



Appeal Decision

Site visit made on 12 July 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2022

Appeal Ref: APP/W5780/W/21/3277152

Land to the Rear of 239-249 Clayhall Avenue, Clayhall, Ilford, London IG5 0NY

- 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 S Singh against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 1343/21, dated 28 March 2021, was refused by notice dated 4 June 2021.
 - The development proposed is change of use of land from domestic garages to open air storage of building materials.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address of the appeal site from the planning application form as this accurately specifies the site location.
3. The description of the development provided on the planning application form has been replaced by amended versions on the decision notice and in subsequent appeal documents. I consider that the description as given on the appeal form accurately represents the proposal and I have therefore used it within this decision.

Main Issues

4. The main issues are the effect of the proposal on:
 - The living conditions of nearby residents with regards to noise, dust and particle emissions;
 - Highway safety; and
 - Trees.

Reasons

Living Conditions

5. The appeal site is located to the rear of a parade of buildings which contains commercial uses on the ground floor, with other uses including residential on

the upper floors. The site is also bounded by the gardens of residential properties.

6. Access to the site is via a service lane leading between the car park of The Unicorn public house and the side of the parade of buildings, which progresses around an existing open storage site, and then runs adjacent to the boundaries of the rear gardens of residential properties.
7. Limited screening is provided by the boundary treatment of the residential properties which are adjacent to the appeal site and access road. Dwellings on the upper floors of the parade would also be located close to the proposed storage area. Due to this arrangement and proximity, nearby residents would be aware of movements to and from the site as well as the transfer of materials associated with the proposal.
8. The Council refers to concerns about noise associated with activities at the site, and the Environmental Health consultee states that they are not able to support the proposal due to the lack of a noise management plan (NMP). It may be possible to require the submission of an NMP by condition. However, due to the proximity of the site to residential properties and the nature of operations associated with the proposal, there is no certainty that an NMP would ensure a satisfactory noise environment for nearby residents.
9. The appellant sets out that they use electric fork lift trucks and that the service lane is not capable of allowing access for lorries. It would also be possible to control hours of operation by condition. However, these matters are not sufficient to demonstrate a lack of harm on this issue without substantive evidence on the noise generated by operations at the site.
10. Due to the form of the open storage and nature of building materials stored, the proposal would be likely to lead to the generation of windblown dust, particularly in periods of dry weather. Even given the surfacing of the access lane, dust and other particulate matter is likely to be generated from the manoeuvring of vehicles including fork lift trucks, as well as from the transfer of materials. Dust control measures could be secured by condition. However, given the open nature of the storage and the proximity of residential properties, there is no certainty that dust control measures would successfully mitigate the harm to nearby properties.
11. I am mindful that an existing nearby storage site associated with a builders' merchants would generate some noise and dust. However, this site is separated from the residential gardens by the access road, and access to this site does not pass adjacent to residential gardens. The appellant also emphasises that their business is separate from the builders' merchants. However, the proposal would intensify the open storage uses in this area, and the existing use on a nearby site does not justify the introduction of further uses of this type in this location.
12. In conclusion on this main issue, it has not been demonstrated that the proposal would not lead to significant harm to the living conditions of nearby residents in respect of noise, dust and particle emissions. The proposal would therefore be contrary to the requirements of policies LP14, LP24 and LP26 of the Redbridge Local Plan 2018 (the Local Plan) in respect of amenity and the control of pollution.

Highway Safety

13. The appellant states that their clients' lorries cannot fit the service lane, and that as a result vehicles are parked on the car park of the nearby public house. However, it has not been demonstrated that that car park is under the control of the appellant or that they have permission to park vehicles there. Furthermore, at the time of my visit, a number of spaces within the car park were used for the parking of vehicles of the customers of the public house, and therefore did not provide space for the parking and loading/unloading of commercial vehicles associated with the appellants business.
14. For these reasons, the parking of vehicles and loading/unloading operations associated with the proposal are likely to be displaced onto the public highway which runs to the front of the public house and the parade of shops. Such kerb-side parking and operations would be likely to obstruct the flow of traffic and pedestrians, and introduce vehicle manoeuvres which would increase the potential for conflicts between vehicles and other highway users, including pedestrians. On that basis, the proposal would lead to unacceptable harm to highway safety.
15. In any event, I am not persuaded that the car park of the public house is a suitable location for the parking and loading/unloading of vehicles associated with the proposal. Commercial vehicles parked here would be likely to conflict with pedestrian and vehicle movements in the car park to the detriment of the safety of customers. It has also not been demonstrated that commercial vehicles associated with the business can be safely manoeuvred into and out of the car park, for example by a swept path analysis. The parking of vehicles associated with the appellant's business would also be likely to displace vehicles which could otherwise be legitimately parked on the car park, thereby increasing parking stress in this area.
16. On this main issue, I conclude that the proposal would not make suitable provision for the parking and loading/unloading of vehicles, with subsequent unacceptable impacts on highway safety. The proposal would therefore be contrary to policy LP23 of the Local Plan and the National Planning Policy Framework with regards to the effect on car parking and avoiding an unacceptable impact on highway safety.

Trees

17. There are a number of mature trees and shrubs within residential gardens adjacent to the appeal site. These trees are an attractive feature in the area and provide a degree of screening between the appeal site and nearby dwellings. The Council refers to the potential effect on the roots of these trees arising from the preparation of the appeal site, including the removal of pre-existing garages and replacement hard surfacing. The canopies of some of the trees also overhang the site, and the preparation of the site as well as subsequent operations may affect the tree canopies. There is also potential for contamination of the root zone of the trees from materials stored on the site.
18. I consider that the Council's concerns in respect of the trees are well-founded. Any harm arising to the trees, including works affecting the roots and canopies, could have a significant impact on the health of the trees and their screening effect, with commensurate harm to the character and appearance of the area.

The appellant has provided no substantive evidence to demonstrate that the proposal would not lead to material harm to the trees.

19. In the absence of evidence to the contrary, the proposal would lead to significant harm to existing trees in the vicinity of the site. The proposal would therefore be contrary to policy LP38 of the Local Plan with regards to the protection of trees.

Other Matters

20. The appellant refers to the previous unkempt nature of the garages at the site, and associated anti-social behaviour including fly-tipping. However, the benefits arising from the removal of the garages are not sufficient to outweigh the significant harm I have identified from the proposal.
21. The appellant also refers to uncertainty about which uses are acceptable at this site. However, this is not a matter which falls within the remit of this appeal, and does not lead me to a different conclusion in respect of the unacceptability of the development as proposed.

Conclusion

22. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR