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# Appeal Decision

Site visit made on 24 January 2023

**by O Marigold BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> February 2023.**

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**Appeal Ref: APP/G5750/W/22/3298159**

**Development site at 656-666 Romford Road, Manor Park, London, E12 5AQ**

- 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 Kamran Raza against the decision of the Council of the London Borough of Newham.
  - The application Ref 21/02150/FUL, dated 27 August 2021, was refused by notice dated 21 December 2021.
  - The development proposed is change of use from B1(c) [now Class E(g)] to B2 motor vehicle repairs, maintenance and servicing. With alterations internally and to front elevation.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - the effect of the proposal on the living conditions of the occupiers of nearby residential properties, with regard to noise and disturbance, and
  - whether the proposal complies with the Council's strategy for the distribution of employment uses.

## Reasons

### *Living Conditions*

3. The appeal site is a former light industrial warehouse and yard. An end of terrace dwelling adjoins the site. Also next to the site, fronting onto Romford Road, are buildings consisting of retail units at ground floor and residential units above. Some of these residential units have their rear elevations and windows facing directly onto the appeal site.
4. The proposal would involve the servicing and repair of motor vehicles. The appellant suggests that a maximum of two vehicles would be worked upon at any one time. The use would not operate during evenings, Saturday afternoons or at all on Sundays. The previous use would have generated some noise and disturbance.
5. Even so, the proposal would be likely to result in noise from, for example, the regular revving of engines, to an extent greater than that from normal car use. It would also involve the use of tools and machinery, and the coming and going

- of people and vehicles. By its nature, some noise from the proposal is likely to be loud.
6. From my visit, I heard noise from nearby streets, particularly the busy Romford Road. I saw that there are air conditioning units on existing buildings, which could generate noise, as may other aspects of the commercial and industrial uses nearby. As such, I do not doubt that there is already a degree of background noise at the site, at least at some times of day. Furthermore, occupiers of properties within busy areas may well expect a degree of noise and disturbance.
  7. However, no technical information in the form of a noise assessment has been provided by the appellant. I therefore have no substantive evidence to show the existing levels of background noise precisely, or at what times it occurs. Nor do I have clear evidence to demonstrate the degree and type of noise that would result from the proposal, or its effects on noise sensitive uses, such as the surrounding residential properties.
  8. The width of walls of the appeal building and other properties, together with any insulation, may limit the noise effects of the proposal when undertaken within the building. However, I have no evidence to demonstrate this conclusively. Moreover, some of the residential properties nearby have openable windows immediately adjacent to the outside yard. Noise from the proposal and its use of the yard is therefore likely to harmfully affect the living conditions of the occupiers of these properties.
  9. Many, if not all, of the adjacent properties have windows that are double-glazed, helping to reduce the impact of noise from the proposal. However, in warm weather, occupants would have a reasonable expectation of being able to open their windows to obtain fresh air and ventilation, thus obviating any mitigation provided by the glazing of the windows.
  10. Therefore, in the absence of a noise assessment, and based on the limited evidence available to me, I do not have sufficient information to demonstrate that the effect of the proposal on nearby properties would be acceptable, nor the practicality or suitability of any possible mitigation measures. Therefore, I cannot conclude that the proposal would not have a harmful effect on the living conditions of the occupiers of nearby residential properties, with regard to noise and disturbance.
  11. As such, the proposal would conflict with policies SP2, SP3 and SP8 of the London Borough of Newham Local Plan (NLP), adopted December 2018. These require that the impacts of economic development, including noise, are addressed, and that inclusive places are created avoiding unacceptable noise exposure. Similarly, the proposal would be contrary to policies D3 and D14 of the London Plan, adopted March 2021, which require appropriate amenity and avoidance of significant adverse noise impacts on the quality of life. It would also conflict with the National Planning Policy Framework, which seeks to prevent unacceptable noise pollution and significant adverse impacts on health.

#### *Distribution of Employment Uses*

12. NLP Policies S1, J1 and J2 seek to direct and consolidate employment-generating development to suitable places within the Borough, such as town

centres, Local Mixed-Use Areas or local industrial locations. The site is outside of any defined employment areas identified in the Development Plan.

13. The appellant considers the site to be underutilised at present and the London Plan seeks to encourage the intensification of business uses, such as those within Use Class B2, including through the introduction of small units. NLP Policy J2(e) allows for small-scale B Class proposals outside of defined employment areas. The proposal would comply with the definition of small-scale within NLP Policy J2(e). The policy also states that such proposals would meet local business needs and I find nothing in its wording that requires the appellant to actively identify these needs.
14. That said, the support of NLP Policy J2(e) for such uses is subject to compliance with other NLP policies, notably SP2 and SP8 and their requirement to avoid negative environmental impacts on neighbours. NLP Policies S1 and J1 make similar requirements. For the reasons I have already given, I cannot conclude that the proposal would not have a harmful effect on neighbours, or that it would be fit for purpose in this respect as required by London Plan Policy E2.
15. As such, it would not comply with the Council's strategy for the distribution of employment uses and would conflict with NLP Policies S1, J1 and J2 and London Plan Policy E2. However, for the reasons given above, I find no conflict with Policy E4 of the London Plan, which seeks to ensure a sufficient supply of land and premises for current and future industrial and related functions.
16. The Framework requires that significant weight should be placed on the need to support economic growth and productivity, and to encourage mixed use development. However, it also seeks to encourage healthy places and to avoid unacceptable levels of noise pollution. Therefore, I find that the proposal conflicts with the Framework as a whole.

### **Other Matters**

17. The Government introduced changes to the Use Classes Order in July 2020 to enable the repurposing of buildings. This allowed buildings to be used flexibly and, in certain circumstances, to change from one use class to another without needing planning consent. However, there is no dispute that the proposal falls outside of the scope of these changes and requires planning permission.
18. I have no reason to believe that the proposal would adversely affect the vitality or viability of the town centre or would have any other adverse effects beyond those identified above. However, this does not change my overall findings on the main issues.

### **Conclusion**

19. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

*O Marigold*

INSPECTOR