
Appeal Decision

Site visit made on 18 January 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 22nd February 2017

Appeal Ref: APP/W5780/W/16/3158654

41 Cherry Tree Rise, Buckhurst Hill, Essex IG9 6E2

- 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 Mr John Murray against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0433/16, dated 24 January 2016, was refused by notice dated 22 April 2016.
 - The development proposed is the part conversion of existing garage to retail outlet with A3 use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are the effect on the living conditions of the occupiers of No 1 Station Approach in relation to noise and disturbance, and the effect of the proposal on the vitality and viability of the hierarchy of town centres in the Borough.

Reasons

Living conditions

3. The nearest residential property to the appeal site is No 1 Station Approach, a detached property to the north of the garage. That property abuts the pedestrian ramped access to the Roding Valley Underground Station. As the rear elevation has no windows, the main outlook is from the living room windows in the southern elevation, directly overlooking the appeal property.
 4. The unit is proposed to open from 0600 hours, and given its small size, customers would need to wait outside to be served. The close proximity of the unit, less than 3 metres from the living room windows of No 1, means that there is likely to be noise and disturbance from customers, including early in the morning, to the detriment of the living conditions of the occupiers of that dwelling. This is likely to be exacerbated by noise generated during deliveries and refuse collection.
 5. For these reasons I conclude that the proposal would cause material harm to the living conditions of neighbouring occupiers, by reason of noise and disturbance. It would be contrary to Policy 2.15 of the London Plan, Policy CS3 of the Core Strategy (2008) and Policy BD1 of the Borough Wide Policies (BWP)
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DPD (2008), insofar as they require all development to be compatible with and contribute to the distinctive character and amenity of the area in which it is located and for there to be no significant adverse impact on amenity, including in relation to noise.

Vitality and Viability

6. No 41 Cherry Tree Drive is located at the corner of Cherry Tree Drive and Station Approach. The appeal site comprises a detached garage with a roller shutter door at the rear of No 41 Cherry Tree Drive, sited close to the Roding Valley London Underground Station. The main entrance to the station, including the ticket office is on the northern side of the line. The immediate area is predominantly residential in character, although JP Aero Engineering Ltd is situated in a two storey detached building on the eastern side of Station Approach. There is a short parade of shops on either side of the slip road to the main station entrance, including a newsagent and convenience store, and a small parade of commercial properties on Station Parade.
7. The appeal site is not located within a designated centre. BWP Policy R2 states that planning permission for new retail development outside designated centres will only be granted if there is a need for the development and there would be no adverse impact on the vitality and viability of any nearby centre, and if a sequential approach has been appropriately applied. Further to the above, paragraph 6.3.2 of the BWP states that outside main centres retail may be appropriate where it serves the day to day needs of local communities, and that the size and scale of proposals will also be important when considering the impact on existing provision and on the highway network.
8. The proposal would result in the conversion of part of the garage fronting Station Approach, and would have a floorspace of approximately 8 square metres. A sequential test has not been applied by the appellant, and the Council considers that there could be other locations that could satisfy the need for the retail use. Nevertheless, given the relatively small floorspace of the unit and its proposed location, it is only likely to attract passing trade from passengers using the nearby underground station, or those living in the immediate vicinity, and there is no retail unit within the station itself. As such, other locations would not satisfy the need for the proposal. I also note that the planning officer report confirms the site is not near to a Metropolitan, District or Local Centre, and that the Council considers the vitality and viability of any nearby centre would not be harmed by the proposal.
9. Taking all of the above into account, I conclude that the proposal would not cause harm to the vitality and viability of designated town centres. It would therefore accord with Policies 2.15 and 2.16 of the London Plan (2016), BWP Policy R2 and CS Policy SP3, which, amongst other things require planning decisions to sustain and enhance the vitality and viability of town and local centres.

Conclusion

10. I have found that the proposal would not harm the vitality and viability of the hierarchy of town centres in the Borough. Nevertheless, the harm to the living conditions of the occupiers of No 1 Station Approach, by reason of noise and disturbance is decisive.

11. For the reasons set out above I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR