



Appeal Decision

Site visit made on 15 April 2021

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Appeal Ref: APP/W5780/W/20/3259207

Arabian Lounge, Unit 1, Aztec House, 461A High Road, Ilford, Essex IG1 1TX

- 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 A Ali against the decision of London Borough of Redbridge Council.
 - The application Ref 1690/20, dated 25 May 2020, was refused by notice dated 31 July 2020.
 - Retrospective application for a continuation of a shisha lounge/café (Sui-Generis).
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Decision

1. The appeal is dismissed.

Main Issues

The main issue is the impact of the development upon the living conditions of neighbours, with particular regard to noise and disturbance.

Reasons

2. The appeal property is a ground floor commercial unit within a relatively recently constructed block of purpose built flats that occupies the corner of Francis Road and High Road. The area is one of a mix of uses but with a substantial amount of residential streets that are set back from or front onto High Road itself. The existing cafe occupies the ground floor corner unit of Aztec House with residential apartments directly above and, although the area is a busy main road with several different uses around it, it is not within a designated town centre.
3. Each apartment within Aztec House appears to have a balcony and windows that appear to serve habitable rooms fronting onto High Road and Francis Street. The apartment immediately above the café unit also has its balcony and windows immediately above the shopfront of the café. Immediately opposite the property is also a residential house whose gable end faces onto the side elevation of the café.
4. I have evidence before me that the proposed use of the unit was restricted to Use Classes A1 and A2 under the application for the construction of Aztec

House¹. However, the existing use as a shisha lounge appears to have been in operation for some years (since at least 2014) but without the benefit of Planning Permission for this change of use. I also have evidence before me that the existing unit does not meet the requirements set out in the Health Act 2006 in order to conform to current smoking regulations.

5. In assessing this appeal I give substantial weight to the fact that the existing use has been in operation for some years. However, I consider that the Policy requirements within Policy LP11 are present here for a good reason and concur that such uses, with the potential they have for harmful impacts upon the living conditions of residents, are contained within designated town centre areas, of which this is not one.
6. In this case also I have evidence before me that residents are concerned about associated noise and disturbance related to these premises, especially through outdoor seating, noise and disturbance late at night and vehicle movements and parking. I saw on my site visit that the proposed use is located within very close proximity to the first floor corner flat above the café unit as well as a residential property opposite and consider that there are several other residential properties that would be sensitive to such noise and disturbance.
7. In light of this proximity I consider it highly likely that there is the potential for further disturbance and harm to the living conditions of nearby residents. I also consider that this impact will be further exacerbated through the requirements to maintain the front of the premises open in order to conform to indoor smoking regulations as per the Health Act 2006.
8. I therefore conclude that the intention of the original application to restrict such uses was correct in its intention and that further conditions in order to control opening hours would not necessarily be enforceable or sustainable in the longer term.
9. In light of these reasons I consider that the appeal scheme fails to meet the requirements contained within Local Plan policies LP10, LP11 and LP12 that seek to protect the living conditions of neighbours and manage the night time economy.

Conclusion

10. For the reasons above, taking into account all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR

¹ Planning application reference 0544/20