

Appeal Decision

Site visit made on 26 January 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/M5450/W/20/3258895
8 Clifton Road, Harrow, London HA3 9NS

- 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 Mrs Suzette Thomas against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4713/19, dated 26 July 2019, was refused by notice dated 5 May 2020.
 - The development proposed is the alteration and retention of B1 Office Building.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Suzette Thomas against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

Procedural Matter

3. Since the submission of the appeal application, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, amending the Town and Country Planning (Use Classes) Order 1987 have come into force. These amendments revoke the previous Class B1 and create a new broad 'Commercial, business and service' use, under Class E.
4. Despite that, the regulations require that applications submitted prior to those changes coming into effect be determined by reference to the use classes which applied when the application was made. As such, the decision refers to the now revoked use class.
5. The appellant suggests that the B1 use of the building is authorised by virtue of the passage of time. However, that is not for me to determine in this appeal, and would be for the appellant to demonstrate through other mechanisms. As such, the appeal has been determined on the basis of what has been applied for.

Main Issues

6. The main issues are the effect of the proposal on i) the character and appearance of the area, ii) the living conditions of occupiers of surrounding properties with regard to noise and disturbance, and iii) whether the proposal would be resilient and resistant to the risk of flooding.

Reasons

Character and appearance

7. The appeal site is located to the rear of a terrace of houses, with a separate access, and is formed of the truncated and consolidated gardens of 4, 6 and 8 Clifton Road. Clifton Road itself appears to be almost entirely residential, with houses laid out in short terraces with long gardens to the rear, some of which have outbuildings, in a similar form and location to the appeal proposal.
8. Owing to its location, and lack of visibility from the road, the proposal causes no harm to the appearance of the area, despite its size being obviously larger than any other outbuildings in similar locations in Clifton Road.
9. Policies in local and city-wide plans seek to ensure that development is appropriate for the character of the area in which it is located. As a B1 use, the proposal does therefore represent a significant departure from the established character of the area. In addition, as I have noted above, although there are outbuildings to the rear of some of the surrounding residential properties, none of them are of the scale proposed, nor do any appear to be for an independent B1 use, separate from the established residential around them.
10. In addition to policies concerning the established character of the area, the London Plan also promotes a town-centre first approach for development proposals of this nature, an approach supported by the National Planning Policy Framework (the Framework).
11. With regard to the effect of the proposal on the appearance of the area, the proposal would comply with Policy 7.6B of the London Plan 2016, Policy D3 of the draft London Plan 2019 (the dLP), Policy CS1.B of the Harrow Council Core Strategy 2012 (the Core Strategy) and Policy DM1 of the Harrow Council Development Management Policies Local Plan 2013 (the Local Plan).
12. However, I consider that the proposed use is, by virtue of both its location, harmful to the established character of the area. The proposal would therefore conflict with Policy 7.4B of the London Plan 2016, Policy SD7 and D3 of the dLP, Policy CS1.B of the Core Strategy and Policy DM1 of the Local Plan. These policies seek to ensure that development supports a town-centre first approach to commercial and business development, and that it is in keeping with the established character of the area in which it is proposed.

Living conditions

13. Both Class B1 uses, and new Class E uses are defined as those which can be carried out in any residential area without detriment to the amenity of that area by reason of noise. However, the a B1 use, particularly in a building at the scale proposed in this appeal, is, as noted above, a significant departure from the residential character of its context. Whilst I note that at present between three and five members of staff are employed on the site, given the size of the building (and notwithstanding current coronavirus effects), the scale of the use could increase.
14. Whilst I acknowledge the definition of B1 uses, I consider that the additional effects of that use, namely the comings and goings, activity associated with use and servicing of the building and the wider transport and access related effects would be incompatible with the surrounding area. I consider that the

likely harms from this use would be amplified by the location of the site to the rear of residential properties, accessed from an alleyway between private gardens, with no dedicated parking area, and in an area of poor public-transport accessibility. In my view, the daily and day-to-day level and type of activity associated with a B1 use is fundamentally different to that associated with a residential use. This is supported by the policy context and considerations. The effects of the proposal would also be greater than those which could arise from outbuildings ancillary to residential use

15. I note that there has been a lack of objection to the proposal, and indeed, it appears that at some point the owners of Nos 4, 6 and 8 have sold their gardens to create the site. However, a lack of objection at present does not remove the need to ensure that development would not cause harm to living conditions of current and future occupiers of surrounding properties. Similarly, I have concerns that whilst the current occupiers may have a small number of staff on site, there would be no way to ensure that any future occupiers would not intensify the use, or use the building for other B1 uses which may be less compatible with the surrounding residential area. I do not consider that there are any conditions which would offer an appropriate way to mitigate any such potential for future harm.
16. To my mind, these difficulties of detail around the proposal all add to the fundamental unacceptability and incompatibility of the proposed B1 use in this residential area. The likely harm to the living conditions of occupiers of surrounding properties by way of increased, unacceptable, and uncharacteristic levels of noise and disturbance adds to the in-principle harm arising from the proposal.
17. I therefore consider that the proposal would be incompatible with the residential character of the area and would be likely to cause harm to the living conditions of occupiers of surrounding properties with regard to noise and disturbance. As such, it is contrary to Policy 7.4B of the London Plan 2016, Policies SD7 and D3 of the dLP, Policy CS1.B of the Core Strategy and Policy DM1 of the Local Plan. These policies seek to promote a town-centre first approach for commercial development of this type, to ensure that development is appropriate for the character of its context, and to protect the amenity of residents of surrounding areas. The proposal would also conflict with the Framework intention to ensure the vitality of town centres and to achieve well-designed places.

Flood risk

18. Following the decision of the Council, the appellant has submitted a Flood Risk Assessment, which demonstrates that as the proposal is for a less vulnerable use, it is one which is acceptable in Flood Zone 3a, and that a sequential test is not therefore required. The Assessment also details surface water management and mitigation measures which can be implemented to protect the site and ensure that there is no increased flood risk elsewhere. I agree with the contents of the Flood Risk Assessment.
19. As such, the proposal would comply with guidance in the Framework, Policy 5.12B/C of the London Plan 2016, Policies SI12 and 13 of the dLP, Policy CS1.U of the Core Strategy and Policy DM9 of the Local Plan, all of which seek, amongst other things to ensure that development takes a sustainable approach to flood risk management and resilience.

Conclusion

20. Although the proposal would be resilient and resistant to the risk of flooding, and would not, in itself harm the appearance of the area, its location and use would give rise to harm to the established character of the area and to the living conditions of occupiers of neighbouring properties. As such, the proposal is significantly contrary to the development plan. In my view, there are no material considerations of such weight to indicate that a decision be taken other than in accordance with the development plan.
21. For the reasons given above I therefore conclude that the appeal should be dismissed.

S Dean

INSPECTOR