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## Appeal Decision

Site visit made on 28 May 2019

**by N Thomas MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Thursday, 25 July 2019**

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### **Appeal Ref: APP/W5780/W/18/3212520 353a Eastern Avenue, Ilford IG2 6NE**

- 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 Shabul Islam against the decision of the Council of the London Borough of Redbridge.
  - The application Ref 2460/18, dated 15 June 2018, was refused by notice dated 28 August 2018.
  - The development proposed is the change of use of from A1 to A5 Hot Food Takeaway.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. The appeal site has been subdivided into two units. At the time of my site visit the unit on the left when facing the appeal site from the footway was in use as a hairdresser's, and the unit on the right was in use as a barber's shop. The application form identifies the site as 353 Eastern Avenue, but it is clear from the description on the appeal form and from the submitted drawings that the proposal relates to the left hand unit, which is described as No 353a on the appeal form. I have therefore used this address in the banner heading above.
3. The application form describes the proposal as seeking to continue the use as A5 hot food takeaway. However, I saw on my site visit that it is currently in A1 use, which reflects the description given on the appeal form. I have used a simplified version of this description in the banner heading above and I have considered the appeal on this basis.
4. The first reason for refusal refers to the location of the site within the Primary Frontage, which accords with the designation shown on the Proposals Map of the Redbridge Local Plan 2018 (the Local Plan). The Council's appeal statement refers to the site being within the secondary shopping area, but as this does not accord with the information shown on the Proposals Map, I have considered the appeal on the basis of the reason for refusal.
5. The Council referred to conflict with criteria a) and d) of Policy LP11 of the Local Plan in its second reason for refusal, but clarified in its appeal statement that this should have been criteria a) and b). It appears that this was a typographical error and I have dealt with the appeal on the basis of conflict with criteria a) and b).

6. Since the Council determined the application the revised National Planning Policy Framework (the Framework) was published in February 2019. There are no changes that are material to this appeal.

### **Main Issues**

7. The main issues are i) the effect of the proposal on the diversity of uses in, and the vitality and viability of the Gants Hill District Centre Primary Frontage; and ii) whether the site is a suitable location for a hot food takeaway having regard to surrounding land uses and the effect on the health and wellbeing of young people.

### **Reasons**

#### *Diversity of uses, vitality and viability*

8. The appeal site is the ground floor of a mid-terrace two storey property in a row of retail and commercial units. The site fronts onto A12 Eastern Avenue, close to its junction with the A1400 and the A123, which forms a roundabout around Gants Hill underground station. The commercial units in the row are in a range of uses. At the time of my site visit, there were two A1 units at the end of the row closest to the junction, with the other units in A2, A3 or A5 use, while the appeal site and the other half of the subdivided unit were in A1 use. The row of commercial units is identified by Policy LP10 of the Local Plan and the Proposals Map as being in a Primary Frontage in Gants Hill District Centre.
9. Policy LP10 of the Local Plan seeks to promote the vitality and viability of town centres by supporting diversity in the primary frontages by requiring that a minimum of 70 per cent of ground floor units are in A1 retail use. Proposals for non-A1 uses that result in less than 70 per cent of the units being in A1 use will only be supported in specific circumstances set out in the policy. Within the frontage, consisting of Nos 347-371 (odds) Eastern Avenue, the Council has assessed the effect of the proposal on the proportion of A1 uses. I am aware that the appellant disagrees with this approach and has provided figures that relate to the whole of Eastern Avenue, which show that 70 per cent of the units are in A1 use. However, I have not been provided with full details of the wider area which the appellant has assessed and therefore I cannot comment on its accuracy or whether those premises are subject to the same policy requirements. Moreover, the Council's approach is reasonable, as the sections of Eastern Avenue within the shopping area are interrupted by the significant road junction and main roads, and as a result they have separate identities. I have therefore assessed the proposal on the basis of the mix of uses at Nos 347-371.
10. There are currently ten units in the frontage, including the subdivided unit, of which four are in A1 use, equating to 40 per cent, which is already significantly below the 70 per cent threshold. As a result of the proposal, three out of the ten units would be in A1 use. This would be 30 per cent, which would take the proportion of A1 uses further below the threshold by adding a further A5 use. While I accept that there is already a predominance of non-A1 uses, which is in conflict with Policy LP10 of the Local Plan, the further erosion of the retail function of the parade would undermine its vitality and the diversity of uses in this part of the frontage.

11. I am aware that the appellant considers that there has been a long term decline in A1 uses, and that the proposal would prevent the unit from becoming vacant. However, the relevant exception to Policy LP10 of the Local Plan would require evidence of long term vacancy and continuous marketing. There is no substantive evidence that this has been the case, and the site was in use at the time of my site visit. Nor is there any substantive evidence to indicate that the proposal would meet the circumstances of any of the other exceptions set out in Policy LP10 of the Local Plan.
12. I therefore find that the proposal would be harmful to the diversity of uses in, and the vitality and viability of the Gants Hill District Centre Primary Frontage, which would be in conflict with Policy LP10 of the Local Plan, insofar as it seeks to promote the vitality and viability of town centres and diversify the range of uses. It would also conflict with the Framework, which seeks to promote the long-term vitality and viability of town centres.

*Suitable location*

13. Policy LP11 of the Local Plan seeks to resist the proliferation and over concentration of hot food takeaways by requiring each unit to be separated from an A5 unit by at least two non A5 units. While the proposed A5 use would be flanked on one side by the retained A1 use in the subdivided unit, with A3/A5 and A2 uses beyond, on the other side it would be flanked by two A5 units. It would therefore result in a concentration of three A5 units adjacent to each other on one side, and would be separated by one A1 unit from a further A3/A5 use. This would result in an over concentration of A5 uses in this part of the frontage. The appellant argues that this would provide alternative food choices which would have sustainability benefits and minimise travelling. While I accept that it would add to the choice of takeaway food available within the parade, I do not find that this would override the conflict with the policy that would occur through the over concentration of A5 uses in this location.
14. There is a further requirement within Policy LP11 of the Local Plan that proposals for hot food takeaways that fall within 400 metres of the boundary of a school, youth centre or park should be resisted, on the grounds of the potential impact on the health and wellbeing of young people in the area. The Council has identified that the proposal would be less than 400 metres from Valentines High School and Valentines Park. I acknowledge that the appellant disagrees with these figures and has provided maps which show how long it would take to walk. However, the policy refers to distance rather than walking times and it is not clear that the routes shown are the shortest to the school or park or reflect their boundaries. I thus have no substantive reasons to dispute the Council's evidence on this matter. Accordingly, the proposal would be in conflict with the requirement to resist the proliferation of hot food takeaways where they are readily accessible to school children, as it would not encourage healthy lifestyles and would thus be harmful to the health and wellbeing of young people in the area.
15. For the reasons set out above, I conclude that the site would not be a suitable location for a hot food takeaway having regard to surrounding land uses and the effect on the health and wellbeing of young people. It would therefore be in conflict with Policy LP11 of the Local Plan, which seeks, amongst other things, to resist the proliferation and over concentration of hot food takeaways.

## **Other Matters**

16. The appellant has put forward a number of appeal decisions for takeaway uses in the locality. I have not been provided with full details of the proposals, but from the information I have been given I note that in the case of 16 Beehive Lane<sup>1</sup>, the Inspector found that the site was flanked by four A1 uses on one side, and that it would therefore maintain the overall balance of uses and would not result in an over concentration of non-retail uses. Moreover, this appeal dates from 2009 and thus was not in the same policy context.
17. In the case of 141 High Street<sup>2</sup>, I note that the proposal was for an A3 unit and is not therefore directly comparable to this case. Moreover, the Inspector found the site was in an area with a mix of retail and non-retail uses which were well used, providing services to local shoppers and residents, and would not result in an over-concentration of non-retail uses. I do not find therefore that the appeals are comparable to this case, which I have considered on its own merits.

## **Conclusion**

18. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*N Thomas*

INSPECTOR

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<sup>1</sup> APP/W5780/A/08/2086966

<sup>2</sup> APP/W5780/W/18/3200808