



Appeal Decision

Site visit made on 25 January 2022

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2022

Appeal Ref: APP/A5270/W/21/3281213

263 Horn Lane, Acton W3 9EH

- 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 G Lucas against the decision of London Borough of Ealing.
 - The application Ref 212367FUL, dated 10 March 2021, was refused by notice dated 12 May 2021.
 - The development proposed is change of use from B1a (sui generis) to B2 use, motorcycle sales and repair shop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the application form, removing elements that are not acts of development. Although different to that on the decision notice and appeal form, no confirmation has been provided that a change was agreed.
3. The application is described as 'retrospective'. On the application form the appellant confirms that at the time of submitting the application the work had been completed and the use in place. This correlates with my observations on site and I have considered the appeal on that basis.
4. While the appellant considers the repair activities are incidental to sales and do not constitute a material change of use, planning permission has been sought. The lawfulness of an existing use is not a matter to be determined by this appeal.

Main Issue

5. The main issue of the appeal is the effect of the development on the living conditions of the occupiers of nearby properties with particular regard to noise, disturbance and air pollution.

Reasons

6. The site is part of a row of commercial uses at ground floor level. I saw that Horn Lane was a relatively busy road in terms of vehicle and pedestrian movements and there is a train station nearby. These factors would be likely to lead to some noise being experienced at the residential units on the upper floors.

7. Notwithstanding this, no noise assessment has been presented giving background noise levels, noise generated by the different uses at the appeal site or those experienced at nearby residential properties. I also do not have any detailed evidence of the existing sound proofing properties of the building. There is a similar lack of information for emissions from the additional uses that permission is sought for, comparisons with background levels and if/how these are experienced at the properties above.
8. Permission is in place for motorcycle sales at the premises. Nonetheless, even if I were to agree that the repairs and servicing are compatible with the sales use, permission was restricted to sales only, in part to protect the amenity of neighbouring occupiers.
9. The floor area for repair and servicing is not large and does not require physical works to the building. However, I have not been provided with detailed evidence of the nature of activities that already take place or would take place as part of the repair and servicing of motorcycles at the site. While I acknowledge that sales may require some starting up and revving of engines, the addition of repairs and servicing are likely to give rise to noise that is not typical of the other ground floor businesses. The proposed uses would be in addition to any noise associated with sales from within the building.
10. Furthermore, the noise would be different to passing noise from comings and goings outside the site and in the street requiring the operation of machinery. I am also aware that the use has already led to complaints to the Council regarding noise.
11. Even if conditions were imposed restricting opening/operating times and the submission of appropriate assessments, in the absence of appropriate information at this stage, I cannot be sure what levels of noise are experienced by occupiers of the units above or whether appropriate mitigation could be secured. Moreover, I do not have clear information before me relating to the frequency or duration of the repair and servicing activities. In addition, no mechanism has been put to me to be able to control the level of use.
12. Consequently, I cannot be sure that appropriate living conditions can be secured for the occupiers of nearby properties with regard to noise, disturbance and pollution. The scheme conflicts with Policies D3, D13, D14 and SI1 of London Plan as well as Policies 7A and 7B of DPD¹. These, in part, seek to ensure a high standard of amenity for users is achieved and that new noise and other nuisance-generating development proposed close to residential uses should put in place measures to mitigate and manage any noise impacts and that all necessary evidence of mitigation is provided.
13. Policy D6 of the London Plan relates to the provision of housing. As the concerns with this scheme are effects on existing properties, the policy weighs neither for nor against it.

Other Matters

14. My attention has been drawn to other schemes that have been permitted in the borough. The Lady Margaret Road submission was a lawful development certificate, not a planning permission and therefore would be assessed against different criteria to the scheme before me. I do not have full details of the

¹ Ealing Development Management Development Plan Document

other permissions, such as the officer report, any supporting information, surveys or mitigation. Therefore, I cannot be sure they are directly comparable to this appeal.

15. There is local and national policy support for economic growth and mixed use, where appropriate. Nevertheless, no detailed breakdown of the contribution that aspects of the business subject to this appeal bring to the appellant or the local economy have been provided. Consequently, in the absence of such information and given the size of the scheme, I am unable to give this more than limited weight.

Conclusion

16. The development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
17. Therefore, for the reason given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR