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## Appeal Decision

Site visit made on 1 December 2020

**by D Szymanski BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> February 2021**

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**Appeal Ref: APP/G5750/W/20/3256214**

**587 Barking Road, Plaistow, London E13 9EZ**

- 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 T Altun against the decision of the Council of the London Borough of Newham.
  - The application Ref 20/00933/FUL, dated 11 May 2020, was refused by notice dated 8 July 2020.
  - The development proposed is described as internal & external alteration to rear side extension with flat roof.
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### Decision

1. The appeal is dismissed.

### Procedural Matters & Background

2. In the banner heading above I have used the description of development from the planning application form. This differs to that in the decision notice and appellant's appeal form, which refers to a single storey rear extension that is retrospective. At my visit an extension had been built with a similar outer wall alignment and door positioning to that on the EXISTING & PROPOSED GROUND FLOOR PLAN, so I am considering the appeal proposal as retrospective.
3. In comparing the PRE-EXISTING with the EXISTING & PROPOSED plans, these suggest the appeal proposal is to roof a small courtyard and amend and re-roof part of an existing extension and outbuilding only. The PRE-EXISTING plans show a development similar to one permitted in April 2007 (Ref 06/01519/FUL) for a full depth ground floor extension single storey and two storey extension. The Council is of the view the application subject of this appeal is for a full width, full depth, ground floor rear extension.
4. Both parties were provided with an opportunity to comment upon the nature of the development. The Council is of the view permission Ref 06/01519/FUL was not lawfully implemented and has expired. There is no substantive evidence that would lead me to a different view. Therefore, it is not a fallback position available to the appellant. I have considered this appeal on the basis it is for a full width, full depth, rear extension.
5. The extension present at my visit differed from the appeal plans as amongst other things, there were air condition units on the roof, it created a stock store and preparation area, and the roof was not set lower than the extension that it

adjoins. However, my consideration of this appeal relates to the development as shown on the submitted 'EXISTING & PROPOSED' plans before me.

6. Some residential units had been erected to the rear of the neighbouring No 585, that are not shown on the appeal plans. I have had regard to their presence in my consideration of this appeal.

### **Main Issues**

7. The main issues are the effect of the development upon:
  - the vitality and viability of nearby designated town and local centres; and,
  - the character and appearance of the host building and the area.

### **Reasons**

#### *Vitality and viability*

8. The appeal site and neighbouring mechanical garage are a pair of premises within an otherwise largely residential frontage on the west side of Barking Road, similar to the properties north of the fuel garage opposite. At my visit the appeal premises sold primarily food and convenience goods.
9. Policies in the London Plan (2016) (the LP) and the Newham Local Plan (2018) (the Local Plan) seek to focus and support the provision of goods and services including retail towards town and local centres to maintain a robust retail core and to strengthen, promote and enhance their vitality and viability. If no in-centre sites are available proposals should be where they can be well integrated with the existing centre and public transport. In assessing proposals for extensions to existing edge or out of town centre development, regard will be had to vitality and viability.
10. The appeal site is not within an existing designated town or local centre. While the development extends an existing business, the additional floorspace increases the amount and range of goods that can be stored, presented for sale, and purchased. While the increased floorspace may be limited in the context of overall floorspace of nearby centres, it represents a considerable increase having regard to the appeal site premises.
11. Based upon the evidence before me I cannot conclude with any certainty that the appeal site offer extended by the development, does not compete with, and divert trade from other retail premises within or adjacent to designated centres, from selling similar goods, thereby reducing their turnover. I also cannot conclude that the development does not reduce footfall to town and local centres due to consumers purchasing goods at the extended appeal site offer, resulting in consumers not travelling to a designated centre. Therefore, I cannot conclude the development does not significantly harm the vitality and viability of existing designated centres.
12. The policies of the development plan and the Draft London Plan (intend to publish version, December 2019) (the DLP) may be restrictive to businesses in certain circumstances and locations. However, the Local Plan is approximately 2 years old and was the subject of an independent examination. The DLP has also undergone an examination and whilst it is not yet adopted it is at an advanced stage, the policies of most relevance to this proposal are consistent with the National Planning Policy Framework (2019) (the Framework).

13. There is no evidence before me that demonstrates a departure from the plan policies is justified. Neither is there demonstration of a shortage of in-centre premises available for use or demonstration this appeal development is necessary to the operation of this business. There are no significant or overriding benefits advanced.
14. For the reasons set out above the development conflicts with the development plan strategy to focus retail development to and support and strengthen existing town and local centres. I cannot conclude the development would not have a harmful effect upon the vitality and viability of designated town centres. Therefore, it conflicts with Policies 2.15, 4.7 and 4.8 of the LP, Policies SD6 and E9 of the DLP and Policies S1, SP6, SP7 and INF5 of the Local Plan. In combination and amongst other things, these expect development to be focussed towards, and to maintain, support and strengthen the provision of retail in town and local centres to maintain a robust retail core and to promote and enhance their vitality and viability. The development also conflicts with paragraph 85 of the Framework, which requires that decisions support the role town centres play at the heart of local communities, by taking a positive approach to their growth, management, and adaptation.
15. Policy J1 of the Local Plan is referenced in the first reason for refusal, which lists criteria for types of development that will be supported and design and technical criteria for other certain types of development. The appeal development is not listed as one that is either supported or has specific requirements in the design and technical criteria. Therefore, J1 is of limited relevance to the development.

#### *Character and appearance*

16. The original appeal site building is a pitched roof gable fronted buff brick building with loft space, served by some original rectangular, circular, and semi-circular window openings. It makes a positive contribution to the character and appearance of the frontage and the area. The rear of the building that I could see makes a more limited of a contribution due to some alterations.
17. Based upon the evidence before me much of the area of the extension was previously occupied by a subservient outbuilding and open yard area. The development results in the entirety of the rear area of the appeal site being enclosed by a flat roof extension. Given its depth and width occupying a large proportion of the appeal site, the development is of a scale that is not subservient or respectful of the host building. Being tight to the boundaries it appears dominant and harmful in terms of its bulk and massing, providing no relief when viewed from surrounding nearby residential properties.
18. Its scale, bulk, massing, and roof form is incongruent, not complementary to and is significantly harmful to the character and appearance of the host building. It also appears incongruent with the other older traditional historic pitched roof buildings which form part of the prevailing character of this area. Therefore, it is also harmful to the area. Whilst the visual harm is localised, it is highly visible at close proximity from a number of nearby properties.
19. Therefore, for the reasons set out above the development is significantly harmful to the character and appearance of the host building and the area. It conflicts with Policies 7.4 and 7.6 of the London Plan and Policies SP1, SP3, SP8

and H1 of the Local Plan. In combination and amongst other things these policies require development is of a high quality design that has regard to, respects and enhances the character and appearance of the area. The development also conflicts with paragraph 127 of the Framework which requires that development is visually attractive and sympathetic to local character and history, including the surrounding built environment.

20. The Council's reason for refusal refers to Policy S6 of the Local Plan, which sets out the spatial strategy for certain areas of the Borough. However, it is not clear which of the areas the development falls within, so I have not reached a finding in relation to this policy. Policy SP2 of the Local Plan sets out strategic principles and a spatial strategy which supports certain types of development, and design and technical criteria. The development does not directly fall within one of those development types or with specific requirements, so SP2 is of limited relevance. Policy D1 of the DLP sets out requirements for the preparation of local plans and D2 relates primarily to infrastructure requirements for sustainable densities. Therefore, these are of less relevance to character and appearance than the other policies I have concluded against.

### **Other Matters**

21. The development lies within a Zone of Influence of the Epping Forest Special Area of Conservation (SAC). The Conservation of Habitats and Species Regulations 2017 (as amended) require where a project may result in a significant effect on a European site (in this case the SAC), the competent authority is required to make an Appropriate Assessment of its implications on the integrity of the European site. It is understood that the development is of a type that is outside the scope of the Epping Forest Mitigation Strategy. However, as the development is not proposing any mitigation or benefits in respect of the SAC, and I am dismissing this appeal for other reasons, I have not considered this matter further.
22. Two residential units had been erected to the rear of the neighbouring No 585 which adjoins the appeal site. The appeal proposal results in a significant increase in built development, onto which these residential units have a close proximity outlook. There are concerns expressed by the Council in respect of a detrimental effect upon outlook and noise as a consequence of the appeal development. However, based upon the evidence before me the appeal development would not result in a beneficial effect in respect of the living conditions of these properties. Therefore, as I am dismissing this appeal for other substantive reasons, I have not considered this matter further.

### **Conclusion**

23. For the reasons set out above, the development conflicts with the development plan and the National Planning Policy Framework. There are no considerations advanced which outweigh these findings. Therefore, for the reasons given, the appeal should not succeed.

*Dan Szymanski*

INSPECTOR