
Appeal Decision

Site visit made on 6 September 2021

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2021

Appeal Ref: APP/U5360/W/21/3268570

9 Mackintosh Lane, Hackney, London E9 6AB

- 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 Ms E Sykora against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/3534, dated 16 November 2020, was refused by notice dated 11 January 2021.
 - The development proposed is the change of use of part of existing storage premises to dog day care use.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part of existing storage premises to dog day care use in accordance with the terms of the application Ref 2020/3534, dated 16 November 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 310_SL_01, 310_EX_01, 310_BL_01, 310_PR_01 and 310_PR_02.
 - 2) No dogs shall be kept at the site outside of the following hours:
 - 08:00 to 19:00 Mondays to Fridays and
 - 08:00 to 16:00 Saturdays;and no dogs shall be kept at the site on Sundays and Bank Holidays.

Procedural matters

2. The appeal application was retrospective as the change of use had already taken place. I saw the dog day care business in operation on my site visit.
3. Since the Council refused this application the London Plan 2021 (LP) has been adopted, taking the place of the London Plan 2016, and a revised version of the National Planning Policy Framework (the Framework) has been published. The appellant and the Council were both given an opportunity to comment on these new policies, which I have considered as part of this decision.

Main issue

4. The main issue is the effect of the proposal on the supply of industrial use floorspace within the Homerton Priority Industrial Area (PIA), as designated in the Hackney Local Plan 2033 (HLP), and the Borough as a whole.

Reasons

5. The appeal site is in a backland position within a densely built up mixed use area including industrial, commercial and residential uses and a rail line. The site was apparently part of a somewhat larger site that was used for storage and industrial purposes. Workshops have been retained on the frontage, outside of the appeal site. The dog day care business takes up the open space at the back, including 2 previously existing storage containers which have been refurbished and converted to create space for the dogs and employees.
6. HLP Policy LP26E supports industrial uses within the PIAs. HLP Policy LP26B allows for redevelopment of sites within PIAs where, amongst other things, it maximises the delivery of employment floorspace by maintaining, re-providing or intensifying the existing industrial uses. Employment floorspace is narrowly defined here to include just that in industrial and storage uses. In this case, the appeal development has changed the use of the 2 storage containers, amounting to the loss of about 34 sqm of storage floorspace. To that very limited extent, the appeal proposal conflicts with the specific text of Policy LP28B and the more general aim of Policy LP26E. I see no clear policy objection to the associated change of use of the open yard as this has not prejudiced the continuing use of the workshops on the road frontage.
7. On the other hand, the Framework states that planning decisions should help create the conditions in which businesses can invest, expand and adapt, with significant weight placed on the need to support economic growth and productivity. The appellant states that the dog day care use provides up to 7 full-time jobs and this is not disputed by the Council. The site is not well positioned for any similar intensity of industrial or storage use due to its poor access situation. Road access is through narrow, heavily used streets. There is no vehicular access to the backland appeal site, which is only reached by a narrow walkway.
8. This business therefore makes good use of the site to provide a high intensity use with more jobs than would be reasonably be expected if the site returned to use as a storage yard, either on its own or in association with industrial use of the adjacent workshops. No doubt the dog day care business also brings wider benefits to the local economy through provision of a useful service.
9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that determination must be made in accordance with development plan unless material considerations indicate otherwise. In this case I find there to be some limited and technical conflict with the development plan in terms of HLP Policies LP26 and LP28 due to the loss of a small amount of industrial/storage floorspace. I furthermore find, however, that this conflict is clearly and convincingly outweighed by the substantial benefits of the proposal, which accord with the more general economic aims of the Framework. I therefore conclude that the proposal would not have any undue or unjustified negative

impact on the supply of industrial use floorspace within the PIA and the Borough.

10. As the proposal has already begun, there is no need for the standard condition requiring a start within 3 years. I impose a condition specifying the relevant plans to provide certainty. Given the close proximity of the site to residential properties and the potential for noise from the dogs, a condition limiting the use to the stated opening hours is necessary to protect neighbours' living conditions. A condition requiring the use of matching materials is not necessary as the containers are acceptable as they stand and this permission does not provide for any further building work.
11. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR