



Appeal Decision

Site visit made on 22 May 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2023

Appeal Ref: APP/U5360/W/22/3309604

2 Colourworks, Third Floor Unit 310, Abbot Street, Hackney, London E8 3DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr David Williams of Bootstrap Company Limited against the London Borough of Hackney.
 - The application Ref 2022/0541, is dated 2 March 2022.
 - The development proposed is change of use of the third floor from office (E1) to sui generis use of restaurant, bar, event space, gallery space and part E1 (office) with kitchen to support the functions, seminars, workshops and training.
-

Decision

1. The appeal is allowed and planning permission is granted for Change of use of the third floor from office (E1) to sui generis use of restaurant, bar, event space, gallery space and part E1 (office) with kitchen to support the functions, seminars, workshops and training at 2 Colourworks, Third Floor Unit 310, Abbot Street, Hackney, London, E8 3DL in accordance with the terms of the application, Ref 2022/0541, dated 2 March 2022, 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: Site Plan dated 26th February 2021; 072/301; 072/302; 072/310; 072/311; 072/312; 072/320; 072/321; 072/322; 072/411; 072/422.

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period. The Council has highlighted what its reason for refusal would have been, had it been determined. The Council's main concern relates to a lack of information regarding the effect of the proposal on the surrounding highway network. The appellant has had the opportunity to comment and therefore would not be prejudiced by this forming the basis for the main issue.
3. The Council was asked to comment on the appellant's submitted Transport Statement October 2022 (TS) and provided a response very late in the appeal process. The appellant has also had an opportunity to comment on the Council's response and I have therefore paid regard to these additional comments.

Main Issue

4. The main issue is the effect of the proposal on the highway network.

Reasons

5. The appeal site is within a part of the Dalston Town Centre where there is a good level of public transport accessibility. There is also a concentration of community, creative and cultural activities with limited residential accommodation found in the immediate surrounding area. Ashwin Street, nearby, has parking for up to 4 hours and blue-badge spaces are available by the appeal site for a maximum 3 hour stay.
6. The appellant's submitted TS concludes there is capacity for parking up to 70 cycles in the form of Sheffield stands which are in a sheltered area and their evidence analyses the cycle network, showing how well served the site is for pedestrian and cyclists. I find no reason to dispute this. Therefore, the proposal would reduce the need to travel and promote cycling in the borough by providing additional facilities in an accessible location. Given the development proposes a change of use with minimal alterations, the inclusion of construction logistics plans would not be reasonable or necessary in this case.
7. The A10 Kingsland High Street and Ashwin Street are within 20mph speed limit zones and collectively include bus stops, bus lanes, paving, wide footways, cycle racks and 'on-footway' parking and loading bays. Despite significant transport movements on these streets, the TS gives a detailed description of the development and includes likely trip generation of approximately 93 visits within its predicted busiest hour. Additionally, the TS indicates ample available space for deliveries and servicing. As such, although the TS does not outline any modal share data or provide any data about movements at the existing site, given the available transport connections, I find it unlikely that the safety of pedestrian or cyclists would be compromised as a result of the development.
8. I therefore conclude that the proposal would not be likely to harmfully affect the highway network. It would consequently accord with policies LP42 and LP43 of the HLP and policies T4, T5 and T6 of the LP which together in this respect support proposals that reduce the need to travel and provide a safe and suitable access for all users. The development would also be consistent with paragraph 111 of the National Planning Policy Framework (the Framework) which says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

9. The appeal site is within the Dalston Lane (West) Conservation Area (CA) where there is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the conservation area; and where great weight should be given to the asset's conservation. The significance of the CA is derived from its historic village core that includes ribbon development, dating from both the Georgian and Victorian era. In addition, it contains a former historic open space and also significant buildings that evidence Hackney's industrial past. Given the development would mostly involve a change of use, there would be a neutral effect, thus preserving the character or appearance of the CA.

10. Although the Council suggests that hours of operation are of some concern, it also says that the operation of the proposed space would be covered by licencing legislation and does not propose any conditions restricting operation hours. I have been provided with no substantive evidence to disagree with this assertion.
11. I have paid regard to the Council's assessment of other potential planning considerations, where they find the proposal would be acceptable. I have no reason to disagree with this assessment and, as such, adopt their reasoning.

Conditions

12. I have paid regard to the Council's suggested conditions, making adjustments in the interests of clarity and to ensure compliance with the Framework.
13. It is necessary to require compliance with the submitted plans, though I have not imposed the Council's suggested materials compliance condition as it is not sufficiently precise and the proposed new opening for lift access is well screened from principal vantage points. Furthermore, it is within a service area of the building where control over the choice of materials would not be necessary in order to safeguard the visual appearance of the host building or the character or appearance of the CA.
14. On the basis of the information provided by the Council, I am not persuaded that it would be reasonable or necessary to impose conditions relating to cycle parking or delivery and servicing plans. Furthermore, at my visit I observed there would be the likelihood vehicles could enter and exit the servicing yard in a forward gear and that cycle parking would be secure.

Conclusion

15. For the reasons given above and having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

J Hills

INSPECTOR