



Appeal Decision

Site visit made on 29 November 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2021

Appeal Ref: APP/G5750/W/21/3274313

2 Surrey Street, Plaistow, London E13 8RN

- 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 Jim Hatton against the decision of London Borough of Newham.
 - The application Ref 20/02822/COU, dated 18 December 2020, was refused by notice dated 2 March 2021.
 - The development proposed is described as "change of use from disused electric substation to storage unit (B8)".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the submission of the appellant's appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.

Main Issues

3. The main issues are the effect of the proposal on (i) employment land; (ii) the living conditions of occupiers of neighbouring properties in terms of noise and disturbance; (iii) highway safety with regards to parking, access and traffic movements; and (iv) waste management.

Reasons

Employment land

4. Policy J2 of the Newham Local Plan 2018 (NLP) allows small scale (less than 100sqm GEA) B class or sui generis non-speculative employment floorspace outside of defined employment areas to meet business needs.
5. The appellant indicates that the appeal site floor area is some 65sqm with the Council indicating that it totals 176sqm. The appeal site is made up of buildings and a courtyard. The submitted plans indicate that one of the buildings would have a floor area of around 53.9sqm. I also note that the application form states that the gross internal floor area would be 146sqm. Given the information provided I am convinced that the gross external area would be over 100sqm.

6. It has also been described that the proposal would be storage space for an existing carpet shop on Barking Road. Insufficient evidence has been provided which identifies that the proposal would meet a specific need for the carpet shop or any other business.
7. The proposal would continue the existing non-residential use by bringing a vacant building on brownfield land back into use and providing a function for nearby shops without having a commercial frontage itself. The proposal would be significantly larger than the small scale allowance stated in Policy J2 without a clear business need being provided. Whilst the site is not remote being within an accessible area, the proposal could undermine the vitality and viability of the surrounding area and would detract from the supply of land on defined employment areas.
8. The proposal would have a harmful effect on employment land. The proposal would be contrary to Policies J1 and J2 of the NLP, Policies E4 and E7 of the London Plan 2021 (LP) and the Framework which seeks to ensure the supply of land to support economic and other growth needs and make efficient use of land.

Living conditions

9. The appeal site is located within an area characterised by a mix of commercial and residential properties. The site is within close distance to residential properties, particularly those on Surrey Street, even though they are separated by a car park and another substation building.
10. Whilst it is indicated that the proposal would not have an active frontage nor would it attract customers from the nearby shopping areas and hours of operation could be restricted for two hours a day between Monday and Friday. Little information has been provided with regards to the proposed operations that would occur at the site including frequency and amount of deliveries. Due to the close proximity of the site to residential properties, there is the potential for the living conditions of occupiers of neighbouring properties to be adversely compromised in terms of noise and disturbance from the proposed operations at the site.
11. My attention has been brought to other operations in the area, including large scale development opposite the appeal site, the Deep Life Bible Church and the Turnmarsh School. Insufficient information has been provided on these other operations and I cannot be sure that they represent a direct parallel with the appeal scheme, particularly with regards to proximity to residential properties and noise.
12. From the evidence before me, I am not satisfied that the proposal would not have a harmful effect on the living conditions of occupiers of neighbouring properties with particular regard to noise and disturbance. The proposal would be contrary to Policies S6, SP1, SP2, SP3 and SP8 of the NLP, Policies D1, D3, D8 and D14 of the LP and the Framework which seeks proposals to be of high quality development, promote healthy lifestyles, avoid problems related to 'bad neighbour' uses and achieve good neighbourliness and fairness.
13. The appellant has suggested that the use of conditions for restricting opening hours and for obtaining further information in relation to noise would be sufficient. The use of conditions in this instance would be unreasonable as any

submitted evidence would need to be assessed and possibly require consultation with interested parties. The evidence may also not lead to a satisfactory conclusion in terms of effects of adjoining properties.

Highway safety

14. There is a lack of information with regards to effects on the surrounding highway network including parking requirements, access arrangements, deliveries and servicing. The proposal would increase vehicular movement in the area. The appeal site has an existing access however, it is directly adjacent a narrow road with no dropped kerb. At the time of my site visit there were parked cars adjacent to the existing access. The width of the road and the placement of parked cars may make it difficult for vehicles, including delivery vehicles, to safely enter and exit from the existing access.
15. The appeal site is within a Controlled Parking Zone and there would be no parking for employees or visitors to the site. This could potentially lead to unauthorised parking and congestion on the surrounding highway network.
16. Insufficient evidence has been provided and I am not convinced that the proposal would not have an adverse effect on highway safety with regards to parking, access and traffic movements.
17. The proposal would therefore have a harmful effect on highway safety. The proposal would be contrary to Policies INF2, SP8 and SP9 of the NLP, Policies T2, T4 and T6 of the LP and the Framework which seeks proposals to achieve a high standard of access, minimise parking stress and avoid impact on congestion.
18. The use of planning conditions to provide a delivery and servicing plan would not be reasonable in this instance. Information would need to be assessed initially to ensure that the proposal can provide acceptable procedures that would not have a harmful effect on highway safety in the area.

Waste

19. The appellant has indicated that some waste would be generated however, the majority of waste would be created at the retail premises and not at the appeal site. The appeal site is relatively large including external areas and there would be sufficient space for the storage of waste. The site is directly adjacent to the highway and it would not require an unusual procedure for waste to be collected from the site.
20. I therefore do not find that the proposal would have a harmful effect on waste management in the area.

Other Matters

21. The proposal would be the use of brownfield land, providing growth and support for local businesses including job creation and bringing a redundant building back into use in an accessible location. These are benefits which I attribute minimal weight given the scale of the proposal.
22. The disused electrical substation does not embody high architecture although the appellant explains that it does have some historical physical reference. It would be the appellants aim to propose internal alterations to best facilitate the storage use and aligned to viability considerations and meet business needs at

an affordable rate. The enduring pandemic has also had a profound effect on businesses and the need to seek more economical solutions is very apt. The appellant has explained that housing on this site is not a viable proposition at this current time, particularly due to the financial effect of the pandemic.

23. The appellant has described that the Government has made revisions to the Use Class Order to allow permitted change of use of commercial uses to operate more freely without the need for planning permission. Whilst this mostly pertains to new Class E uses, the appeal proposal would be ancillary to a carpet shop that falls under the new Class E. This matter however does not alter my findings above and the conflict with relevant development plan policies.

Conclusion

24. I have found that the proposal would not have an adverse effect in terms of waste management. However, this matter and the benefits described above would not outweigh the significant harm I have identified with regards to employment land, living conditions and highway safety.
25. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
26. Therefore, for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR