



Appeal Decision

Site visit made on 11 July 2017

by Paul Dignan MSc PhD

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

Decision date: 20 July 2017

Appeal Ref: APP/X5210/C/17/3172540 109 Highgate Road, London NW5 1TR

- 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 Hussein Khodin against an enforcement notice issued by the Council of the London Borough of Camden.
 - The enforcement notice, numbered EN16/1098, was issued on 14 February 2017.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised change of use from a retail shop (Class A1) to a scooter repair and sales business (*sui generis*).
 - The requirements of the notice are: a) Cease the use of the ground floor shop unit as a *sui generis* scooter sales and repair business.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground 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 also 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.

Reasons

2. The appeal site is a ground floor unit in a building fronting Highgate Road comprising commercial units on the ground floor with residential flats above. At present there are 9 premises in the ground floor frontage, designated as the Highgate Road Neighbourhood Centre, comprising, from the northern end, a surgery/health centre, a shop, the appeal premises, a vacant unit formerly in Use Class D1 use, a vacant unit formerly a Police Contact point (a *sui generis* use), a café (Use Class A3), a hair salon, a carpet shop and a pharmacy (all Use Class A1 Retail).
3. Policy CS7 of the London Borough of Camden Local Development Framework Core Strategy (CS) seeks to protect the boroughs centres and promote successful vibrant centres, including resisting the loss of shops where this would cause harm to the character and function of a centre, while Policy DP12 of the London Borough of Camden Local Development Framework Development Policies (DP) requires consideration of the effect of non-retail development on the character, function vitality and viability of town centres. There is relevant guidance on how this is to be achieved in the Camden Planning Guidance: Town Centres, Retail and Employment (CPG). This guidance has been formally

adopted following public consultation and can be given considerable weight. In the interests of vitality and viability it advises that shopping streets, including neighbourhood centres, do not fall below 50% of ground floor units being in retail use, and that blocks of more than 3 consecutive non-retail units should be avoided. The aim is to retain character, interest and vibrancy.

4. The appeal development in this case would be contrary to the CPG guidance in that it results in less than 50%, 4 out of 9, premises being in retail use, and it makes a row of 4 consecutive non-retail units. From my observations this has served to undermine the retail function of the centre, and adversely affect its vibrancy and character. The development is thus contrary to CS Policy CS7, DP Policy DP12, and the guidance in the CPG. No justification for the development has been provided in the appeal documentation, so there is nothing to outweigh the conflict with the development plan and planning permission must therefore be refused.
5. I have noted also that the vehicle repairs have led to complaints from local residents, concerning fumes, noise and disturbance. It is rarely appropriate to operate motor vehicle repair businesses in close proximity to dwellings, as has occurred here. That adds to my concern about the development. Although it was not listed as one of the reasons for issuing the notice, the harm to amenity that arises from incompatible uses in this predominantly residential area also puts the development in conflict with DP Policy DP12.
6. For the reasons given above I consider that the appeal should be dismissed and planning permission refused.

Paul Dignan

INSPECTOR