



Appeal Decision

Site visit made on 4 July 2019

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 29th July 2019

Appeal Ref: APP/G5750/W/18/3214531

229 Green Street, Forest Gate, London E7 8LL

- 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 Kishor Pandya against the decision of the Council of the London Borough of Newham.
 - The application Ref 18/01695/FUL, dated 12 June 2018, was refused by notice dated 31 July 2018.
 - The development proposed is alterations of existing ground floor retail unit Class A1 to provide four commercial units (Class A1) fronting Marlborough Road at ground floor.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In December 2018 the Newham Local Plan was formally adopted and this has now superseded the London Borough of Newham Local Plan: Core Strategy and Local Plan: Detailed Sites and Policies Development Plan Document. The policies from the draft plan were referred to in the Council's decision notice and the adoption of the Local Plan raises no new matters. Further, limited weight is given to the emerging London Plan which has yet to be adopted.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the vitality and viability of town centres; (b) the character and appearance of the surrounding area; (c) the living conditions of the occupiers of neighbouring properties by reason of noise and disturbance and (d) the safety of other highway users.

Reasons

Vitality and Viability

4. The appeal property has a retail shop with storage area at ground floor level and it is located at the junction of Green Street and Marlborough Road. The proposed development includes the subdivision of the existing shop to create a total of 5 smaller units which the appellant claims would both be an efficient use of previously developed land and protect jobs. No detailed evidence has been provided by the appellant to support the claim that the size of the retail units is such that they would be attractive to potential occupiers.

5. Policies S1(g), J1 and INF5 of the Newham Local Plan (NLP) identify that town centre uses will be directed to the designated town and local centres first and their role and function will be strengthened and not undermined. This approach of town centre first is also reflected in the principles identified in NLP Policy SP6 and Policy 4.7 of the London Plan (LP).
6. Although the locational claims of the appellant have been noted, the property is situated outside the defined Green Street town centre and there is a clear separation from this identified centre. The property is part of a group of buildings fronting Green Street with commercial uses at ground floor which are within close proximity to this centre rather than on the edge.
7. The property is already in retail use and the appeal scheme is not proposing an entirely new town centre use outside such a centre use. Instead, there would be a sub-division of an existing shop with only a limited increase in the actual retail floorspace associated with the re-use of an ancillary storage area. The appeal scheme would not, therefore, create such additional retail floorspace so as to undermine the vitality and viability of the town centre or prejudice directing new proposals towards designated centres.
8. On this issue it is concluded that the proposed development would not cause unacceptable harm to the vitality and viability of town centres and, as such, it would not conflict with NLP Policies S1, J1, INF5, SP6 and LP Policies 4.6 and 4.7. Further, although references to some town centre matters have been noted, no specific conflict has been identified with NLP Policies SP1, SP3 and SP7 and LP Policy 2.15 which include reference to schemes within town centres.

Character and Appearance

9. The sub-division of the existing shop would create 5 small retail units with front doors and display windows principally facing towards Marlborough Road. Although there is an existing access to office accommodation, the planning status for which is uncertain, Marlborough Road has a character and appearance which is predominantly residential rather than the more mixed commercial and residential character of Green Street.
10. By reason of the size of the proposed retail units and the combined expanse of the frontages, the appeal scheme would not represent high quality design and would not positively contribute to, or integrate with, the predominantly residential character and appearance of Marlborough Road. This harm would be accentuated if the perforated steel roller shutters, as identified on the submitted drawing, were all were extended at the same time. The expanse of these closed shutters would not create an attractive street frontage, including when compared to the current rendered flank wall which is of the type found at other junctions within the surrounding area.
11. Accordingly, on this issue it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would conflict with NLP Policies SP1, SP3 and SP8 and LP Policies 7.4 and 7.6 which promote high quality design and for development to integrate with the streetscene. No specific conflict has been identified with NLP Policies S1, S6 and SP2 and LP Policies 7.1 and 7.5 which do not specifically address matters related to character and appearance.

Living Conditions

12. The Council has expressed concerns associated with the potential for the proposed retail units to increase levels of noise and disturbance thereby having an adverse effect on the living conditions of the occupiers of nearby residential properties. To address these concerns, the appellant has suggested a condition which would limit the opening hours of the units to between 09:00 and 18:00 hours. With the imposition of such a condition as a means to mitigate any potential impacts, I am satisfied that there would be no significant adverse noise or disturbance impacts arising from the proposed development.
13. For the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties by reason of noise and disturbance and, as such, it would not conflict with NLP Policies SP3 and SP8 and LP Policies 7.6 and 7.15. Amongst other matters these policies require development to promote good neighbourliness by avoiding bad neighbour uses which would cause unacceptable harm, including because of significant adverse noise impacts, to the amenity of surrounding land and buildings, particularly residential buildings. No conflict has been identified with NLP Policies SP1 and SP2 and LP Policies 7.1, 7.4 and 7.5 which do not specifically refer to living conditions matters.

Highway Safety

14. Although the retail floorspace would not materially increase, the proposed development would result in the creation of 5 separate units. As identified by the Council, no details about the servicing and delivery requirements of the 5 units have been provided. When compared to the current single shop, additional retail units could generate increased demands for servicing and deliveries occurring on-street in the absence of a dedicated servicing area.
15. The adjacent roads are the subject of parking restrictions between 08:00 and 18:30 hours which provide for the parking of vehicles with permits and other vehicles being required to pay albeit subject to a 2 hour time limit. At the time of the morning site visit, there were on-street parking spaces available adjacent to the property along both Green Street and Marlborough Road. When the availability of spaces is taken together with the size of the proposed retail units, I am satisfied that the likely types and frequency of servicing and delivery vehicles would not be such that there would be a danger to highway safety. Such vehicles could park within the demarcated on-street pay and display parking bays.
16. On this issue it is concluded that the proposed development would not cause an unacceptable danger to the safety of other highway users and, as such, it would not conflict with NLP Policy INF2 and LP Policies 6.3 and 6.13. These policies seek to maintain the safety of the highway and public realms and for business proposals to provide for delivery and servicing.

Conclusion

17. Although the protection of jobs and efficient use of the building have been noted, even when these are taken together with the lack of harm caused to the vitality and viability of town centres, the absence of significant harm to the living conditions of the occupiers of neighbouring properties by reason of noise

and disturbance and no unacceptable harm being caused to the safety of other highway users, this is a case where all these matters are demonstrably and significantly outweighed by the unacceptable harm caused to the character and appearance of the surrounding area and the conflict with the relevant policies of the development plan. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR