



Appeal Decisions

Site visit made on 29 March 2023

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal A Ref: APP/W5780/C/22/3291086

282 Henley Road, Ilford, IG1 2TW

- This appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Mushtaq Ahmad against an enforcement notice issued by the Council of the London Borough of Redbridge.
- The notice was issued on 16 December 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use from outbuilding to repair shop for motorbikes and scooters.
- The requirements of the notice are
 - i. Cease the use of the rear outbuilding as a repairs shop; and
 - ii. Remove any associated equipment in relation to the unauthorised use as a repair shop.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Appeal B Ref: APP/W5780/W/21/3289625

282 Henley Road, Ilford, IG1 2TW

- 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 Mushtaq Ahmad against the decision of the Council of the London Borough of Redbridge.
- The application Ref 1659/21, dated 1 April 2021, was refused by notice dated 25 June 2021.
- The development proposed is change of use from outbuilding to repair shop for motorbikes and scooters. (retrospective)

Summary of Decision: The appeal is dismissed.

Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the Act as amended.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. For Appeal A, the ground (a) is that planning permission should be granted for the matters stated in the notice. Since Appeal B is against the refusal of planning permission for the same development, the considerations are the same and I can address both appeals in the same Decision Letter.

Appeal A under ground (a) and Appeal B

Main Issue

4. The main issue is the effect of the development upon the living conditions of nearby occupiers with particular regard to noise and disturbance.

Reasons

5. The appeal site consists of an end of terrace two storey dwelling on the corner of Henley Road and Gordon Road with a garden and outbuilding to the rear. The corner location means that the host dwelling fronts onto Henley Road and the outbuilding which was previously a domestic garage used for storage fronts onto Gordon Road. There are other roads off Gordon Road due to a grid pattern of similar blocks of dwellings in the vicinity of the appeal site. Henley Road is made up of largely two storey dwellings. Opposite the appeal outbuilding on Gordon Road, there is a row of shops and retail units at ground floor with residential use at first floor level.
6. Externally the outbuilding, the subject of the notice, still resembles a garage with a roller shutter to the front where there is access for customers. Next to the outbuilding, there is a garage which is to the rear of 279 Mortlake Road. There is limited development on this side of the road other than similar garages within rear gardens of dwellings that front onto roads located off Gordon Road.
7. The outbuilding itself is around 40 square metres and is being used for repairs of motorcycles and scooters and is also used for the storage of motorbike related items. The business is operated by one person. The original complaint to the Council included photographs of motorbikes blocking the pavement and repairs being carried out on the pavement. As vehicular access is needed to the outbuilding and the garage next door and there is a dropped kerb. However, parking on the area between the dropped kerb and the buildings can prevent pedestrian access depending on the number and position of motorbikes. During a site visit in March 2021, the Council observed a queue of customers on the pavement, oil leakage and works partially projecting onto the pavement.
8. Whilst the appellant has referred to an absence of heavy machinery and low noise machines, no Noise Impact Assessment has been provided. Repairs to motorcycles and scooters is likely to involve the revving and testing of vehicles in addition to any noise arising from the repair work itself. The nature of the business is different in scale and nature to repairs being carried out in a domestic garage to vehicles owned by the occupier.
9. The absence of residential frontages on Gordon Road is noted. Nevertheless, the repairs business is in the rear garden of an appeal site in a primarily residential area. The outbuilding backs onto an outbuilding and a garden. Occupiers of No 280 Henley Road are in proximity of the outbuilding when they use their garden and are likely to hear noise particularly if the side door and window are open. The shop use with residential use above taking place on the

opposite side of Gordon Road is not comparable in terms of noise and disturbance arising from the repair of vehicles. As well as the shutter door which is likely to be left open during operating hours to attract customers, there is also a door and window to the side to the garden which are likely to be open particularly during summer months through which vehicle repairs could be heard.

10. The appellant has suggested a series of conditions to address any potential noise impacts and would accept conditions requiring sound attenuation measures to the building, plant and equipment. However, in the absence of any further details or suggested wording, I am unable to assess whether such conditions are enforceable, precise or reasonable.
11. Whilst an hours condition is proposed, the hours in the enforcement appeal refer to 6 days of working including Saturdays between 10.00a.m and 6pm but not on Bank Holidays. The hours suggested appear to equate to shop hours but the repair business is different to shop use in terms of noise and associated comings and goings with dropping off and collecting vehicles. The Design and Access Statement states that all motorbikes and scooters will be parked inside the workshop to avoid neighbours being deprived of parking facilities. However, there is limited space inside the workshop for parking with storage and repairs taking place and it would not be possible for the Council to enforce a condition to stop customers parking on the road in any event. Whilst just a snapshot, there were eight motorbikes parked outside the outbuilding at the time of my site visit.
12. Whilst a personal permission is suggested to restrict use only to the appellant, the Planning Practice Guidance states that personal permissions are only appropriate in exceptional circumstances which usually relate to the personal circumstances of the appellant. Enforcing a condition to restrict use to only one worker is likely to be difficult. The number of workers is also not directly related to the intensity of use or number of vehicles being repaired as a more experienced worker is likely to repair more vehicles. It is also the use by a single worker to date which has resulted in the complaints.
13. In terms of benefits of the development, it is providing employment for one worker but there is no evidence before me that the business would have to cease and could not operate elsewhere. The economic, social and particularly environmental benefits of the business are limited and those limited benefits do not outweigh the harm that I have identified.
14. I have found that the use does harm the living conditions of nearby occupiers with regard to noise and disturbance. I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan.
15. The development is therefore contrary to Policy LP24 of the Redbridge Local Plan 2015-2030 (the Local Plan) which amongst other things states the developments that generate unacceptable levels of noise pollution will be resisted unless appropriate mitigation can be provided. It is also contrary to Policy LP26 of the Local Plan which, amongst other things, refers to development not having an adverse impact upon the amenity of neighbouring occupiers in relation to noise.

Appeal under ground (g) of Appeal A

16. An appeal under ground (g) is that the time allowed for compliance with the notice is too short. The Council has allowed a period of 6 months. The appellant has asked for a period of 18 months to find new premises. However, 18 months would be the equivalent of a temporary permission which is excessive in the circumstances. Whilst the business would need to be relocated, it does not need a particularly large space for a single worker and there may be units that would be suitable for the use.
17. Whilst the appellant states he would need to raise finance to relocate, I have no further details. I am also mindful of the effect of the development on the living conditions of nearby residents. On balance, I do not consider that a 6 month compliance period is unreasonable. The appeal under ground (g) therefore fails.

Conclusion

18. For the reasons given above, I conclude that Appeal A shall not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. Appeal B is dismissed.

E Griffin

INSPECTOR