
Appeal Decision

Site visit made on 28 February 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/L5810/W/21/3270533

Ground Floor, 14 Ashburnham Road, Ham, TW10 7NF

- 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 Edward, Jeffrey & David Azouz against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 20/3300/FUL, dated 20 November 2020, was refused by notice dated 7 January 2021.
 - The development proposed is for the change of use from 'sui generis' to Class E use.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from 'sui generis' to Class E, at 14 Ashburnham Road, Ham, TW10 7NF in accordance with the terms of the application Ref 20/3300/FUL, dated 20 November 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: *Floor Plan and Site Location plan*.
 - 3) The premises shall not be used for any purpose in Class E(d) or E(f) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
 - 4) No refuse or waste material of any description shall be left or stored anywhere on the site other than within a building or refuse enclosure.
 - 5) The development must be carried out in accordance with the provisions of the Supporting Fire Safety Strategy and Plan, received on 30 November 2021.
 - 6) The Class E use hereby approved and any subsequent Class E uses shall be restricted to the hours of 0700 to 2100 Mondays to Fridays, and 0800 to 2100 on Saturdays, Sundays and Bank or other Public Holidays.
 - 7) No part of the development shall be occupied until cycle parking facilities have been provided in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, with such drawings to show the position, design, materials and finishes thereof.

Main Issues

2. The main issues as a result of the proposal are (1) the effects of the loss of a community facility use; (2) the effects on highway safety and parking provision; and (3) the effects on neighbour living conditions.

Reasons

Community Facility

3. The ground floor unit was previously a police neighbourhood hub, which would be a form of community facility. However, it has been vacant for some time. A marketing report has been submitted by the appellant, which states that there has been interest but not as a community facility. The marketing report lacks detail, although the appellant has explained why they feel the site is unviable for many typical community facility uses.
4. Indeed, this is a relatively small unit and so I would consider it unlikely that it would facilitate such community facilities as a public house or a public hall for example. The interest in this unit for a use that would come under the community facility description would likely be very limited. As such, whilst there is a lack of detail in the submitted marketing report, I have no reason to doubt its conclusions. Furthermore, the fact that the Metropolitan Police moved out of the unit suggests strongly a similar police use would not be likely.
5. The unit itself is positioned within a small parade of ground floor commercial units, which is considered as a Parade of Local Importance where policy LP 25 indicates that appropriate uses include new retail or small businesses, which could be provided under Class E. Furthermore, the property is located within a Key Shopping Frontage, where policy LP26 supports retail development, which would be enabled through Class E.
6. I recognise that the broad range of uses under Class E means it is not clear at this time what the actual use may be if this appeal is allowed, but a retail or business use would be generally appropriate given its location in this parade of commercial units. Given the lack of any likelihood of a community use within the unit the alternatives under Class E would likely result in beneficial economic gains and bring the unit back to commercial use again.
7. As such, the proposal would result in the loss of a community use, but I am satisfied that there is not the community need for the unit and that the change of use to another commercial/employment generating use is justified with also benefits gained from this. The proposal is therefore in broad accordance with policy LP 28 of the Local Plan 2018, which relates to proposals where there would be a loss of community infrastructure, amongst other things.

Living Conditions and Highway Safety

8. Class E of the Use Classes Regulations 2020 allows for a wide range of uses. The appellant does not wish to stipulate the exact use the unit would have and so it could be any of the uses under Class E. However, this has previously been some kind of retail unit and most recently a police facility, which would have generated some levels of traffic and possibly noise.
9. There is some parking available from my observations on site, but this could be an issue if there were certain uses where many people turn up at a similar time

in cars. A high level of parking demand could cause issues with highway safety and the free flow of traffic along the adjacent highway. Similarly, certain uses such as a gymnasium or nursery could result in noise issues for those living in the flats above the ground floor unit.

10. To address this the appellant has suggested a condition that would allow Class E use, but not a use described under Class E(d) and E(f), which includes fitness uses or day nurseries for example. I would agree that if these uses under Class E were omitted then there would be no likely adverse impact to highway safety or neighbour living conditions as a result of the proposals.
11. With such a condition imposed, the proposal would accord with Local Plan policies LP 45 and LP 8 which requires the provision of parking to meet the parking needs of the development, and to protect the amenity and living conditions of occupants in neighbouring properties, amongst other things.

Conditions

12. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
13. I have attached the standard time limit condition and a plans condition as this provides certainty. There is a condition imposed to ensure refuse and waste is stored internally, in the interests of local amenity. A condition requiring the proposal to be in accordance with the submitted Supporting Fire Safety Strategy and Plan has been imposed, in the interests of ensuring fire safety.
14. The proposed opening times are not specified on the application, and I agree that a condition limiting the hours of operation is reasonable to provide certainty and safeguard the living conditions of surrounding occupiers.
15. The proposal would involve a change from a police hub (*sui generis*) use to a use which would fall within Class E, which is a wide ranging and flexible class. However, the Council has raised concerns with some uses within that Class, notably facilities for indoor fitness and day nurseries, which could result in traffic or noise impacts. To enable assessment of any such impacts through a planning application, a condition restricting changes to such uses is therefore reasonable.
16. Finally, there is a condition requiring details of cycle parking, in the interests of sustainable transport provision.

Conclusion

17. For the reasons given I conclude that the appeal should succeed, subject to the conditions set out above.

Mr S Rennie

INSPECTOR