



Appeal Decision

Site visit made on 22 June 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 04 FEBRUARY 2022

Appeal Ref: APP/E5900/W/20/3263579

Land on the corner of Quaker Street and Whelar Street, London E1 6SN

- 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 Thomas Sarfo against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/18/03575, dated 20 December 2018, was refused by notice dated 9 June 2020.
 - The development proposed is retention of the existing car wash and valeting business, currently subject to Enforcement (Ref: ENF/13/00274) and erection of a replacement timber structure [Part retrospective].
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The appeal site is currently being used as a car wash and valeting business, and in this respect the proposal is retrospective.

Main Issues

3. The main issues are;
 - The effect of the proposal on living conditions of surrounding occupiers;
 - The effect of the proposal on highway safety;
 - The effect of the proposal on the character and appearance of the area, having particular regard to its proximity to heritage assets; and
 - The principle of the use in respect of its location with the Bishopsgate Goods Yard Site allocation.

Reasons

Effect of the proposal on living conditions

4. The site is in operation from 8am-8pm seven days a week, this is a reduction in hours from its previous hours which aimed to be open for twenty-four hours a day seven days a week. The nearest residential properties are located next to the site on Quaker Street and Whelar Street, some properties are less than ten metres from the site. Whilst I note the mitigation measures set out in the

Acoustic report, the operation of this site would result in a significant level of noise for up to twelve hours a day, every day.

5. Due to the location adjacent to the railway and within this urban setting there are additional background noises which would go some way towards buffering the noise that would emulate from the use. However, levels of movement and traffic vary throughout the day, and background levels of noise would be likely to be significantly lower on a Sunday early in the morning and later into the afternoon and evening. Not only would the use of the site itself cause disturbance, but those also waiting to enter would create an ongoing level of noise of car engines and associated music, conversation, the use of car phones etc. Whilst I note the erection of signage and the use of a marshal the signs appear to be largely within the site, and I have limited evidence regarding the effectiveness of the marshal. The ongoing use would create a daily disturbance, and moreover it would cause harmful levels of disturbance at times when residents would likely be at home, with limited background noise.
6. Accordingly, I find that the use of the site would result in significant ongoing disturbance to residents, which would in turn be harmful to the living conditions of those residents. Whilst I accept that the car wash attracts taxi drivers who may fit in valeting around customers and require a later opening, this does not justify being open during unsociable hours which detrimentally affect the living conditions of residents. The use therefore conflicts with policies D.DH8 and D.ES9 of the Tower Hamlets Local Plan 2031 (the Local Plan) which seek to safeguard the amenity of adjoining occupiers and to ensure that developments do not create unacceptable level of noise pollution.

Highway safety

7. The site is bounded by Quaker Street, a one-way public highway accessed from the west at Commercial Street. Wheler Street runs south to north towards Quaker Street and ends there, where the road becomes Braithwaite Street and leads to Bethnal Green Road under the bridge and runs by Shoreditch Overground Station. Access into the car wash and valeting service is via Quaker Street; vehicles leave the service and exit via Wheler Street/Braithwaite Street. Generally, vehicles turn right out of the car wash onto Wheler Street to head to Commercial Street, however it is possible for vehicles to also turn left. The exit of the site provides extremely limited visibility splays. This restriction represents a significant danger to those using the highway, including pedestrians, cyclists, and drivers.
8. Whilst Quaker Street appears as a wide road traffic movement is significantly restricted by parking bays on both sides of the road and as such the road can only accommodate single lane traffic. Vehicles waiting to enter the car wash and valeting are required to queue on the road and there is a high probability that during peak times the queue and use of the road backs up to Commercial Street. Commercial Street is a Transport for London major road and a red route, and the impact of vehicles queuing to use the site play a significant role in not only impacting traffic flow but also contributing to road obstruction, thereby causing points of conflict and harm to the safe use of the highway. Whilst the site employs a marshal, I have very limited evidence to explain how the marshal directs traffic or assists in avoiding highway obstructions or conflict.

9. I find that the use of the site has an unacceptable impact on highway safety. It conflicts with policy D.TR2 of the Local Plan which advises that development that will have an adverse impact on the highway network should contribute and deliver effective mitigation measures.

Effect of the proposal on the character and appearance of the area

10. The surrounding area comprises a mix of residential and commercial uses, with materials including brick, render and the use of hoardings. The existing boundary works appear to be well maintained, especially in comparison to other sites. The installation of wooden panelled fencing would further improve the appearance of the site, providing a boundary that would be muted in its colour palette and thereby allowing the scheme to sit comfortably within the broader range of uses in the area.
11. The site is opposite the Bedford House, a Grade II listed building, and the Fournier Street Conservation Area (the CA) is immediately adjacent to the appeal site. On Commercial Street, some distance from the appeal site, is the Former Police Station, also a Grade II listed building. I have a duty in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of the listed buildings and a duty to pay special attention to the desirability of preserving the character of the CA.
12. The CA contains some of the most architecturally and historically significant buildings in the borough, including a cluster of buildings around Fournier Street and the Brick Lane Market. The significance of the CA is found in its evolving history, with Brick Lane having been first established around 1550, the area grew to incorporate communities from a diverse range of cultures. This changing demographic has continued to change, and architectural influences have evolved with it. The area of the CA adjacent to the appeal site is one of a mix of industrial, residential, and commercial uses. It is this mix of uses that provides the setting for Bedford House, which has its main entrance orientated towards Quaker Street. Bedford House is a former mission building run by the Quaker Bedford Institute Association and has some historical interest in this regard. Its architectural interest is found in its red brick with terracotta dressings and slate roof. It is an imposing building from the late 19th century, and whilst modern and commercial buildings have evolved around it, it retains its street presence.
13. The use of the site, with its enclosed boundaries, would retain a commercial character akin to the adjacent railway and uses in the immediate area. The maintenance of the fencing and the site generally creates a subordinate and non-intrusive environment which would preserve the setting of the listing building, and views into and out of the adjacent CA.
14. Accordingly, I find that the scheme does not result in harm to the character of the area. It preserves the setting of the CA and the listed buildings. It therefore complies with policies S.DH1 and S.DH3 of the Local Plan 2031 which require development to respect and positively respond to its context and to preserve the borough's designated heritage assets in a manner appropriate to their significance. It would also comply with the design principles set out in the City Fringe Site Allocations - Bishopsgate Goods Yard which seek to ensure that proposed developments integrate with the surrounding area and improve the street frontage.

Principle of the use

15. The appeal site is within a Central Activity Zone and the City Fringe and within the former Bishopsgate Goods Yard Site Allocation, which is earmarked for redevelopment. There is no explicit restriction on including sui generis uses within this area.
16. Having regard to the very constrained nature of the site in respect of its location, the current business utilizes the site and is able to function within its confines. In addition, it makes a valid, if modest, contribution to employment, and as a business has demonstrated that it engages with local residents in a positive way. As such the use supports local economic growth and provides a service to local people.
17. Whilst perhaps not a traditional use of this brown field site, the use has supported local economic growth and contributed to the vibrancy and diverse character of the area generally.
18. I find that the use of the site complies with the general aims of policies D.DH8 and D.TC5, and the City Fringe visions of the Tower Hamlets Local Plan 2031, which seek to ensure that developments enhance existing buildings, streetscape, improve the public realm and the wider context, including surrounding heritage assets, views, and character.

Other matters

19. A number of representations were made expressing that the owner has supported the community and that the site assists in natural surveillance and has helped to eradicate some forms of anti-social behaviour. The site also provides employment to a small number of people. However, if permission is permitted the site could still be sold, there is no requirement for the owner to remain and thus no certainty of a prolonged community involvement. Furthermore, there are powers available to the Council to address anti-social behaviour, and whilst the provision of jobs is a benefit, with the regeneration of the area generally it is possible to develop the site in a manner that would benefit the community and not result in the harm as identified above.
20. I note comments relating to circumstances where water and cleaning fluids spill into the highway. I am satisfied upon reading the evidence that had I found the scheme acceptable in all other respects this matter could have been addressed by way of a suitable condition.

Conclusion

21. The proposal would result in harm to the living conditions of nearby occupiers and highway safety in conflict with the policies set out in the development plan. Whilst I have found that it would not be harmful to the character of the area, or that it is an unacceptable use in principle, these matters do not outweigh the harm identified. Accordingly, for the reasons above and having regard to all other matters raised I conclude that the appeal is dismissed.

J Ayres

INSPECTOR