



Appeal Decision

Site visit made on 17 November 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Appeal Ref: APP/G5750/W/20/3249704

Oregon Centre, rear of 865 Romford Road, Manor Park, London E12 5JY

- 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 C Benson against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/03047/FUL, dated 31 October 2019, was refused by notice dated 16 January 2020.
 - The development proposed is described as 'renovation works to an existing office (B1) to replace shopfront and addition of first floor'.
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Decision

1. The appeal is dismissed.

Procedural Matters

Description of development

2. The description of development in the banner heading above is taken from the planning application form, although in the interests of brevity and because it is not descriptive of the proposal I have excluded the site address.

Use Classes Order changes

3. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ('the UC Regulations') came into force, amending the Town and Country Planning (Use Classes) Order 1987 ('the UCO') to simplify the system of use classes.
4. Class A (shops) and Class D (non-residential institutions, and assembly and leisure) were revoked, and a new Class E (commercial, business and service) created, incorporating the previous A1 (shops), A2 (financial and professional services), A3 (restaurants and cafés), and B1 (business) use classes. Some uses previously in classes D1 (non-residential institutions) and D2 (assembly and leisure) are also now within Class E, as well as '*any other services which it is appropriate to provide in a commercial, business or service locality*'.
5. Paragraph 4 of the UC Regulations states that '*if prior to the commencement of the material period, a relevant planning application was submitted, or was deemed to be submitted, to the local planning authority which referred to uses or use classes which applied in relation to England and were specified in the*

Schedule to the Use Classes Order on 31st August 2020, that application must be determined by reference to those uses or use classes’.

6. In this instance, the application was submitted to the local planning authority before 1 September 2020. In line with the requirements of the UC Regulations, I have therefore determined the appeal with reference to the use classes which applied on 31 August 2020.

Use of the appeal site

7. The appeal site was described in the planning application as an office within the B1 use class. The appellant’s statement described as the existing building as disused, but also stated that *‘the current B1 use has been in existence for a very long time’*. The Council has no record of the building having been in B1 or any other commercial use, and considers the premises to have most recently been a *sui generis* lock-up garage. It is not for me to reach a definitive conclusion on the present lawful use of the premises in determining this appeal, although the matter is relevant to my consideration of the main issues.
8. At the time of my site visit, I saw that there were large wooden board doors to the street boundary, behind which were glass shopfront-style doors and a small uncovered forecourt. Beyond this the main unit was entered through another set of glass doors. The premises were largely empty, containing little other than some paint containers and bottle crates stacked in one corner, and in a poor state of repair. None of the evidence before me, including my observations on my site visit, conclusively establishes that the property has been in B1 use. Notwithstanding the dispute between the parties on this matter, I have therefore determined the appeal on the basis that proposal would result in the site being brought into B1 use.

Emerging London Plan

9. A new London Plan (the emerging London Plan, ‘the ELP’) is being prepared which will replace the 2016 London Plan (‘the LP16’)¹. The decision notice referred to policies in *The Draft London Plan – consolidated changes version* of the ELP which was published in July 2019. In December 2019, between the planning application being determined and this appeal being lodged in March 2020, the Mayor of London published *The London Plan – Intend to Publish version* of the ELP.
10. Some policies referred to in the decision notice were renumbered between the two versions of the ELP; Policy D2 became D4, D4 became D6, D7 became D8, and D13 became D14. I have used the updated policy numbering in my decision. The text of the relevant policies remained substantially the same, and although I have not therefore sought the views of the main parties on the changes between the versions I am satisfied that my taking this approach has not prejudiced the interests of either party. Given the advanced stage of preparation of the plan and the relevant policies, although the ELP is not yet part of the development plan in accordance with the requirements of Paragraph 48 of the National Planning Policy Framework (‘the Framework’) I afford it substantial weight.

¹ The London Plan: The Spatial Development Strategy for London consolidated with alterations since 2011 (published March 2016)

Main Issues

11. The main issues are the effect of the proposed development on:

- The vitality and viability of commercial centres in the Borough, having regard to development plan policy on the location of employment uses;
- The character and appearance of the area; and
- Living conditions for neighbouring residential occupiers of 1A Oregon Avenue and 865 and 867 Romford Road, with particular regard to daylight and sunlight, and outlook.

Reasons

Vitality and viability of commercial centres

12. The appeal site is a single storey building adjoining 1A Oregon Avenue, a two-storey terraced house in a primarily residential street. It lies to the rear of 865 Romford Road, and a doorway in the south elevation of the appeal property connects it to the rear yard of No 865, suggesting that there may have been a functional relationship between the two at some point. Romford Road contains a mix of two and three storey blocks, many with commercial uses on the ground floor and residential accommodation above. However, Nos 865 to 879 between Oregon Avenue and Toronto Avenue adjacent to the appeal site appear to be entirely in residential use.
13. The appellant's statement described the appeal property as disused, and from what I saw of its physical condition at the time of my site visit it did not appear to have been in active use for some time. The roof was in a particularly poor state, with several collapsed or sagging timbers and large areas of slates missing. The proposal is to renovate the building, replace the existing shop-style front to Oregon Avenue, and add a first floor. This would allow the premises to be used as an office unit.
14. Neither the appeal site itself or the nearby part of Romford Road are within a district or local centre, nor any other designated employment, commercial or mixed-use area. The Framework defines office space as a main town centre use, and the development plan seeks to direct to these uses to town and district centres. The provision of new office space on the appeal site would potentially draw business activity away from the designated commercial centres within the borough, thereby harming their vitality and viability.
15. The total amount of commercial floorspace which would be created as a result of the proposal would be small, and in isolation it would be likely to have an imperceptible effect on the vitality and viability of nearby centres. However, I have also considered the Council's argument that the current proposal would set a precedent for similar developments in the surrounding area. Whilst each application and appeal must be treated on its individual merits, I appreciate the Council's concern that approval of this proposal could be used in support of such similar schemes. On my site visit I saw many small garage-type units nearby, particularly behind premises at the corners of main roads and side streets in apparently similar settings to the appeal site. I therefore consider that this is not a generalised fear of precedent, but a realistic and specific concern about similar proposals coming forward which could undermine the regeneration and growth of town and local centres in the borough. Allowing this

appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would exacerbate the harm which I have described above.

16. The appellant has suggested that the proposal could be brought forward as permitted development. Given the dispute about the existing use of the appeal site I have described above, and the restriction on permitted development rights which limit the extension or alteration of an office building to ground floor level only² it is not clear to me that this course of action would be available to the appellant. Consequently this proposition carries only limited weight in favour of the proposal as a fallback position.
17. I conclude that the proposal is not in a location to which the development plan seeks to direct employment uses, and it would harm the vitality and viability of commercial centres in the borough. Although the harm would be limited, the proposal nonetheless conflicts with Policies S1, S6, SP1, SP6, SP7 and INF5 of the 2018 Newham Local Plan ('the NLP'), Policies 2.15, 4.7 and 4.8 of the LP16, and Policies SD6, SD7 and E9 of the ELP. Together, these policies seek to strengthen and consolidate town and local centres as the main focus for commercial development. The proposal also conflicts with Policy J1 of the NLP which identifies Local Mixed Use Areas and Micro Business Opportunity Areas as being further suitable locations for smaller-scale office development.
18. The appellant considers that the Council's development plan policies in respect of this matter conflict with national policy as set out in the Framework, in particular paragraphs 85, 104, 117 and 118 which seek to support town centres, to ensure that planning policies support an appropriate mix of uses across an area, and promote the effective use of land. However, Paragraph 118 is supportive of the use of the airspace above existing residential and commercial premises for new homes, whereas the proposal before me is for a commercial scheme. No substantive evidence is provided to justify the claim in respect of other NLP policies, which in my view are in conformity with the relevant aims of the Framework. I am therefore not persuaded that the claimed conflict between national and local policy exists, and I find that the proposal would also conflict with the Framework taken as a whole, notably the provisions of Chapter 7 which seek to ensure the vitality of town centres.

Character and appearance

19. The proposed development would add a flat-roofed first floor extension to the existing building on the site, replacing the single-pitched roof. The front elevation facing the street would have a window opening at first floor level on the same building line as 1A Oregon Avenue next door. The area between the original front elevation and the street boundary is described in the Design and Access Statement as a 'flat roof reception area', although by the time of my site visit any roof which may have been there was no longer evident it was open-topped. This area would be enclosed with a flat roof and a glazed shopfront style façade to create a reception area projecting forward of the front building line of No 1A. The new build elements would primarily be finished in brick to match the existing building, with painted render window surround panels on the front elevation at both ground and first floor levels.

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 7, Class F.

20. Oregon Avenue appears typical of the late 19th or early 20th century residential development in the surrounding area. Common features such as double height bay windows and steeply pitched roofs give the street a strong character. Although some properties have been unsympathetically altered over the years, many retain features such as decorated window and doorway columns and capitals which add some quality and interest to the street scene. By comparison, the proposed development would be boxy and plain in appearance, and commercial in character. Seen against either No 1A next door individually or the street as a whole, the proposed development would be underwhelming in appearance, and the front ground floor projection towards the street boundary would draw attention to the unit and its incongruous appearance within the street. I therefore disagree with the appellant's argument that the design of the proposed development would reflect and match that of neighbouring properties, and consider that it would not appear sympathetic to the character and appearance of Oregon Avenue as a whole.
21. The adjoining property at 865 Romford Road does have a flat-roofed rear extension, and indeed there are buildings and extensions to the rear of the block including 863 Romford Road (on the other side of Oregon Avenue from the appeal site) which are also flat-roofed and boxy in appearance. However, from my observations on my site visit I agree with the Council's assessment that these buildings have a poor quality appearance which detracts from the area. Their presence does not justify allowing other poorly-designed development which would cause harm by further eroding the character and appearance of the area, nor would such harm be justified by the fact that the appeal site is not Listed, close to any building of historical value, or within a Conservation Area.
22. The existing building on the site is in a poor condition and at present makes a negative contribution to the character and appearance of the area. In the short term, its removal would therefore be a benefit. However, it does not follow from this that any proposed replacement or redevelopment would be acceptable regardless of quality. In scale, design and detailing, the scheme before me would be unlikely to add to the overall quality of the area in the longer term. Although the materials would reflect the prevalent use of brick and render within Oregon Avenue, the proposed development would otherwise be an incongruous addition which would not build on any of the positive characteristics of the street within which it would be set. While bringing the site back into use, and the selection of appropriate materials are both therefore positive factors, neither would justify or outweigh the other harm I have found in terms of character and appearance.
23. The appellant has drawn my attention to several first-floor extensions which have been approved elsewhere in the borough. The only example I was able to view on my site visit was that at the rear of 849 Romford Road close to the appeal site³. Although the site layouts and relationship with neighbouring properties are not the same, from what I could see from Michigan Avenue that scheme did not represent a high quality or sensitive addition to the area, and does not justify the proposal now before me. I note also that that permission dated from 2006, and so would have been made under different development plan policies. None of the other examples provided appeared to represent a direct parallel to the appeal proposal, with various differences including scale,

³ LB Newham ref: 06/01754/FUL

location, use and development plan policy. In any case, I have determined this appeal on its own merits.

24. I conclude that the proposed development would cause unacceptable harm to the character and appearance of the area. It would therefore conflict with Policies SP1, SP3 and SP8 of the NLP, Policies 7.1, 7.4, 7.5 and 7.6 of the LP16, and Policies D4 and D8 of the ELP. Among other things, these policies together seek to ensure that development is well-designed, responds well to local character, and enhances the positive elements and distinctive features of the borough. For the same reasons, it would conflict with the requirements of the Framework in respect of creating well-designed places, in particular Paragraphs 127 and 130 which seek to ensure that developments add to and improve the overall quality of the area over the lifetime of the development.
25. There would be no conflict with NLP Policies SP2, which seeks to create healthy neighbourhoods, or S5 which relates to securing successful town and local centres. I also find no conflict with ELP Policy D1, which although it refers to understanding the character of areas is principally aimed setting out the issues which the Mayor of London wishes to see boroughs' development plans address in planning for growth.

Living conditions

26. The proposed ground floor extension would project beyond the front building line of 1A Oregon Avenue to the north. As a result of its positioning it would be likely to cause some loss of daylight and sunlight to the front ground floor room of that property, as well as some loss of outlook from the same room. The appellant has stated that *'the site analysis shows overwhelming evidence that the proposed development would not result in overshadowing, loss of day/sunlight or any sense of enclosure'*, although I have not been provided with this evidence. Given the proximity of the proposed front extension to the bay window of No 1A, on the basis of the information before me I am not satisfied that the proposed development could proceed without causing an unacceptable loss of daylight, sunlight and outlook for occupiers of that room.
27. The plain brick side elevation of the proposed first floor extension to the appeal property would be nearer to the first-floor windows of Nos 865 and 867 Romford Road than the side wall of No 1A Oregon Avenue which they currently face. I have not been provided with measurements of the separation distances involved, nor have I been referred to any policy or guidance requirements for such distances. However, although the proposed extension would be built to the site boundary with Nos 865 and 867, it would have a lower eaves height than most of the surrounding buildings. As a consequence, from what I saw on my site visit it would be unlikely to appear as an unexpectedly overbearing or unacceptably enclosing feature in the context of the surrounding area. As the appeal site is to the north of Nos 865 and 867 Romford Road, the effect of the proposed development on daylight or sunlight reaching the rear rooms and outdoor spaces of those properties, and therefore any increased overshadowing, would in my view be negligible.
28. I conclude that the proposal would be acceptable in terms of its effects on living conditions for the occupiers of Nos 865 and 867 Romford Road. However, on the basis of the evidence before me I cannot be satisfied that there would be no harm to living conditions for the occupiers of No 1A Oregon Avenue arising from a loss of daylight, sunlight and outlook. The proposal therefore

conflicts with Policies S6, SP2, SP3 and SP8 of the NLP, Policies 7.1 and 7.6 of the LP16, and Policy D6 of the ELP. Together these policies seek to ensure that development improves the quality of housing and living environments, and avoids negative impacts on neighbours. It also conflicts with the requirements of the Framework, in particular Paragraph 127 which seeks to ensure that developments promote a high standard of amenity. I find no conflict with Policy SP1 of the NLP, Policy 7.4 of the LP16, or Policy D1 of the ELP, none of which specifically refer to living conditions. I also find no conflict with Policy 7.15 of the LP16 or Policy D13 of the ELP, as although these policies do address living conditions, they are concerned with noise impacts.

Conclusion

29. For the reasons given above the appeal is dismissed.

M Cryan

Inspector