



Appeal Decision

Site visit made on 1 June 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2020

Appeal Ref: APP/Q5300/W/19/3237934
312 Green Lanes, Southgate, N13 5TT

- 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 P. Demirci against the decision of the Council of the London Borough of Enfield.
 - The application Ref: 19/02755/FUL dated 2 July 2019, was refused by notice dated 25 September 2019.
 - The development proposed is change of use from retail (A1) to café/restaurant (A3) use with external flue to the rear.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The applicant's name is set out in the banner heading above. The appeal form lists Mr Ali Caliskan as the appellant. However, a subsequent letter from the named applicant confirms Mr Ali Caliskan is acting on their behalf, and this appeal proceeds in the name of P. Demirci.
3. The Council's reason for refusal states the development would adversely affect the amenities of neighbours but does not specify which properties or type of living conditions. The comments of the Environmental Health Officer (EHO) do not specify the receptors. I've had regard to the Council's report, advice of the EHO and observations on my site visit in considering the main issues below.

Main Issues

4. The main issues are the effect of the proposal on:
 - the vitality of Palmers Green as a district shopping centre; and,
 - the living conditions of the occupiers of The Grove and No 310 Green Lanes, with particular regard to noise and disturbance.

Reasons

Vitality of district shopping centre

5. The appeal site fronts Green Lanes, within the District Centre of Palmers Green. In combination, policies CS17 and CS18 of the Enfield Core Strategy (2010) (the ECS) aim to protect, support and strengthen shopping and services as the

main functions in Palmers Green district centre, and protect retail uses. Policy DMD27 of Enfield's Development Management Document (2014) (the DMD) seeks to protect existing A1 units, with loss only permitted if a proposal meets a number of criteria. These include a new use (a) would not create more than two non-A1 uses per 4 units and (b) not detract from the shopping role. For units vacant for more than 12 months, a change of use will be permitted if robust evidence is submitted to demonstrate that all efforts have been made to market the unit over that period, in accordance with Appendix 13 of the DMD.

6. Whilst my visit can only represent a brief snapshot in time, there appeared to be a relatively high occupancy rate in the centre. Taking into consideration a number of units near the appeal site, whilst there was a mix of the other A-class uses, the highest proportion appeared to be A1 uses. Therefore, much of the centre maintains its primary shopping function but balances this with a limited mix of the other uses, such as professional and financial services.
7. The appeal site is adjoined to the north by a betting shop (sui generis use), a public house (A4 use) and takeaway (A5 use). To the south is a hairdresser (A1 use), a café/takeaway (and A3/A5 use) and a café (an A3 use). Any combination of consecutive uses would result in the development creating at least three out of four non-A1 uses, and with the three properties either side a concentration of six out of seven non-A1 uses. This is significantly greater than set out in DMD27. This high concentration of non-A1 uses would contribute to diminishing and therefore detract from the shopping role of the district centre. Therefore, the development conflicts with criteria a) and b) of Policy DMD27.
8. The appeal site is understood to have been last used for an A1 use in 2017. Appendix 13 of the DMD outlines detailed information required to accompany an application for a vacant A1 use. It expects (amongst other things) a detailed assessment of the current, and potential future market demand, reflect upon current economic trends, forecasts and attempts to market the site. Marketing should demonstrate flexibility in terms of matters including subdivision, servicing arrangements and attractive leasing arrangements.
9. Letters from two property agents advise of a lack of substantive offers for the premises. Although I note the contents of the letters, the exact dates and period of consecutive continuous marketing is not confirmed. They suggest a lack of viability for an A1 unit due to (amongst other things) a general decline in the high street due to on-line shopping, out of town retail, and exiting the European Union. There are screenshots of the property being marketed and the appellant suggests they have reduced the rent and offered rent free periods. However, the duration and exact nature of these is not clear.
10. Whilst I note the appellant's concerns, the information provided does not meet the requirements of Appendix 13. This is because the exact continuous marketing periods are not explicit, neither are the length of the periods offered at a reduced rent, or other incentivised offers. The coverage of current, future market demand and expectations for this site is not detailed or robust. Therefore, the information provided does not meet the requirements of Appendix 13, so the proposal conflicts with Policy DMD27 in this regard.
11. The appellant has referred me to Nos. 305 – 315 Green Lanes, which are understood to have been granted permission for a change of use to A3 (Ref: 18/03504/FUL). An accompanying surveyors letter suggests an A3 use would be more lettable. At my visit the site was split into two units, both of a

considerably larger size than the appeal site. One appeared in use as a retail sales premises and the other unit was a vacant A3 use. There is little information provided of the details and circumstances of Ref: 18/03504/FUL (e.g. the delegated report, floor space plan). Their position in relation to other A1 uses is different to the appeal site. The larger unit size means their circumstances may be different in terms of rent, viability and desirability. Therefore, an informed comparison with the appeal proposal is not possible, and the information provided does not justify allowing this appeal.

12. If it were to be robustly proven in accordance with the requirements of Appendix 13 that there was no existing or future demand for an A1 use, the development would create an active frontage, could increase footfall and provide some local employment. However, for the reasons set out above the development would result in harm to the vitality of Palmers Green as a district shopping centre. It would conflict with Policies CS17 and CS18 of the ECS and Policy DMD27 of the DMD, the relevant provisions of which I have outlined above. Furthermore, the appellant has not provided sufficient information to demonstrate that a conflict with the policies is justified, in the terms required by Appendix 13 of the DMD. The Council's reason for refusal has referred to The London Plan (2016) but not referred to any specific policies. Therefore, I cannot conclude overall harm in relation to the London Plan.

Living conditions

13. At my visit there appeared to be some residential uses above the hairdresser (No. 310) and at The Grove. The district centre would be relatively busy during the day resulting in a moderate background noise level. However, later on in the evenings noise levels would be lower. The plant could be required to operate for nearly the full proposed opening hours (08:00 – 23:00hrs seven days). Later in the evenings the plant is likely to be audible and could cause intrusion to residents. There is no information submitted by the appellant before me that demonstrates the noise emissions from the extraction system could be acceptable. Given the proximity to residential properties and the proposed hours, compliance with the required noise standards should be demonstrated prior to permission being granted.
14. Based upon the information before me, the development would be likely to result in some harm to the living conditions of occupiers of No. 310 and The Grove, through noise and disturbance. It would conflict with Policy CS17 of the ECS which supports development proposals that would foster a diverse evening and night-time economy, provided that measures are in place to address issues such as the potential impact of noise and disturbance. There would also be conflict with Policy DMD27 of the DMD which requires development does not adversely impact on the amenities of nearby occupiers.

Conclusion

15. The development would be contrary to the development plan and there are no other considerations advanced, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INPSECTOR