



Appeal Decision

Site visit made on 10 January 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2023

Appeal Ref: APP/U5360/W/20/3259720

Railway Arch 405, Mentmore Terrace, Hackney, London E8 3PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Hotpod Yoga against the decision of London Borough of Hackney.
 - The application Ref 2019/3683, dated 11 October 2019, was refused by notice dated 20 March 2020.
 - The development proposed is change of use to Hot Pod Teacher Training Centre (use class D1) with ancillary D2 use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's Decision Notice refers to Policies contained within the London Plan, Hackney Local Development Framework Core Strategy, and the Hackney Development Management Local Plan. The new London Plan was adopted in March 2021 and the Hackney Local Plan was adopted in July 2020 and both documents have therefore superseded the Policies contained within the London Plan, Hackney Local Development Framework Core Strategy, and the Hackney Development Management Local Plan. I have been provided with a copy of the relevant Policies of the adopted Local Plans and have had due regard to this.
3. Since the application was determined and the adoption of the Hackney Local Plan, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 introduced a new use class – Class E (Commercial, Business and Service), which includes a broad and diverse range of uses including uses previously defined in the revoked Classes D1 'non-residential institutions' and D2 'assembly and leisure' as well as other uses that need not concern me. These regulations came into force on the 1 September 2020, although they stipulate that for any planning application submitted prior to 31 August 2020, that planning application must be determined by reference to those use classes which then applied and thus applies to this appeal.
4. As part of my site visit, I noted that the property is already being used as a teacher training centre and the appeal before me has therefore been assessed on a retrospective basis.

Main Issue

5. The main issue of the appeal is whether the change of use is an acceptable land use within a Priority Office Area (POA).

Reasons

6. The appeal site relates to a railway arch which is located within a row of other railway arches along Mentmore Terrace which are largely used for commercial uses.
7. The site is located within the Mare Street POA and Policy LP27 of the Hackney Local Plan directs new office developments to the most sustainable locations including the POAs and permits development where it is employment led and where B1 use class is the primary use in line with specific thresholds as set out. Policy LP30 specifically relates to the railway arches and permits proposals for the use of the railway arches for B1c, B2, B8, and other similar industrial sui generis uses. It is therefore clear that development falling within a B Use Class is supported and is most suitable within the POA and specifically the railway arches.
8. Whilst Policy LP27 and LP30 provides a level of support for commercial or community uses such as those falling within a D use class subject to certain criteria, both Policies LP27 and LP30 resist the loss of industrial uses within the POA and railway arches requiring re-provision of the existing B use class to contribute towards the employment floorspace targets as set out. Part D of Policy LP30 explains that proposals involving the loss of industrial floorspace will only be permitted where it can be demonstrated through robust marketing evidence that there is no demand for industrial use or industrial with ancillary uses.
9. Prior to works taken place onsite, there is no dispute that the use was indeed B2 and it is clear that Local Plan Policy protects and supports the continued use of the site for industrial uses covering uses falling within a B2 use class.
10. Given that the appeal site relates to a railway arch located within the Mare Street POA, the loss of the B2 floorspace would need to comply with the specific requirements of Policy LP27 and LP30 which based on the evidence before me has not been supplied. As a result, the change of use jeopardises the overall functioning of the area which is safeguarded for B uses.
11. I conclude that the change of use is not an acceptable land use within a POA and is contrary to Policies E2 and E4 of the London Plan and Policies LP26, LP27 and LP30 of the Hackney Local Plan which together, amongst other things, seek to provide a sufficient supply of business space whilst protecting and promoting B class uses within the PAO, specifically the railway arches.

Other Matters

12. I appreciate that a new commercial use (class E) has been introduced which allows greater flexibility to move between a wider range of commercial uses within that class without the need for planning permission. I also note the appellant's comments that there is now a far wider range of uses that could occur where the existing premises is a B1(a) use. However, given the historical use of the site for B2 uses, it would not benefit from the flexibility of Class E as B2 does not form part of this use class. A separate application would therefore be needed to change the use from B2 to B1 which would effectively be Class E and there is no guarantee the Council would support that use class change without certain restrictions despite the support for B1 uses in this location. As a

result, only limited weight is afforded to this and in any event would not outweigh the development plan conflict.

13. Although the teacher training centre is used by the appellant who operates from the adjoining property and ensures the future use of the arch, such matters have not affected my findings on the main issue as it is still contrary to the specific requirements of the Local Plan.

Conclusion

14. For the reasons given above, I conclude that the change of use conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination that outweighs the identified harm and associated development plan conflict. Therefore, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR