
Appeal Decision

Site visit made on 15 March 2018

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2018

Appeal Ref: APP/G5750/C/17/3181139

Land at 747 Romford Road, Manor Park, London E12 5AW

- 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 M Ezat (Ariaye UK Tyre Centre Ltd) against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 30 June 2017 under ref. 15/00834/ENFC.
 - The breach of planning control as alleged in the notice is: *"Without planning permission the material change of use to a tyre fitting and retailing shop."*
 - The requirements of the notice are set out as follows:
 - "1. Cease the use of the property as a tyre fitting and retailing shop.*
 - 2. Remove from the property all fixtures and fittings that solely facilitate the use as a tyre fitting and retailing shop, including, but not limited to all tyres and mechanical equipment.*
 - 3. Remove from the property all advertisements associated with the use as a tyre fitting and retailing shop.*
 - 4. On completion of the steps above, remove all resulting materials and debris from the site."*
 - The period for compliance with these requirements is three 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 1990 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

2. The subject tyre fitting and retailing shop is located on the ground floor of a two-storey terraced building along Romford Road. There is a flat on the floor above. The yard area and outbuilding to the rear of the main tyre fitting bay are mainly put to use for the storage of tyres, many of which are associated with the appellant's tyre import and export business.
3. The Council, correctly in my view, describes the tyre fitting and retailing shop as a sui generis (of its own kind) use. It is a mixed use having elements of retail (Use Class A1), industrial (Use Class B2) and storage/distribution (Use Class B8).

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

4. The appellant briefly responded to the Council's four reasons for issuing the enforcement notice as set out in paragraph 4 therein. In deciding whether planning permission ought to be granted I consider the main issue to be whether the tyre fitting and retailing shop is appropriately located in this property on Romford Road, having regard to planning policies concerning location and land use, the effect the use may have on the amenities of nearby residents and the implications of the use for highway safety.
5. My decision is based on the most relevant policies of the development plan which are to be found in the London Plan (LP), Newham's Local Plan Core Strategy (CS) and Newham's Local Plan Detailed Sites and Policies Development Plan Document (DPD). I have also had regard to the National Planning Policy Framework (the Framework).
6. The first reason for refusal refers to a wide range of LP and CS policies that seek to direct the subject use towards designated town and local centres or perhaps more appropriately towards one of the borough's designated Preferred Industrial Locations which are noted as being suitable in principle for Use Classes B1(c), B2 and B8 and appropriate sui generis employment uses. The appeal site lies outside such designated areas in conflict with these policies.
7. No. 747 actually lies within a sprawling ribbon of ground floor commercial uses along this section of Romford Road. Other sui generis uses can be found within this ribbon and there are vehicle-related businesses (hand car wash, garage for car repairs, services and tyres and taxi office) close or adjacent to the appeal property. The Council responds by saying that many of these uses will have become lawful through the passage of time and that the presence of other inappropriately located developments nearby does not justify another such use in the appeal premises.
8. It seems to me that the Council's response should carry a good deal of weight since Romford Road is identified as a Quality Movement Corridor and Linear Gateway in CS Policy SP7. Here the emphasis is on public realm and regenerative improvements including the consolidation of ribbon developments of commercial uses into defined in-centre locations. In addition, the storage of tyres so as to create tall boundary markers to the front forecourt does not make a positive contribution to the street scene and this is also in conflict with CS Policy SP7.
9. As well as being inappropriately located having regard to planning policies concerning location and land use, I consider that this tyre fitting and retailing shop is a poor close neighbour to residential properties. Whilst there may not be a single dwelling at ground floor level in the block along Romford Road between High Street North/Station Road and Carlyle Road, there are many first floor flats in the near vicinity including one directly above the tyre fitting bay. The rear gardens of at least three residential properties on Carlyle Road have a common boundary with the appeal site at the rear.
10. The commercial operations here rely upon tyre changing and wheel balancing machines, mobile trolley jacks and compressors. Some noise is bound to

emanate from the building during tyre fitting work, particularly as the main roller shutter door is likely to be kept open when the business is open for customers. In the unlikely event it could be kept shut while tyre fitting took place, I do not know if soundproofing work has been carried out or would be successful. In addition, customers' vehicles will come and go as well as be parked on the forecourt in front of the premises. Tyre stacking operations at the rear or on the forecourt would be likely to be a further source of noise.

11. It therefore seems likely to me that the use has the potential to cause significant adverse impacts on the living conditions of neighbouring occupiers in terms of noise and disturbance, particularly for any existing or future occupiers of the first floor flat above no. 747. Moreover, I saw that the widespread storage of tyres in the rear yard, including over the roof of the rear outbuilding and over the roof at the back of the tyre fitting bay, gives the site an untidy and visually incongruous appearance as perceived by the occupiers of neighbouring properties who overlook the site at close quarters. The stored tyres detract from the outlook at the rear of the flat above no. 747 and spoil the setting of the garden environment at the rear, to the extent that this storage is an unneighbourly form of development. The trees at the rear have little impact in terms of screening or softening the visual impact of the tyres. Overall, the effect of the use on the amenities of nearby residents is therefore unacceptable and in conflict with the aims of LP Policies 5.3 and 7.15, CS Policies SP2 and SP3 and DPD Policy SP8.
12. Compared to the previous car sales operation at the appeal property, the subject use is likely to have resulted in a material increase in vehicular movements. I accept that the site may meet the operational needs of the business at most times since I saw that there is enough space for two cars to be worked on at the same time and parking space for waiting cars on the forecourt. Nonetheless, the increase in reversing manoeuvres off the premises into Romford Road over the bus lane and footway is likely to result in increased risks to pedestrians, cyclists, bus services and passing traffic on a busy main road. The lack of on-site parking for customers at very busy times is likely to result in increased on-street parking on surrounding streets which could lead to inconsiderate parking in the vicinity of the site and increase the risk of obstructions further compromising highway safety. I find conflict with the transport policies and strategies of the LP (Policies 6.1, 6.10 and 6.13) and the CS (Policy INF2) and unacceptable implications for highway safety.
13. It is my conclusion for the reasons given above that the tyre fitting and retailing shop is inappropriately located in this property on Romford Road. The key drawbacks bring the development into conflict with several development plan policies. The Framework does not pull me in a different direction and no other material considerations of sufficient weight have been advanced to justify a grant of planning permission. The appeal on ground (a) and the deemed planning application cannot therefore succeed.

Andrew Dale

INSPECTOR