



Appeal Decision

Site visit made on 15 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/20/3253197

18-20 Scrutton Street, Hackney, London EC2A 4RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Sharma, Eurowin Limited against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2019/4473 is dated 20 December 2019.
 - The development proposed is Change of use of the existing ground floor loading bay and vacant basement for a multi-use events space (class Sui Generis), with elevational alterations at, 10-20 Scrutton Street, London EC2A 4RU.
-

Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. 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Development Management Local Plan 2015 (LP) and the Hackney Local Development Framework Core Strategy 2010 (CS) have been replaced by the Hackney Local Plan 2033 adopted July 2020. Relevant policies of the adopted plan that relate to this appeal are LP 26 Employment Land and Floorspace and LP27 Protecting and Promoting Office Floorspace in the Borough.
3. Whilst no response was received to my request regarding the new planning policies referred to by the Council, I am however satisfied that the appellant is also aware of the change in policy and therefore 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 Use Classes Order 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 application.
5. The address is listed as 18-20 Scrutton Street. However it encompasses development proposed within the basement of 10-20 Scrutton Street and therefore I have taken this into consideration as part of my assessment.
6. This is a failure case as the Council did not reach a decision within the statutory timeframe. The Council's Statement of Case explains that they consider the proposal would result in the unacceptable loss of a B1 use and the alterations

to the front elevation would harm the significance of the character and appearance of the CA as well as harm arising to highway safety as a consequence of intensity of use.

7. Within the appeal statement the appellant agrees to retain the window that was originally intended to be altered to create an entrance to the front elevation. This revision is demonstrated on the revised plans. As a result of these amended suite of plans, I am satisfied that this has the resultant effect of negating part of the reason for refusal.

Main Issues

8. The main issues are:

- the effect of the proposal on the supply of B1 accommodation to the area; and
- the effect of the proposal on highway safety.

Reasons

9. The appeal site is a former Victorian warehouse of consistent design characteristics to the south side of Scrutton Street and located within the Shoreditch Conservation Area (CA) and is recognised by the Council as a Building of Townscape Merit. It has a dominating presence to the streetscene given its scale, and retains a significant amount of character. As a result of the proposal, both parties agree that the intention to replace the roller shuttered doorway with a glazed entrance would enhance the character and appearance of the CA. I find no reason to disagree with this view.

Employment floorspace

10. 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 Sui Generis use as an events space would not fit into the aforementioned categories.
11. Policy LP26 of the adopted Hackney Local Plan 2033 seeks to retain industrial land and floorspace in the Borough and to retain this by designating Priority Office Area (POA). The appeal site is located within the Council's Shoreditch POA. Policy LP27 explains that within the POA, new development is permitted provided it is employment led and where B1 use class is the primary use.
12. Through the proposal, there may be the potential to create employment, however it is not primarily created by B1 use and this would be lost to the proposal. Nor is there evidence provided by the appellant to demonstrate that at least 60% of the POA floorspace *across the area as a whole* (my emphasis) is B1 employment floorspace, as per criteria C i of the policy.
13. The same policy at part I 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. No evidence has been provided by the appellant to

demonstrate this has occurred or that there is a low demand for B1 use, as is stated by the appellant.

14. Even though the appellant has provided some details of the occupation levels of the spaces explaining that tenancy levels can be low, and gainful rent is problematic, no tenancy agreements or pricing schedules have been provided to substantiate the contents of this table.
15. I appreciate the proposed use would have the potential to create employment opportunities given its functions, although whilst it is described by the appellant as creating 'more sustainable employment' and long-term employment potential, this statement is not evidenced. Nevertheless, the proposal is determined in accordance with the most up to date plan, unless material considerations indicate otherwise. The proposal is contrary to local policy and on this basis, and for the reasons explained, the scheme cannot be supported. Furthermore, it would not accord with Policy 4.1 of the London Plan 2016 to develop London's economy.

Highway safety

16. The location of the site gives rise to sustainable travel options as it is located within an area with a PTAL of 6b. The maximum capacity of the site as stated by the appellant would be up to approximately 550 patrons, and I understand this is significant increase to the existing numbers who occupies the space.
17. The Council have not provided any evidence to suggest public transport could not accommodate this uplift in numbers at any time. I am also mindful that the Council's Traffic and Transport team have not formally offered objections to the proposal or formally sought a transport assessment. The explanations the appellant offered to their questions are reasonable and I therefore do not find the proposal would lead to an unacceptable intensification of use that would cause a highway safety concern.
18. On this basis it would not conflict with the aims of Policy 6.3 of the London Plan.

Other Matters

19. The present uses may be a mix of 'B' use classes although a change of use has been applied for a Sui Generis use, and concerns all the basement space in particular, and the loading bay that supports the building.
20. The appellant explains some of the existing occupied units within the space would retain within their present use, and that the events space would not compromise the remaining business but is intended to complement the other uses within the building and those close by. However, whilst this may be the case, this does not alter the conclusion I have reached.
21. Despite the visual benefit that would occur due to the loss of the roller shutter, that there are no neighbour objections raised, and that the site would provide accessibility to the building to the general public, local community and better access from less-able bodied people, these benefits do not outweigh the harm I have identified.
22. Issues regarding lack of daylight and ventilation within the existing spaces are raised by the appellant. A new doorway within the loading bay opening has the

potential to be created within the opening, which I find no objection to, and an active frontage would be created as a result of the proposal which is supported by Policy LP26. I appreciate that the basement level is more challenging to modify, however that is not to say that a B class business use could not be accommodated within the space. Furthermore, there is no evidence presented by the appellant to demonstrate its condition is preventing its use.

23. A neighbouring unit that is now in D1 use has been brought to my attention by the appellant. However, the precise details of this scheme are not before me. A use within the current building may have been granted a premises licence, however this is different legislation to any planning legislation.
24. The appellant has been frustrated by the Council's service. Any complaints should, in the first place be directed to the Council and are not in my remit to address.

Conclusion

25. Although I find in favour with respect to effect of the development on the character and appearance of the CA and transport implications, the loss of employment floorspace is not justified and on this basis, the appeal is dismissed.

Alison Scott

INSPECTOR