



Appeal Decision

Site visit made on 14 September 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2020

Appeal Ref: APP/U5360/W/20/3253976

8 Broadway Market Mews, Hackney, London E8 4TS

- 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 Miss Adetutu Aboaba against the decision of the Council of the London Borough Hackney.
 - The application Ref 2020/0128, dated 13 January 2020, was refused by notice dated 23 March 2020.
 - The development proposed is Change of use from B1 to D2, Personal Training Studio. Personal sessions with bodyweight and free weight.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the time the decision has been made by the Council, the Hackney Development Management Local Plan 2015 (LP) and the Hackney Local Development Framework Core Strategy 2010 (CS) have been replaced by the Hackney Local Plan 2033 adopted July 2020. The policies that were listed within the Council's reason for refusal included CS policies 17 (Economic Development), 18 (Promoting Employment Land) and LP Policy DM14 (Retention of Employment Land). These policies are now replaced by the adopted plan and relate to Policies LP 26 Employment Land and Floorspace and LP27 Protecting and Promoting Office Floorspace in the Borough, and are relevant to this appeal.
3. Both main parties were aware of the change in policy and comments were invited. I am therefore satisfied that the interests of the parties have not been prejudiced by my determining this appeal in accordance with the up to date policy framework, as I am required to do in any event.
4. The Town and Country (Use Classes) Order 1987 has been updated from 1 September 2020. However as this proposal was submitted to the Council before this date, the Use Classes in effect when the application was submitted is to be used to determine the appeal.
5. The D2 personal training studio is currently operating for business.

Main Issue

6. The main issue is the effect of the proposal on the supply of B1 accommodation.

Reasons

7. The appeal site is a small ground floor unit located behind Broadway Market and within a partly gated mews development adjacent to a number of other business enterprises including a tattooist and crafting unit. Whilst the appeal site is located within the Broadway Market Conservation Area, it has no effect on the significance of this heritage asset.
8. The Town and Country (Use Classes Order) 1987 (as amended) describes Class B1 Business for the following purposes; an office other than within Class A2, for research and development of products or processes, or for an industrial process. Therefore a D2 use as a personal training studio does not fit into the aforementioned categories and as a consequence the development would result in the loss of employment floorspace.
9. Whilst the appeal site is not located within one of the Council's Priority Office Areas, however, part I of the adopted Hackney Local Plan 2033 policy LP27 only permits the loss of B1 floorspace provided robust marketing evidence is submitted to demonstrate that there has been no demand for the floorspace in its current use, and the possibility of retaining, reusing or developing it for similar or alternative smaller or more flexible units for employment generating use, or other alternative employment generating use, has been fully explored. The remaining criteria of the policy relates to new employment use providing a range of higher quality, more flexible floorspace and it is demonstrated that the new commercial floorspace being provided has a strong likelihood of being occupied.
10. The appellant uses the premises for one to one personal training services as well as for small group activities. They are of the view that the spin-off from the services they provide would generate employment opportunities elsewhere. However, not only are the premises small in size and will have a limited capacity to its services offer, more importantly there is no evidence to substantiate this claim.
11. Whilst the unit may have been vacant for some time before the appellant occupied it, I can find no marketing evidence presented by them to demonstrate that there is no realistic prospect of the floorspace being used for its lawful purpose. A D2 use may employ people, however this is different use class to B1 Business use class, and therefore unless specific evidence is produced in accordance with Policy LP27, the change of use cannot be justified.
12. On this basis, the proposal conflicts with the Hackney Local Plan 2033 (2020) Policy LP27 in its aims to protect office floorspace.

Other Matters

13. The unit may provide the opportunity for personal trainers to provide a service and the health and wellbeing benefits that would arise are noted, however that is not to say that this can only occur from this specific unit. The business may lead to providing a community service and contribute to community cohesion and to a greater spend within the local economy, as well as drawing people in

from outside the area. However, these benefits do not persuade me in favour of the proposal.

14. Despite the location of the premises close to good transport links, and that the company may be a well established business, and the benefits of a smaller unit to meet their needs, nonetheless, it is not an appropriate use for the space.
15. I am not aware of the site constraints or its poor condition that has been alluded to by the appellant or how it would complement existing uses given there is a tattooist and craft unit close to the appeal site.
16. Should planning permission be granted for a change of use, whilst the floorspace may not be directly affected, the B1 supply would no longer apply to the premises. The Council policy is to retain employment floorspace.
17. The advice contained within the National Planning Policy Framework (the Framework) in its role to achieve sustainable development through the means of an economic, social and environmental objective is recognised by the appellant. I fully appreciate their view that this proposal would meet all those objectives. However, given the local plan for the area and its planning policies, determination must be made in accordance with the Plan unless material considerations indicate otherwise. Local policy is in place to protect employment floorspace, which also leads to achieving sustainable development. The Framework seeks to build a strong, competitive economy and this is achieved by the need to support economic growth which, in this circumstance is via a B1 use dedicated to this unit.
18. The London Plan 2016 may support small enterprises, although that is not to say that a B1 use would not be considered as a small enterprise.
19. The neighbouring unit at 4 Broadway Mews may have been granted permission for a change of use to a Sui Generis use, although it would appear from the appellant's statement of case that this unit was not in a B1 use before the change of use was permitted. Although unit 12 Broadway Mews has been granted permission, the precise details are not before me, however the Council's delegated report explains that significant marketing of the premises was demonstrated and this was a determining factor. In any event, I have considered the appeal on its own independent merits.

Conclusion

20. Taking into account all the information before me, the appeal is dismissed.

Alison Scott

INSPECTOR