

Appeal Decision

Site visit made on 2 November 2016

by George Mapson DipTP DipLD MRTPI

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

Decision date: 9 December 2016

Appeal Ref: APP/G5750/C/16/3145999
Rear of 826 Romford Road, London, E12 5JP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Salimbhai Patel against an enforcement notice issued by the Council of the London Borough of Newham.
 - The Council's references are 15/00651/ENFC and 16/00079/ENFNOT.
 - The notice was issued on 19 February 2016.
 - The breach of planning control as alleged in the notice is: *"Without planning permission the material change of use to a car body spray and repairs workshop."*
 - The requirements of the notice are: *"1. Cease the use of the land as a car body and repairs workshop. 2. Remove from the land all signage, tools, tyres and vehicle parts associated with the use as a car body spray and repairs workshop."*
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

The appeal site and surroundings

2. Romford Road is the busy A118 main road. In the vicinity of the appeal property, it is flanked by 2 and 3-storey terraced properties with retail and commercial uses on the ground floor and residential accommodation above. No. 826 is a 2-storey mid-terrace building, the ground floor of which is used as a letting agent's office.
3. The appeal relates to the ground floor use of a 2-storey outbuilding ("the appeal building") that stands on what would formerly have been the rear garden or yard of No. 826. The main entrance to this outbuilding faces a single vehicle-width access road which meets Eighth Avenue close its junction with Romford Road.
4. I saw that other 2-storey extensions or outbuildings have been erected on the former rear gardens or yards of other properties in this terrace. It appeared to me that some of the ground floor uses to which they are put are unrelated to the retail or commercial uses that are carried out in the main building.

The use of the ground floor of the appeal building

5. The ground floor of the appeal building is used as a car body spray and repairs workshop. When I visited the building two people were working within it, on a car that was parked close to the open doorway that faces the access road. The Council's photograph of 14 October 2015 shows that the building can accommodate 2 vehicles, one behind the other.
6. Within the building, along one side wall, I saw a workbench, shelves and tool racks. Along the other side wall there were a series of storage cupboards/lockers and a sink with cupboards below. The rear of the building was set out as an office with a desk, three chairs and a settee. The rear wall of the appeal building contained an open door with barred windows on either side.

Vehicle-related businesses in the locality

7. There are other vehicle-related businesses in the vicinity of the appeal building. No. 822 Romford Road, which is located at the junction of Romford Road and Eighth Avenue, is occupied by 'London Tyres'. According to its fascia sign, the business supplies and fits tyres, brakes, exhausts and carries out servicing. There is a single-storey extension at the rear of No. 822, which faces Eighth Avenue and appears to be used as the company's fitting bay.
8. To the rear of No. 830 Romford Road, at the end of the access road that also serves the appeal building, a company called 'Auto Master' operates a vehicle maintenance and repair businesses on the ground floor of a 2-storey extension or outbuilding. On Eighth Avenue, straddling the entrance to the access road, is a high level sign board which advertises the presence of this business.

The appeal on ground (a) and the deemed planning application

9. An appeal on ground (a) is that planning permission should be granted for the matters alleged in the enforcement notice.

Main issues

10. The main issues are the effects of the use on firstly, the living conditions of occupiers of nearby dwellings; and secondly, the safety of road users and pedestrians.

National and local planning policy

11. The National Planning Policy Framework [NPPF] maintains the statutory status of the development plan as the starting point for decision making. It states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise¹.
12. An objective of the NPPF is to secure sustainable economic growth in order to create jobs and prosperity, whilst recognising the need to secure a good standard of amenity for all existing and future occupants of land and buildings.
13. The development plan policies that the Council has cited as relevant to this appeal are set out in the London Plan (2016); the adopted Newham Core Strategy [CS] (2012); and the 'saved' policies of the Council's Unitary Development Plan [UDP] (adopted in 2001 and saved in 2007).

¹ This statement reflects the statutory duty imposed by section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, except that in the Acts "must (be made in accordance)" is used in place of "should".

14. Of particular relevance are CS policy SP3 (*'Quality urban design within places'*) and 'saved' UDP policies EQ45 (*'Pollution'*) and T14 (*'Design to minimise road accidents in new development'*).
15. Some key objectives of local and national planning policies are to ensure that proposals for any new development would not cause harm to the living conditions of occupiers of neighbouring properties, in terms of noise and disturbance and other 'bad neighbour' effects; and would not give rise to traffic congestion or have an adverse effect on the safety of road users and pedestrians.

Reasons and conclusions

Issue 1 – the effect on the living conditions of occupiers of nearby dwellings

16. Core Strategy policy SP3 draws attention to the need for development proposals to avoid problems associated with 'bad neighbour' uses. 'Saved' UDP policy EQ45 states that planning permission for any development, including a change of use, will be resisted where it would involve unacceptable levels of generation beyond the boundary of the site of, amongst other things, noise, vibration, smell, fumes or vehicular traffic.
17. There are many residential properties in close proximity to the appeal building. The use of land and buildings for car body spraying and repairs is a general industrial use; one that is usually regarded as unsuitable in an area that contains a number of residential properties nearby. This is because such uses can give rise to high levels of noise and vibration from the operation of mechanical and electrical machinery as part of the maintenance and repair process, and the emission of smells, fumes and dust from the bodywork repair and paint spraying processes.
18. Dealing first with noise and disturbance, the appellant's business would be dependent for its success on the regular delivery and collection of customers' vehicles travelling along the rear access road. Each of those vehicles must be manoeuvred into and out of the appeal building. This has the potential to cause noise and disturbance from the revving of engines, closing of car doors and the general hubbub of conversation between customers and staff, some of which is likely to take place in the service yard.
19. Turning next to smells and fumes, these can arise not only from the vehicles' exhaust emissions, but also from the materials used in bodywork repairs and the paint spraying process. Dust can arise from sanding down cellulosic fillers.
20. The chemical smells and dust arising from these processes can be emitted from the building into the surrounding area. This can occur when doors and windows of the workshop are kept open during operating hours. This tends to be the practice of such uses, in order to adequately ventilate the workplace. Smells, fumes and dust, once emitted, can linger in the air and are likely to be detectable by residents within their homes.
21. For these reasons, I conclude on the first main issue that the unauthorised use has the potential to cause significant harm to the living conditions of occupiers of nearby dwellings. As such, it conflicts with the aims of local and national planning policies, particularly CS policy SP3 and UDP policy EQ45.
22. I recognise that the appeal building is not the only one at the rear of this terrace that is being used for vehicle repairs and maintenance. I am not aware of the planning status of other such uses in the locality but in any event, given the potential harm that such uses can cause, it does not follow that a proliferation of these uses in the vicinity of people's homes should be accepted. It is an established planning principle that each case is considered on its own merits and determined in accordance with the development plan and national planning guidance.

Issue 2 - the effect on the safety of road users and pedestrians

23. 'Saved' UDP policy T14 states that the Council will require all development involving access/egress onto a public highway to be designed so as to minimise the possibility of road accidents.
24. The access road that serves the appeal building is narrow and has no passing or turning space. Although vehicles that are brought to the appeal building could be reversed into it, thus enabling it to leave the building in a forward gear, that arrangement assumes that the access road is sufficiently clear of other vehicles to enable such a manoeuvre to take place.
25. I saw that vehicles are parked or stored on parts of the access road which could restrict the ease of movement. Consequently, there is a likelihood that some vehicles that drive into the access road will have to reverse out of it into Eighth Avenue. Given the proximity of the access to the tyre fitting bay behind No. 822 Romford Road, these vehicular movements have the potential to cause road accidents and pose a threat to the safety of road users and pedestrians.
26. Furthermore, for customers of the appellant's business, there is no parking provision for their vehicles other than within the building itself. The unauthorised use is therefore likely to increase the demand for the limited on-street parking space on Eighth Avenue, close to the entrance to the access road. This could add to the congestion that already occurs close to the junction of Eighth Avenue and Romford Road and could result in indiscriminate parking and obstructions which would have adverse implications for highway safety.
27. I conclude on the second main issue that the unauthorised use has the potential to prejudice the safety of road users and pedestrians. As such, it conflicts with the aims of local and national planning policies, particularly UDP policy EQ45 and T14.

Conclusions

28. I have taken account of my observations at the site and all the matters raised in the written representations.
29. I note the appellant's argument that the unauthorised use provides employment for two people and that, in terms of the comings and goings of vehicles, represents an improvement on the previous use of the building for storage. I acknowledge that the unauthorised use assists with increasing employment in the area and makes a contribution towards economic growth.
30. However, the building lies outside the Council's designated preferred industrial locations and its use for vehicle repairs and respraying is unacceptable given the close proximity of residential properties. The benefits cited by the appellant do not outweigh the harm that I have identified and no conditions would overcome the clear planning objections to this use.
31. For the reasons given above I conclude that the appeal should not succeed. I uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

George Mapson

INSPECTOR