
Appeal Decision

Site visit made on 14 June 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 28 June 2017

Appeal Ref: APP/H5960/W/17/3171867

89 Mitcham Road, Tooting, London SW17 9PD

- 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 Taj Daar-e-Madina Ltd against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2016/6113, dated 14 October 2016, was refused by notice dated 30 January 2017.
 - The development proposed is change of use from retail to educational and cultural centre.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from retail to educational and cultural centre at 89 Mitcham Road, Tooting, London SW17 9PD in accordance with the terms of the application Ref 2016/6113, dated 14 October 2016, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; 7TPR/004; 7TPR/008.
 - 3) The use hereby permitted shall not operate outside the hours of 10.00 to 22.00 on Mondays to Saturdays inclusive and 10.00 to 20.00 on Sundays and bank and other public holidays.
 - 4) No more than 39 people shall attend the centre hereby permitted at any one time.

Main Issue

2. The main issue is the effect of the proposal on the vitality and viability of the secondary shopping frontage.

Reasons

3. Permission is sought for the change of use of the appeal site at 89 Mitcham Road from the existing A1 retail use to an educational and cultural centre, which would be a D1 use.
 4. Policy DMST 4 of the Wandsworth Local Plan Development Management Policies Document (DMPD, March 2016) states that proposals involving ground floor
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units in identified Secondary Shopping Frontages (SSFs) will be permitted if a minimum of 50% of units would remain in A1 use.

5. The Council's Retail Survey of 2014 has identified 35 units within the SSF. The survey indicated that 24 of the units were in A1 use, equating to 71%. A more recent count by the Council has shown that 25 units are now in A1 use. The proposal would therefore maintain the required 50% target by a significant margin. The shopfront would also be retained, and so criteria (a) and (c) of DMPD Policy DMST 4 would be satisfied.
6. Criteria (b) of DMPD Policy DMST 4 requires that the proposed use should be an appropriate A class use complementary to the secondary shopping function and should contribute to vitality and viability. As a D1 use is proposed, the development would conflict with that element of the policy.
7. However, the appellant intends that the premises would offer community service programmes, religious activities and meditation classes aimed at a wide range of participants. It is proposed that the centre would cater for up to 35 students and 4 staff between the hours of 10am and 10pm. In my view, the operation of the facility would thus bring people from the local area to the shopping parade on a regular basis. It is highly likely that they would also make use of the shops and other services in the vicinity, and thereby assist with maintaining the vitality and viability of the SSF.
8. Therefore, I am satisfied that, whilst the development would not be an A class use, it would nonetheless complement and support the other uses within the SSF. I have also had regard to the significant number of representations that have been received in support of the proposed centre. These would suggest that there would be interest in the facilities offered, which would in turn assist in supporting the nearby shops and businesses.
9. Drawing these factors together, I conclude that the proposed use would be acceptable in terms of its impact on the vitality and viability of the secondary shopping frontage, and that there would be no material conflict with the objectives of DMPD Policy DMST 4, or with DMPD Policy DMST 1, which sets out general development principles.
10. In their reason for refusal, the Council additionally refers to Policy PL8 of the Core Strategy (2016). However, this policy is not listed in the Relevant Planning Policies section of the planning officer's report, and no assessment of the proposal is carried out against it. I therefore conclude that DMPD Policies DMST 1 and DMST 4 are the most relevant to my consideration of the main issue.

Conditions

11. I note that the Council has not suggested any planning conditions were I to allow the appeal. For certainty, it is necessary that the development is carried out in accordance with the approved plans.
12. In addition, to safeguard the living conditions of nearby occupants, I consider that a condition is required to restrict the number of attendees at the centre. The appellant suggests in their written statement that up to 35 students and 4 teachers would attend the centre, and so accordingly I have restricted attendance to 39 in total. For the same reason, I consider a condition is required to control the hours of opening. I am, however, concerned that an

opening time of up until 22.00 hours, seven days a week, as proposed by the appellant in their written statement, could result in disturbance to adjoining residents. I have therefore imposed an opening time of up until 20.00 hours on Sundays and bank and other public holidays, in order to protect the living conditions of neighbours.

Conclusion

13. For the reasons above, and taking all other matters into account, I conclude that the appeal should be allowed.

Elaine Gray

INSPECTOR