



Appeal Decision

Site visit made on 15 February 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2022

Appeal Ref: APP/Q5300/W/21/3271572

First Floor, 7C Angel Road Works, Advent Way, London N18 3AH

- 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 Miss Meltem Karaoglu against the decision of London Borough of Enfield.
 - The application Ref 20/02857/FUL, dated 18 September 2020, was refused by notice dated 8 January 2021.
 - The development proposed is described as a "change of use from storage warehouse (Class B2 and B8) to bar restaurant (Class E)".
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Decision

1. The appeal is dismissed.

Preliminary Matters

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 this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. Since the Council issued its decision, the London Plan 2021 (LP) was published and replaced the London Plan 2016. The Council's decision notice refers to the Policies from the LP that are relevant to the development before me. As such, the appellant would have had the opportunity to consider the LP policies as part of any written submissions.

Main Issues

4. The Council's decision notice has five reasons for refusal. However, reasons 3 and 4 relate to appropriate parking and servicing arrangements which I have considered together in this letter. Therefore, taking the above into account, I find that the main issues in this appeal are the effect of the development on:
 - industrial floor space within a strategic industrial location,
 - the viability and vitality of Enfield town centres,
 - highway safety and parking, and,
 - whether the development provides adequate cycle parking facilities.

Reasons

Industrial Floor Space

5. The appeal site forms part of a first floor unit which lies within the Eley Industrial Estate (EIE). Core Policy 14 of the Enfield Plan Core Strategy 2010 (CS) states that Strategic Industrial Locations (SIL) will be safeguarded and identifies EIE as a Preferred Industrial Location (PIL). Policy DMD 19 of the Enfield Borough Council Development Management Document 2014 (DMD) states that only proposals listed at paragraph 1. a. will be permitted within a PIL and proposals involving the loss of industrial capacity will be refused. This is supported by Policies E4 and E5 of the LP which also seeks to protect SILs from developments that do not fall within the activities listed therein. As the use of the site as a restaurant and bar does not fall within those protected at the EIE that is located within a SIL, it would be in conflict with the aforementioned policies.
6. The appellant argues that the use of the building for storage purposes is no longer viable and thus, the change of use to a restaurant and bar would put the appeal site into a more effective use. Moreover, the development is small scale and would provide an area of entertainment for workers at EIE, where they could go to eat during and after work. Additionally, the use would not compromise the integrity or effectiveness of the industrial site.
7. However, Policy DMD 21 of the DMD is clear that although complementary services within a SIL will be generally permitted, this is provided that the proposed use is necessary to support industrial activity. In this instance, there is scant evidence before me to demonstrate how the use would serve the users of the SIL in terms of providing a meal or a drink during the working day. I am not persuaded that a premises selling alcoholic drinks into the evening and early hours of the morning, along with a bar, restaurant, and a stage area can truly be considered a complementary service to the users of the SIL. At some 580 sq. m of gross internal floorspace, the premises cannot be considered small scale either.
8. Moreover, although I note the appellant's assertion that the building was vacant at the time it was leased, there is nothing substantive before me to demonstrate how long the building has been vacant or whether an alternative industrial use had been considered at the site. Furthermore, the application forms state that the intended hours of opening would be from 1700 – 0500 hours which is clearly not aimed at providing a service for users of the SIL during the day, but is aimed at the evening and night-time trade. There is also nothing before me to control the use of the premises so that it would not attract other patrons from further afield, with the development more akin to a main town centre use such as a bar, restaurant or indeed a night club, which is wholly incompatible with the industrial uses at the EIE as a SIL.
9. Thus, the development would not complement or support services to meet the essential day to day needs of the industrial occupiers at EIE as a SIL and PIL. It would be in conflict with Policies E4 and E5 of the LP, Core Policy 14 of the CS, Policies DMD 19, DMD 21 and DMD 32 of the DMD, Policy EL15 of the Edmonton Leaside Area Action Plan 2020a and the Enfield Borough Council Employment Land Review 2018 which seek, amongst other things, to ensure that a change of use involving the loss of industrial uses will only be acceptable

where it does not compromise the primary function of the SIL and is compatible to its surroundings.

Viability

10. Core Policy 17 and 18 of the CS seek to strengthen the role of Enfield's town centres by, amongst other things, focusing new leisure and other appropriate social infrastructure within the centres according to the Borough's town centre hierarchy. Core Policy 17 of the CS specifically requires a sequential test to direct main town centre uses to appropriate sites, consistent with the aims of paragraph 87 of the Framework. Additionally, Policy DMD 32 of the DMD also states that development involving the establishment of food and drinks uses, including restaurants and bars¹, will be permitted in the locations identified at 1.a, b and c, and such uses elsewhere will only be permitted where it can be demonstrated that there are no alternative sites within those locations.
11. It is evident that the appeal site is not within any of the areas listed in Policy DMD 32, such as the secondary frontage of Enfield Town, the primary shopping frontages of the borough's four district centres or a local centre and local parade. Thus, notwithstanding the appellant's arguments that the development may comply with Part 2 of Policy DMD 32, the appeal site is not within an area identified for the proposed use. Moreover, I have not been provided with any information that the appellant has undertaken a sequential test to demonstrate that the use of the appeal site as a bar and restaurant would not have an adverse effect on the function, vitality and viability of the shopping centre and the local area.
12. Thus, the appellant has failed to demonstrate, through a sequential test, that the location of the development would not undermine the vitality and viability of Enfield's town centres. It would be in conflict with Core Policies 17 and 18 of the CS, Policies DMD 25 and DMD 32 of the DMD and paragraph 87 of the Framework, which seek, amongst other things, to manage the impact of food and drink establishments.

Highway safety and Parking

13. The appeal site has a PTAL² rating of 2, which establishes that it does not have good access to public transport options. The Council calculate that, based upon the information presented in support of the application, the proposal would utilise the same five parking spaces as the previous use of the premises. However, this would be shared between the proposed restaurant/bar use and the existing warehouse on the ground floor.
14. The appellant maintains that as security staff will be employed to direct traffic in and out of the estate during busy weekends, the free flow and safety of traffic within the EIE would not be significantly impacted upon. Moreover, the nature of the use of the premises is such that it would operate from 1800 – 0200 hours, when fewer cars are likely to be parked at the EIE. Additionally, the use of the premises is as an ancillary service and therefore, users of the restaurant and bar would be those employed at the EIE.
15. The appellant has not undertaken a traffic impact or parking survey to demonstrate the needs of the restaurant and bar, including the likely traffic

¹ Previously class A3 and A4 of the Use Classes Order 1987 (as amended)

² Public Transport Accessibility Rating

generated by its use. Moreover, there is no guarantee that only those employed at the EIE would frequent the premises, which, given its operational hours that extend into the evening and morning, could attract patrons from further afield. Additionally, given the size of the premises and the facilities offered, it has the ability to attract a large number of customers which, given the lack of realistic public transport options available to access the site, it is reasonable to assume that they would drive to the site.

16. Furthermore, it is evident from my visit that parking within the EIE is at a premium and although the appellant states that the premises would operate from 1800 hours, there is nothing before me to demonstrate how traffic would be controlled and where it would be directed to. Moreover, there is no guarantee that the marshalling of traffic would occur every time the premises was open to the public and no details of how deliveries to the site would be controlled should they arrive during the day and before the premises open.
17. Thus, notwithstanding that the appellant considers the proposal not to represent a major development, I am not persuaded that the site has adequately assessed the need for parking for customers and servicing of the site. Notwithstanding its current opening hours, which could change in the future, the use of the site as a bar and restaurant in a very busy commercial area with limited parking available could lead to overspill into the surrounding streets, which in turn could affect the free flow of traffic in the area.
18. Consequently, the proposal would conflict with Policies T4, T6 and T7 of the LP, Core Policies 24 and 25 of the CS and Policies DMD 32, DMD 45, DMD 47 and DMD 48 of the DMD which seek, amongst other things, to ensure that developments are appropriately sited so that there is no adverse impact on highway safety and the free flow of traffic.

Cycle Parking Facilities

19. The Council state that as no details of cycle parking have been indicated on the submitted plans, the development would be contrary to the LP in seeking to ensure that sustainable modes of transport are provided. The appellant suggests that such matters could be dealt with by way of a suitably worded planning condition.
20. Policy T5 of the LP is quite clear that developments should remove barriers to cycling and provide secure and appropriate levels of cycle parking. Consequently, given the low PTAL score for the site and the lack of parking available, I find this matter to be rather pertinent and one that requires appropriate consideration. I have no details of where secure cycle parking could be installed that would not take up or interfere with vehicle parking in the vicinity of the appeal site.
21. Thus, the appellant has failed to identify where such secure cycle parking would be provided within the appeal site. I am not persuaded that such an important matter should be the subject of a planning condition, especially as sustainable modes of transport to access the site is such an important consideration.
22. The proposal would therefore be in conflict with Policies T4 and T5 of the LP, Core Policies 24 and 25 of the CS and Policies DMD 32, DMD 45, DMD 47 and

DMD 48 of the DMD which seek, amongst other things, to ensure that developments encourage sustainable travel choices.

Other Matters

23. The appellant refers to Policy DMD 23 of the DMD and argues that the development would be compliant with the criteria as set out therein. However, Policy DMD 23 relates to new industrial development within a SIL, which is not the proposal before me.
24. The appellant also refers to an appeal decision in Cornwall whereby an Inspector concluded that the need to undertake a sequential test was not meant to be applied rigidly in every case to demonstrate that alternative sites could accommodate the proposed use. Although I have only been provided with a synopsis of the appeal decision, it is clear that the appellant in this particular case had provided assessments and reports to demonstrate that the use would not have a significant impact on the viability or vitality of the town centre in question. That is not the case before me.
25. I recognise that the Framework states at paragraph 92 that planning decisions should aim to achieve healthy, inclusive and safe places. However, given the location of the appeal site from recognised centres and public transport options, I am not persuaded that the development is truly inclusive.
26. I acknowledge that the use of the building as a bar and restaurant employs 15-20 people. I also note that the appellant was not aware of the need to apply for a change of use when leasing the building, which is operating within the terms of its licence. However, neither this nor any other material consideration that has been advanced outweighs the harm I have identified above. Moreover, although I also acknowledge that the premises may indeed be the "*only meal and drink service within... the entire industrial estate*", it is evident from the appellant's statement that its operational hours would not serve the day to day needs of users of the estate.
27. I note that representations were made by a local trader, raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

28. Thus, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR