thus, the proposal would be contrary to Core Strategy Policy CS7, where it seeks to ensure highway safety.

Conclusion

9. I have found that the proposal would have an adverse effect on the living conditions of nearby residents and on highway safety.
10. The appellant has stated that the existing business would be relocated to the appeal premises and has suggested that temporary consent is granted for a six month period. In the light of the harm I have identified above, these matters would not overcome my concerns and therefore would not justify allowing the appeal.
11. I note that the appellant has stated that the existing business and his family would suffer if the proposal were to be dismissed. These are material considerations which I have taken into account. I have little evidence to convince me that such a town centre location is required. Therefore, it is reasonable to assume that if the existing business needs to move to new premises, there may be a number of other possible locations elsewhere. For these reasons, I do not consider the business and personal circumstances outweigh the harm I have identified above and by dismissing this appeal it would not result in a violation of the appellant's or his family's rights under Article 8 of the European Convention on Human Rights.

J L Cheesley

INSPECTOR