



Appeal Decision

Site visit made on 20 July 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2021

Appeal Ref: APP/C5690/W/21/3268333

491-505 Southend Lane, Bellingham, London SE26 5BL

- 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 Johnson Nwamaraihe, My Fathers House Prophetic Ministries against the decision of The London Borough of Lewisham.
 - The application Ref DC/20/116853, dated 28 May 2020, was refused by notice dated 18 September 2020.
 - The development proposed is Full planning application for a change of use of 491-505 Southend Lane, London, SE26 5BL from B8 (warehouse storage) to a flexible use class between B8 (warehouse storage) and D1 (place of worship).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the time the appeal was submitted, a new London Plan has been published in March 2021 and replaces The London Plan 2016. I have had due regard to the new Plan. In addition, the revised National Planning Policy Framework (the Framework) has been published in July 2021. My decision is made in the context of the revised Framework.
3. Since the time the proposal was submitted, the Town and Country Planning (Use Classes) Order 1987 has been amended to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 on 1 September 2020.
4. At the time when the proposal was determined, Use Class D1 related to non-residential institutions. Use Class D1 has since been revoked and replaced by Schedule 2 Part B Class F.1; Learning and non-residential institutions. For the purposes of this appeal, and given the transitional arrangements, the proposed use is still considered as a D1 use and the Use Classes amendments does not affect the outcome of the appeal. Irrespective of the amendments to the Use Classes Order 2020, there are no changes to Use Class B8.
5. The space concerned is currently being used as a place of worship.

Main Issues

6. The main issues are:
 - Whether or not the proposal is a suitable use within the Local Employment Location;

- The impact of the proposal on the living conditions of local residents with regards to noise and disturbance; and
- The impact of the proposal on highway and pedestrian safety.

Reasons

Local Employment Location

7. The appeal site is a low-level warehouse building that is dwarfed by the large storage building behind the site. It is located close to the main road with a small forecourt in front, in an island environment surrounded by the Stanton Way gyratory. A series of three and four lanes of roads surrounds the island.
8. Irrespective of the other local businesses and built development that may not be of an industrial nature, the appeal site is specifically protected under Council designation as a Local Employment Location (LEL). The designation of an LEL is to protect B Use Classes. There is a general policy thrust from the Council to prevent the change away from business use to community facilities.
9. Part of the building is proposed to be retained in a B8 capacity although there are no precise details of the quantity of the B8 space that would remain. Nor is it explained by the appellant how this B8 use would function alongside the other proposed uses within the building. Further, there is no evidence to substantiate their assertion that the building is 'under utilised' or 'ineffective'.
10. I understand the intentions of the appellant to promote healthy and safe communities and they have a vested interest in engaging with young people in the community, and in the interest of preventing crime and disorder. I also note their commitment to helping vulnerable people and others in the community and the importance of this given the Covid-19 pandemic. However, whilst these are commendable attributes, and they explain how the building would support the community in one venue, nevertheless, the purpose of this building in the LEL is to provide local job opportunities.
11. There may be an element of learning, education and training arise from the use which could lead to employment opportunities. However, this would be an ancillary function to the main use of the building as a place of worship.
12. There is clear conflict regarding the principle of the proposed change of use given its designation within the LEL. A B8 use is one compatible with the LEL. However, the building would also function as a place of worship. This function would not be a compatible use in this location designated to provide job opportunities. It has not been demonstrated by the appellant that its proposed use would not cause a detrimental effect to employment space, and its positive contributions would not outweigh the significant loss of employment space without proper justification.
13. I acknowledge that the London Plan, the Framework and Council strategies and policies encourages and supports community facilities. However, each proposal shall be assessed on its own merits.
14. Therefore, to conclude on this main issue, the scheme would not meet the objectives of the Lewisham Core Strategy 2011 (CS) Policy 3, and the Development management policies 2014 (DMP) DM Policies 10 and 44 in their

combined aims for development not to cause a detrimental effect on employment space.

Living conditions of local residents

15. Irrespective of the fact that a series of three roads separates the appeal site from the large residential development of Orchard Court, this residential building is located directly opposite the appeal site.
16. There is considerable contradiction between the submitted information regarding the proposed hours of operation of the use in the Statement of Case, the submitted Planning Statement and the banner located outside the building that advertises service times. This inconsistency leads to ambiguity as a consequence.
17. Should services occur outside 'non-office hours' or 'non-working hours' of existing uses, I would therefore reason that they would take place when the occupants of the flats opposite would be more likely to be within their homes.
18. No noise assessment has been submitted with the proposal. No information has been provided to demonstrate background noise levels to accurately assess whether or not noise from the proposal would be absorbed into background noise levels.
19. Given the close relationship, and that the church main service space is located closest to these flats, and even if the internal walls of the building are of a robust nature, there is nothing before me to demonstrate that the living conditions of the occupants would not be detrimentally harmed by exposure to noise and disturbance generated from the uses within the building. In addition, noise and disturbance would be generated from those entering and leaving the building. This would be further compounded by the appellant explaining the venue could hold a maximum capacity of 200 people.
20. A noise management plan is proposed by the appellant as a suggested condition, and they comment this could be reviewed as required. In addition, they suggest a condition be imposed to both limit the hours of use and provide an insulation scheme for the building.
21. I have had regard to the requirements of paragraphs 56 and 57 of the Framework. The ambiguity surrounding hours of use of the building, the large numbers of people in attendance at any one time, together with no noise assessment submitted to demonstrate that noise and disturbance could be mitigated to have no detrimental effect on the living conditions of neighbouring occupants, or indeed, that mitigation measures could be successfully applied, are all matters that I have had due regard to. I have had sight of their proposed actions to limit noise and disturbance. However, in light of the Framework, I do not consider planning conditions or a planning obligation, would meet the tests of the Framework.
22. To conclude on this main issue, it has not been demonstrated that the proposal would lead to no harmful impact upon the living conditions of the neighbouring occupants to meet the objectives of DMP DM Policy 44. Nor would it comply with the London plan 2021 in its broad aims to protect residential amenity. However, I find no direct relevance to DMP DM Policy 26 as it does not precisely relate to the circumstances of the appeal.

Highway and pedestrian safety

23. Regardless that no formal Highways comments have been provided to me, it is maintained as a reason for refusal.
24. At around a capacity of 200 people, with approximately twelve members of staff, and the other uses intended to operate from the building, it is likely that the proposed two dedicated parking spaces would be insufficient to meet parking needs.
25. Parking spaces may be available for use when they are not occupied by the other local operators, however there is no evidence presented to substantiate this. Further, no parking survey has been undertaken with the proposal and parking control measures are in place locally. On this basis, a high demand could be placed on parking levels in the area leading to parking stress on local roads.
26. Even if the congregation or attendees lived locally and there are good public transport links close by, with car sharing encouraged and mini-bus service provided, there is nothing before me to demonstrate that they would arrive without the use of the private car, or that the mini-bus service would be provided in perpetuity. Further, there is no assessment of the local transport network to ensure there would be capacity to deal with the volumes of people proposed to visit the site.
27. Six cycle parking spaces are proposed by the appellant. Without a formal Travel Plan or precise locations to accommodate the cycle storage, it cannot be demonstrated that these numbers would be satisfactory, or indeed space available, in order to make the scheme sustainable in cycle transport terms.
28. It is apparent that there is commitment by the appellant to secure a Travel Plan. However, even if I were of the view that transport impacts could be mitigated by virtue of a travel plan imposed by way of planning condition or planning obligation, given the concerns I have raised, this alone would not lead me to reach a favourable conclusion.
29. As a combination of activities is proposed to operate from the site, I would reason its overall use would generate significantly more vehicular and pedestrian trips than the existing use. As an intensive use in an industrial area, it would lead to conflict arising between the safety of pedestrian and vehicular movements.
30. To conclude, the proposal would be contrary to Core Strategy Policy 14 and DMP DM Policy 44 and DM Policy 29 in their combined aims, amongst other things, to mitigate against transport issues and to provide acceptable car parking levels and sustainable travel. Further, it would not meet the objectives of the London Plan to access and mitigate transport impacts, or the Framework to promote sustainable travel, ensure safe and suitable access can be achieved, and it would not lead to unacceptable impact on the road network.

Other Matters

31. A personal permission is suggested by the appellant whereby should the appellant leave the site, it could revert back to its former B8 use. However, as I have found harm to all main issues, a personal permission would not be appropriate under the circumstances.

32. An absence of objections to the scheme is a neutral matter that neither weighs in favour for nor against the proposal.

Balance and Conclusion

33. I have taken into account the positive contribution the proposal would make by bringing communities together through faith, as well as the other community initiatives that would operate from the building. The site would take on a new and different function even though an element of B8 is proposed to remain, albeit this precise quantity is unspecified.
34. The employment purpose of the building would be significantly lost. Further, there is no evidence before me to substantiate the appellant's claim that the proposal would not have a detrimental effect on the living conditions of the local residents. In addition, as a combination of its location, volumes of vehicular trips it would generate, parking and cycling capacity, and pedestrian and vehicular safety, overall does not lead me to reach a favourable conclusion on highway and pedestrian safety issues.
35. Therefore, given the conclusions I have reached on the main issues, the use would not outweigh the harm I have identified. The proposal would lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR