
Appeal Decision

Site visit made on 4 July, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 31st July, 2017

Appeal Ref: APP/A5840/W/17/3172251

27 Peckham High Street, London, SE15 5EB

- 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 Zinsou Damien Kintonousa against the decision of the Council of the London Borough of Southwark.
 - The application Ref: 16/AP/4407 dated 5 October, 2016 was refused by notice dated 5 January, 2017.
 - The development proposed is change of use from Use Class A1 to Use Class B1 (office)/Sui Generis (cab hire office); $\frac{3}{4}$ of the ground floor and the basement to operate as office and $\frac{1}{4}$ of the ground floor to operate as a cab office; installation of an aluminium door at the front of the shop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. However, the description in the planning application is long and detailed, and as it is clearer I have used the description from the appeal form and the Council's decision notice in the heading above.

Main Issues

3. The main issues in this case are:-
 - Whether the development would be an acceptable one in the protected shopping frontage;
 - The effect on the living conditions of neighbouring occupiers in respect of noise and disturbance; and
 - The effect on highway safety.

Reasons

Protected shopping frontage

4. The appeal premises occupy the ground floor and basement of No 27 Peckham High Street, a traditional terraced commercial building. The appeal proposal is for the change of use of the larger part of the ground floor to office use, and a
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small part of it to use as a cab office. It is the cab office element which is the subject of dispute between the parties.

5. The appeal building sits within Peckham, a designated major town centre, where policy 1.7 of the Southwark Plan 2007 (the LP) requires that A Class uses should be retained or replaced unless the proposed use provides a direct service to the general public, and the proposal would not harm the retail vitality and viability of the centre. It is also within a protected shopping frontage and therefore, under policy 1.9 of the LP, a number of criteria govern whether change of use from A1 will be permitted. Those relevant to this case are criterion ii, which says that that the premises should have been vacant for at least 12 months, with a demonstrated and sufficient effort to let, or should not have made a profit over a two year period; and criterion iii, which requires that that proposal would not result in a material loss of amenity for surrounding occupiers.
6. The appellant has indicated that the previous use of the retail unit was as an off-licence, and that this company was dissolved in January 2016. Although the shop was locked up and apparently vacant at the time of my site visit, it is not clear from the evidence in front of me how long it had been vacant at the time of the Council's decision, nor whether any efforts had been made to market it for A1 use. The appellant has put forward information relating to the business which previously occupied the unit, relating to the loss of its premises licence, but no convincing evidence has been put before me relating to its profitability.
7. I conclude that the evidence supplied is insufficiently conclusive on these issues, and that I am not therefore persuaded that the proposal would comply with the provisions of Policy 1.9 of the LP, which seeks to retain A1 uses in protected shopping frontages, nor, as a result, with those of policy 1.7 of the LP, which seeks to maintain the retail vitality and viability of the town centre. It would also conflict with Policy 3 of the Peckham and Nunhead Area Action Plan (the AAP), which seeks to maintain a vibrant mix of retain uses within the protected shopping frontages. I consider the issue of amenity, and particularly noise and disturbance, below.

Noise and Disturbance

8. No 27 is located on a corner site, adjoining the High Street and the truncated stub of Sumner Road, which is otherwise closed to traffic. There are residential uses on the first and second floors of the building itself and others in the same terrace, and at the time of my site visit a new residential building was nearing completion on the opposite corner with Sumner Road.
9. Although Peckham High Street and Sumner Road are part of a red route, parking is allowed in the evenings and at night, and there are also parking bays marked out in Sumner Road which were in use at the time of my visit. The appellant has indicated that there will be few customers visiting the site directly, and therefore only a marginal increase in activity. However, no evidence has been put before me about potential numbers of visitors, nor detailed information about alternative pick-up points, and so there can be no certainty that potential activity will be focused away from the appeal building.
10. The presence of Sumner Road as a convenient location off the High Street and next to the appeal building would make it more attractive to park there,

particularly during the evening and night, than in car parks in the wider area. It thus appears to me likely that there would also be visits by cab drivers picking up passengers, having a break or using the toilets. This would give rise to the possibility of additional noise and disturbance from engine noise, conversations or slamming doors.

11. Although the appellant has indicated that there would be a small waiting area within the appeal building for customers, this is not shown on the plans put before me, and it is not clear how the small area of the ground floor set aside for the cab use will be able to accommodate call handling/despatch staff and waiting space for members of the public. It appears to me therefore that some waiting outside would be likely to occur, thus exacerbating the potential for noise and disturbance.
12. While the proposed use might be considered less likely to give rise to nuisance than the previous off-licence use, the activities of a cab office would go on late into the night and therefore be more likely to disturb neighbouring occupiers. No technical evidence has been supplied to show the levels of noise during the night, and I cannot therefore be certain that any potential intensification caused by the appeal proposal would be limited in that context.
13. As I conclude that the appeal proposal would have the potential to have a harmful effect on the living conditions of neighbouring occupiers, it would therefore conflict with policy 3.2 of the LP which seeks to resist proposals which would cause a loss of amenity, including disturbance from noise, to present and future occupiers in the surrounding area, and strategic policy 13 of the Core Strategy 2011 (the CS) which seeks to avoid noise pollution.

Highway safety

14. Although the area is a busy one, due to the presence of the red route I saw no evidence of heavy on-street parking around the appeal site at the time of my site visit, on a weekday morning. For the reasons discussed above, the proposed change of use would be likely to generate additional vehicle movements and parking in the vicinity of the appeal premises, particularly during the evenings and night when restrictions on parking are not in force. However, as there is no convincing evidence before me to clarify the extent of these changes or their likely effect on existing highways conditions, I cannot be sure that they would lead to harm.
15. On the basis of the evidence before me I conclude that it has not been demonstrated that the appeal proposal would conflict with policy 5.6 of the LP relating to the adequate provision of car parking; nor with strategic policy 2 of the CS which seeks to promote the use of sustainable transport; nor with policy 13 of the AAP which seeks to manage traffic movement and congestion and to improve accessibility and safety for all.

Conclusion

16. Notwithstanding my findings in relation to highway safety, I nonetheless conclude that, for the reasons given above, and taking into account all other matters raised, the appeal should be dismissed.

S J Buckingham INSPECTOR