
Appeal Decision

Site visit made on 14 September 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2020

Appeal Ref: APP/E5900/W/20/3251050
139-141 Roman Road, London E2 0QN

- 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 Abdul Samad against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/19/00876, dated 16 April 2019, was refused by notice dated 18 October 2019.
 - The development proposed is alterations to existing structure at the rear of the property/ internal changes and proposed change of use of the rear storage area and yard to shisha/ dessert area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Tower Hamlets Local Plan 2031 (2020) (THLP) was adopted by the Council in January after the Council made its decision. Therefore, as I am required to make my decision based on the policy in place at this time, my determination on this appeal has been made in accordance with this plan. Both parties have had the opportunity to comment on this plan and relevant policies have been drawn to my attention.

Main Issues

3. The main issues are:
 - i. the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise, odour and fume pollution;
 - ii. the effect of the proposal on the vitality and viability of the district centre with particular regard to the functionality of the retained A1 use and servicing arrangements; and
 - iii. whether the proposal provides acceptable cycle and waste storage facilities.

Reasons

4. The evidence indicates that there is residential accommodation above the application site and that further permission exists for such a use at the neighbouring property. Part of the playground of the Bonner Primary school which directly borders the premises wraps around the outside area to the north and east.

5. The proposal includes a substantial covered area to the rear outside where the smoking of shisha pipes would occur, accommodating 8 tables for up to 32 people. The evidence indicates that a large proportion of the walls of the structure are required to be permanently open. As a result of this, it is likely that the use would create notable noise, odour and fume pollution within close proximity to residential property.
6. I note that the appellant has suggested limiting the late evening opening hours to 11.30pm. However, it is likely that nearby residential occupiers could expect quiet enjoyment of their homes before that time.
7. The opening hours are focussed on evenings, weekends and bank holidays outside of the main school day. However, I cannot rule out the possibility that the adjacent school playground is used by children for activities outside of the regular school day on evenings or weekends particularly during the summer. If the two premises were in use at the same time, it is likely that smoking would result in fume pollution which would detract from the enjoyment of users of the playground and have health implications. I afford this matter significant weight.
8. It is the case that limited information has been provided on how the noise, odour and fume pollution would be managed at the site. There is nothing therefore within the evidence to suggest that the impact of the proposal could be made acceptable in this respect.
9. I therefore conclude on this matter that the proposal would fail to comply with Policy D.DH8 of the THLP which states amongst other things that development must not create unacceptable levels of odour, noise or fume pollution. The proposal would also be contrary to the National Planning Policy Framework at paragraph 170 which states that planning decisions should prevent existing development from being adversely affected by unacceptable levels of air or noise pollution.

Vitality and viability of the district centre

10. The application site has a district centre location. Policy D.TC2 is therefore relevant which seeks to protect retail within the town centres. The proposal seeks to retain A1 retail use within the front part of the premises, but would result in reduction of A1 retail floorspace by reason of the proposed change of use to the rear.
11. Where such a reduction is proposed, part 7 of the Policy states that within primary frontages, development must demonstrate that any loss of floorspace is of a scale that will not materially alter the nature of the unit, its future viability or the function of the host shopping area.
12. The existing unit has a large floor area which extends deep into the premises from the frontage. It is proposed to retain the A1 use to the front as a carpet and flooring showroom, relocating the existing stock to another premises. This would leave a well sized and functional retail premises. I do not consider that the proposal would materially alter the nature of the unit, its future viability or the function of the host shopping area. The resulting unit, in this particular case, given that it would be well sized would not form a 'token' retail unit.
13. It appears that it has been possible to service the existing premises where bulky goods are brought in and out and an access corridor with double doors would be provided to the rear of the premises. There should not be any

particularly onerous servicing requirements associated with the use proposed and as a result I do not have concerns in this respect.

14. I therefore conclude on this issue that the proposal would not be detrimental to the vitality and viability of the district centre which amongst other things, Policies S.TC1 and D.TC2 of the THLP seek to protect. The proposal would subsequently accord with these policies.

Cycle parking and waste storage

15. Policy 6.9 of the London Plan (2016) (LP) and Policy S.TR1 of the THLP amongst other things require that developments provide good quality cycle parking facilities. I accept that the hanging wall brackets proposed may not be accessible to all.
16. However, given that there is external space to the rear of the property, nothing within the evidence suggests that it would not be possible to accommodate appropriate cycle storage within the site. If I were minded to allow the appeal this would be a matter that could be appropriately addressed through a condition. Therefore, the appeal proposal would need not conflict with Policy 6.9 of the LP or Policy S.TR1 of the THLP.
17. Policy D.MW3 of the THLP requires that waste be managed sustainably and stored on site for collection. The appeal proposal indicates that a bin storage area would be provided within the rear yard. Whilst limited detail is currently provided, there appears to be space available to provide a suitable arrangement. If I were minded to allow the appeal this could be a matter that could be appropriately addressed through a condition. Therefore, the appeal proposal would need not conflict with Policy D.MW3 of the THLP.

Other Matters

18. The Council have indicated that they consider that the proposal would preserve the character and appearance of the Globe Road Conservation Area. I have no reason to disagree.

Conclusion

19. Taking all relevant matters into account, the appeal should be dismissed.

T J Burnham

INSPECTOR