
Appeal Decision

Site visit made on 21 January 2020

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Appeal Ref: APP/G5750/W/19/3239341

465 Romford Road, Forest Gate, London E7 8AB

- 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 Mohamed Salim Baiyat against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01581/COU, dated 6 June 2019, was refused by notice dated 31 July 2019.
 - The development proposed is described as: "inclusion of A3 use into existing A1 use to allow for the serving of a limited selection of hot breakfast food".
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of A1 shop to include use class A3 cafe at 465 Romford Road, Forest Gate, London E7 8AB, in accordance with the terms of the application, Ref 19/01581/COU, dated 6 June 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 465 Romford Road, London, E7 8AB; Existing and Proposed Plan and Elevation drawing no 18/048/001 revision B.

Preliminary Matters

2. The description in the banner heading above is taken from the application form. However, in my decision I have adopted the description from the appeal form, which is consistent with that used on the Council's decision notice and which more precisely and succinctly describes the proposed development.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the vitality and viability of existing town and local centres;
 - the effect of the proposed development on the safety and convenience of highway users in the vicinity of the site; and
 - whether satisfactory provision would be made for the storage and disposal of waste and recycling.

Reasons

Background

4. The appeal relates to an existing ground floor commercial unit. The site is not within a designated town or local centre, but is part of a wider terrace of properties, and opposite a further similar terrace, both of which include a variety of commercial and community uses to their ground floors.

Vitality and viability of existing town and local centres

5. Policies 2.15, 4.7 and 4.8 of the London Plan 2016, and Policies S1, S6, SP1, SP3 and SP6 of the Newham Local Plan 2018 (the Local Plan) seek to support a competitive retail sector and strengthen town and local centres as the main focus for commercial development, as community foci and as vibrant and valued components of local neighbourhoods, and require development to contribute to successful and distinctive mixed-use places. Policies J1 and INF5 of the Local Plan set out that town centre uses will be directed to designated centres first, consistent with the sequential approach in the National Planning Policy Framework (the Framework), and that the consolidation of existing commercial uses into defined centres will be encouraged.
6. The proposed development would result in the introduction of a new A3 use in a location which is not within an existing town or local centre. However, the main parties agree that appeal property has a lawful A1 retail use at present. Therefore, the proposed change of use of that A1 shop to also include A3 use, as described by the Council, would not result in the creation of an additional main town centre unit in an out-of-centre location. Rather, it would simply change one town centre use for another. On that basis, and as the site could accommodate a range of commercial functions within the scope of its lawful A1 use at present, I conclude that the proposed change to a different town centre use would not have additional implications for the vitality or viability of existing town or local centres, compared with that existing lawful use.
7. Therefore, whilst there may be some technical conflict with aspects of Policies 2.15, 4.7 and 4.8 of the London Plan 2016 and Policies S1, S6, SP1, SP3, SP6, J1 and INF5 of the Local Plan insofar as they require new town centre uses to be located within existing centres, overall I conclude that the proposal would not undermine the overarching strategic aims of those policies in seeking to maintain the vitality and viability of existing centres. In reaching my conclusion I have also had regard to emerging Draft London Plan policies SD6 and E9, the aims of which are similar to those development plan policies in seeking to support diverse and competitive retail and promote town centres as the primary locations for commercial activity.

Safety and convenience of highway users

8. Whilst there is no off-street parking within the site, I observed that there are short stay on-street parking bays on both sides of Romford Road nearby. There are also bus routes along Romford Road, allowing access to the site by public transport. The appeal premises and the indoor customer seating area are relatively small, and I have no substantive evidence before me to support the assertion that their use as a café or restaurant would result in a material increase in the number of customers, or have significantly greater implications

for parking demand or traffic generation compared with the premises' existing lawful A1 use.

9. Nearby residential streets to the side and rear of the site are designated as a Residential Parking Zone (RPZ), with only permit holders' parking permitted during the day from Monday to Saturday inclusive, thus preventing their use by customers not resident within that RPZ during those times. On the basis of the evidence before me, and given the limited size of the appeal premises and the indoor customer seating area, I consider it unlikely that the proposed A3 use would result in significant parking pressures on nearby streets outside those times, or that it would have significantly greater implications in that regard than the property's lawful A1 use. Whilst the site is close to a signalised junction, parking restrictions exist around that junction in the form of double yellow lines, and I have no reason to believe that customers or staff of the appeal premises would park other than in a safe and reasonable manner.
10. Nor have I substantive evidence before me to support the assertion that the proposed A3 use, allowing customers to stay on the premises and eat, would have significant implications in terms of the frequency of deliveries or refuse collections compared with its lawful A1 use which, the Council acknowledges, could include a shop where customers could purchase food or drink to take away.
11. Therefore, on the basis of the evidence before me, and given its very limited scale, I conclude that the proposed use would not give rise to a significant increase in hazardous vehicle movements or parking practices, on-street parking stress or traffic congestion compared with the existing lawful commercial use.
12. I therefore conclude that the proposed development would not have an adverse effect on the safety or convenience of highway users in the vicinity of the site. The proposal would therefore not conflict with Policies 6.3 or 6.13 of the London Plan 2016 or Policies SP1, SP2, SP3, SP8 or INF2 of the Local Plan. Amongst other things, those policies state that development should not adversely affect safety on the transport network, and should provide for the needs of businesses for delivery and servicing, provide an appropriate level of parking, promote community and public safety (including road safety) and ensure easy and inclusive access. In reaching my decision I have also had regard to the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
13. I have also had regard to emerging Draft London Plan Policies T1, T3, T4, T5 and T6. The aims of those policies are similar to those of the development plan policies set out above in, amongst other things, stating that development proposals should not increase road danger, and requiring development to ensure that any impacts on London's transport networks are mitigated, and that adequate provision should be made for efficient deliveries and servicing.

Storage and disposal of waste and recycling

14. The submitted drawings indicate the provision of a bin storage area in the rear yard of the site. Based on my observations on site, I am satisfied that adequate provision could be made in that area for the number of bins proposed. I have nothing substantive before me to support the assertion that

the preparation of hot food on the premises as part of the proposed A3 use would generate materially more waste than A1 uses which could operate lawfully from the premises at present, and the Council has not indicated that the number of bins proposed would be insufficient. Therefore, I am satisfied that adequate provision would be made for the storage of waste and recycling within the site.

15. It is evident from the submissions before me that the Council operates a waste collection service for residents and business, with specified limited hours in the morning and evening when rubbish bags or bins may be placed on the street for recycling, and with fixed penalties for placing waste on the street at other times. The appellant's submissions indicate that he has signed up to that waste collection service.
16. Whilst the bin storage area would be located to the rear of the premises, I have nothing substantive before me to suggest that the site layout would prevent refuse bags or containers being brought to the front of the site during those specified hours. The hours of collections are frequent enough to allow refuse to be collected from the premises regularly, thus preventing the likelihood of waste building up within the site, whilst also being of sufficiently limited duration as to prevent waste from being left on the street for lengthy periods. I have no reason to believe that the premises would operate other than in accordance with the terms of that waste collection service. Furthermore, it is evident from the submissions before me that, even were that not the case, the Council would have recourse by other means under the terms of that service in any event. Overall therefore, I conclude that the proposed use would be unlikely to lead to fly tipping, and would not cause harm to the character or appearance of the area or the living conditions of nearby residents as a result of the waste storage and collection arrangements proposed.
17. Therefore, for the reasons given, I conclude that satisfactory provision would be made for the storage and disposal of waste and recycling. The proposal would therefore not conflict with Policies 5.3, 5.17, 7.1, 7.4 or 7.5 of the London Plan 2016 or Policies SP2, SP3, SP8, INF3 or SC1 of the Local Plan. Amongst other things, those policies state that people should have a good quality environment in their neighbourhoods, and require high quality design and suitable waste and recycling storage facilities which can meet the needs of the development and local collection arrangements without amenity or environmental impacts for neighbours. Nor would it conflict with the Framework, which requires developments to function well and create places with a high standard of amenity for existing and future users.
18. I have also had regard to emerging Draft London Plan Policies SI7, SI8, D1, D2 and D7, the aims of which, whilst more strategic in nature, are nonetheless similar to those of the development plan policies set out above, in promoting good design and seeking to ensure that recycling is promoted and waste is satisfactorily dealt with.

Other Matters

19. The site is close to Romford Road Conservation Area and Woodgrange Estate Conservation Area. However, it is not within or adjacent to the boundaries of either of those areas. Therefore, and as no external alterations to the building are proposed, the development would not affect or harm the character or appearance of either of those nearby conservation areas.

Conditions

20. In addition to the standard three year commencement condition, I attach a condition specifying the approved plans, for certainty. The Council's suggested condition refers to drawing 18/048/001. However, as the Council has confirmed that its decision was based on revision B of that drawing, I have referred to that version in the approved plans condition.

Conclusion

21. For the reasons given, and having regard to all other matters raised, the appeal is allowed.

Jillian Rann
INSPECTOR