



Appeal Decision

Site visit made on 5 January 2022

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/Y5420/C/21/3277642

The land and building(s) known as Ground Floor, 232-234 High Road, London, N22 8HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Baki Suruk against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The notice was issued on 20 May 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from a public house to a restaurant.
 - The requirement of the notice is: Cease the use of the premises as a restaurant.
 - The period for compliance with the requirements is: Three (3) months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

2. Based on the information provided, the main issue in the ground (a) appeal is the effect of the appeal development on the vitality and viability of the area.
3. In considering whether to grant planning permission for the deemed planning application, in accordance with section 177(2) of the 1990 Act, I must have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
4. From the information provided, the development plan in this case includes the London Plan 2021 ('the London Plan'), the Haringey Local Plan Strategic Policies 2017 ('the Local Plan') and the Development Management Development Plan Document 2017 ('the DMD Plan').
5. Policy HC6 of the London Plan states that in planning decisions, boroughs should protect and support evening and night-time cultural venues such as pubs.
6. Part A of Policy HC7 of the London Plan states that, in planning decisions, boroughs should protect public houses where they have a heritage, economic, social or cultural value to local communities, or where they contribute to wider

policy objectives for town centres, night-time economy areas, Cultural Quarters and Creative Enterprise Zones.

7. Part B of Policy HC7 states that applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.
8. Policy DM50 of the DMD Plan states that the Council will resist proposals for changes of use that will result in the loss of a public house, unless it can be demonstrated that the public house is no longer financially viable, as set out through a thorough marketing campaign.
9. There is no evidence in this case that the public house that previously occupied the appeal site had no heritage, economic, social or cultural value, or that it did not contribute to any of the wider policy objectives identified in Policy HC7. Moreover, no marketing evidence has been provided to satisfy Policy HC7 or Policy DM50. I therefore consider there is conflict with these development plan policies.
10. The appellant states the appeal building was not well-maintained, may have been subject to squatting and since their occupation of the building the area is kept clean and in good order. But in my view, these are not good enough reasons to allow the change of use, in light of the conflict with the above development plan policies.
11. According to the appellant, there were no structural changes within the building, it was merely decorative changes. But this makes no difference to my assessment of the ground (a) appeal.
12. The appellant states that many who object to the appeal development are not in close proximity. But it is not necessarily the case that all those who may enjoy such a facility would live in close proximity to it and so in my view this does not justify the loss of this public house.
13. According to the appellant, there is another pub across the road, many others a few minutes away and that the brewery/landlords have decided not to continue trading as a pub in any event. But allowing the change of use for any of these reasons may result in the loss of many public houses and, in my view, the loss in this case has not been justified in light of the specific tests set down by Policies HC7 and DM50.
14. The appellant has compared the restaurant to the public house, which they say previously served drink and food. But this does not reflect an understanding of paragraph 7.7.1 of the London Plan, which states that an individual pub can be at the heart of a community's social life, often providing a local meeting place, a venue for entertainment or a focus for social gatherings. As such, public houses and restaurants are materially different land uses, notwithstanding that they may offer some comparable goods and services.
15. In the absence of any information to address the specific tests set down by the aforementioned development plan policies, I conclude the appeal development harms the vitality and viability of the area. This is contrary to Policies HC6 and HC7 of the London Plan and Policy DM50 of the DMD Plan.

16. The Council considers the public house a community facility. I have no reason to disagree with this assessment and so the appeal development is also contrary to Policy SP16 of the Local Plan.
17. There are no material considerations that indicate to me that a decision should be made which does not accord with the above policies and in this case, I give more weight to these policies than to the considerations which have been referred to by the appellant.
18. My attention has also been drawn to Policy SD6 of the London Plan and Policy SP15 of the Local Plan. But it has not been explained in the information provided how these policies are directly relevant to the appeal development in this case. So in my view they weigh neither in favour of nor against the appeal development.
19. Taking all of the above points into account, the appeal on ground (a) fails.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Perkins

INSPECTOR