



Appeal Decision

Site visit made on 2 November 2020

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2020

Appeal Ref: APP/Y5420/W/20/3250273

123 Bounds Green Road, Wood Green, London N11 2PP.

- 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 Mazlum Ulgur against the decision of the London Borough of Haringey Council.
 - The application Ref HGY/2019/2171, dated 18 July 2019, was refused by notice dated 17 September 2019.
 - The development proposed is change of use from A1 to A5 (Take-away), installation of an extractor ventilation system (with ESP) and associated shopfront alterations.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form states that the change of use would be from A1 to A5. Whilst some of the appeal documentation refers to the change of use being from A1 to A3 it is clear from the application form and the submitted floorplans that it is a hot food takeaway that is proposed and I have determined the appeal on this basis.
3. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amended the Use Classes Order deleting the A Class and A5 use was reclassified as a sui generis use. However, the amendment order is clear that applications submitted before 1 September 2020 will be determined according to the previous use class.

Main Issue

4. The main issue is whether the site would be an appropriate location for the proposed hot food takeaway bearing in mind the intention of the development plan to retain neighbourhood parades and undesignated centres in retail or other town centre uses.

Reasons

5. The appeal property occupies the ground floor of a 3 storey building and is one of a small number of commercial premises in a neighbourhood parade on Bounds Green Road just south of Bounds Green Station. No 123 together with No 121 is part of a small supermarket and was trading at the time of my site visit. Other uses in the parade are comprised of a pub, Tesco Express, nail bar, and a bookmakers. All are trading and there are no voids.
6. Policy DM44 of the *Haringey Local Plan Development Management DPD* (HLPDMDPD) identifies neighbourhood parades such as those at Bounds Green Road as representing a key component of local retail provision. However, in

recognition of the fact that these are not primary shopping areas, the policy adopts a more flexible approach and allows change of use to appropriate town centre, community and economic uses where the property has been marketed for at least a year and there is no realistic prospect of it being used for a town centre use and that there are adequate alternative shopping facilities for local residents.

7. There are clearly alternative shopping facilities in close proximity and therefore the reuse of No 123 would meet the second test (policy DM44B-b). However, in respect of the first test (DM44B-a), as the unit is currently trading as a supermarket and is not vacant there is clearly a prospect of it continuing in retail use and therefore that policy test is failed. Even if I was to accept the evidence put to me that the retail use of the unit at current rents is financially non-viable, the marketing details for the property suggests that it has been advertised for A1 retail use only. There is no evidence that the property was marketed for any other town centre use for a period of a year which is what Policy DM44 requires.
8. The Council has not formally defined what it means in Policy DM44B-a) by town centre uses however, given the meaning nationally in the *National Planning Policy Framework* (the Framework) the term would include at least retail, office and leisure uses.
9. Policy DM47 of the HLPDMDPD seeks to control hot food takeaways separately and directs these uses to town and local centres. It makes clear that Haringey has one metropolitan town centre, 6 district town centres and 38 local centres. According to Policy DM47 these should be the locations for hot food takeaways subject to certain criteria being met. Whilst the area around Bounds Green Station is designated as a local centre and already has a significant number of hot food takeaways, the small parade of shops where the appeal site is located further south on Bounds Green Road is not part of that local centre and is classed as a neighbourhood parade.
10. I have been invited to conclude that the use would provide an active frontage and promote the evening economy and is an appropriate use for the location. However, it is clear from policy DM47 that these uses are not considered appropriate for small neighbourhood parades and given that all businesses in the parade are trading with the food retailers open till late in the evening the frontage remains in active use and already contributing to the evening economy.
11. For the reasons above the proposed use would not be an appropriate one in this location and would be in conflict with HLPDMDPD Policies DM44 and DM47.

Other Matters

12. A considerable number of third parties have raised concerns about the proposed takeaway in terms of potential cooking odours, parking and traffic congestion, noise and disturbance, and the number of takeaways already in the area.
13. In respect of potential odours an acceptable extract system is proposed that would exit at roof level to the rear of No 123 and above any residential premises which would avoid nuisance from odours. The neighbourhood parade is in an accessible location, well served by public transport and has a pull in layby off Bounds Green Road itself with a number of parking bays and it is therefore unlikely that the use would lead to unacceptable parking and traffic congestion. Generally, the impact of the operation of the takeaway on residents living conditions could be adequately controlled by licensing and regulatory systems as well as by imposing an hours of operation condition ensuring that any potential disturbance would be avoided at night time.

14. I am not therefore persuaded that the use, if properly controlled, would give rise to the problems the residents fear. However, the fact that these problems are unlikely to arise or can be controlled by condition would not outweigh the harm to the nature and operation of the frontage as a local neighbourhood shopping parade or justify an exception to development plan policies and guidance in this case.
15. I have had regard to the Public Sector Equality Duty contained in the Equality Act 2010 and understand the appellant's wish to secure an alternative, financially viable use for the shop unit at No 123. However, as the unit is currently still trading as a retail shop this does not outweigh the detrimental impact the change of use would have on the future of the neighbourhood parade in providing for local shopping and service needs.

Conclusion

16. In reaching my decision I have had regard to the matters before me but for the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR