



Appeal Decision

Hearing held on 5 December 2023

Site visits made on 5 December 2023

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/U5360/C/23/3326271

Ground Floor and First Floor Commercial Units, Huntswharf House, Hackney, London E5 9UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended. The appeal is made by Mr M E Benedikt of Satmar Girls Seminary against an enforcement notice issued by the Council of the London Borough of Hackney.
- The notice was issued on 12 June 2023.
- The breach of planning control as alleged in the notice is without planning permission, the material change in use of the property to a learning and non-residential institution for the provision of education (Use Class F1 (a)).
- The requirements of the notice are:
 1. Cease the use of the property as Class F1 (a), for, or in connection with, the provision of education;
 2. Remove all fixtures and fittings and equipment facilitating the use of the property as a Class F1 (a), for, or in connection with, the provision of education.
 3. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above;
 4. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- The period for compliance with the requirements is: 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (c) 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 enforcement notice as corrected and varied is quashed and planning permission is granted.

Preliminary Matters

1. The appellant originally appealed on grounds (a), (b) and (c), but his submitted case made reference only to grounds (a) and (b). Aspects of his written case nevertheless appeared to be matters often considered under a ground (c) appeal. At the Hearing the appellant advised, and the Council agreed, that ground (c) was only engaged in the event that I find the use falls within Class B.1 or E of the Use Classes Order¹. I have therefore considered the ground (b) and potential ground (c) appeals together.

The Notice

2. Section 2 of the Notice describes the land as "Ground Floor and First Floor Commercial Units ...", but at the Hearing the appellant and the Council

¹ The Town and Country Planning (Use Classes) Order 1987

confirmed that the first floor was described as a mezzanine in the original planning permission for the building, and the first floor of the building was residential. As the mezzanine forms part of the ground floor unit the parties agreed that deletion of the words "and First Floor" would more accurately describe the land.

3. Section 2 also makes no reference to Leaside Road in the address, or to the plan attached to the Notice. The appellant and the Council agreed that, subject to variation of the description, to include the street name, Leaside Road, there was no requirement for a plan.
4. Neither the appellant nor the Council would be prejudiced were I to correct the Notice by deleting the words "and First Floor" and inserting "Leaside Road" in Section 2, and by deleting the plan attached to the Notice.
5. Section 5 contains four requirements. In general terms, requirements 1 and 2 require cessation of the use and removal of fixtures, fittings and equipment associated with it. They do so with reference to Use Class F.1(a) and "for, or in connection with, the provision of education". At the Hearing, the appellant and the Council agreed that, for clarity, and subject to finding the allegation to be correct, these terms should reflect those used in the allegation by inserting the words, "as a learning and non-residential institution" and deleting ", or in connection with,". Doing so would remove ambiguity and would not prejudice the appellant or the Council.
6. Section 5 requirement 3 is to, "Make good all damage to the property" arising from "removal of the unauthorised works". However, it does so without defining 'make good' or 'unauthorised works'. In these respects, it is unclear what the nature and extent of this requirement is.
7. It would be possible for me to vary requirement 5(3) without injustice to either party by removing 'unauthorised works' and referencing the works stated in requirement 2. However, I have not found a way to clearly specify the extent of the works of 'making good', or to require it to be restored to its condition before the development occurred (which was an unfinished shell), without injustice to the appellant. Nevertheless, at my site visit I saw very few fixtures and fittings expressly facilitating the use, and those present were located within the building, not visible from external areas. The requirement to 'make good' is therefore unnecessary, and requirement 3 could be deleted without injustice to either party.

The appeals on grounds (b) and (c)

8. Appeals on ground (b) are made on the basis that the matters stated in the notice have not occurred.
9. The notice alleges the material change of use of the property to a learning and non-residential institution for the provision of education, being a use falling within part (a) of Use Class F.1.
10. The appellant considers the use is one which would have been a former B.1 Business use, and now falls within Class E Commercial, Business and Service use. In the alternative, he considers it to be a use within part (f) of Class F.1, as a Learning and non-residential Institution for, or in connection with, public worship or religious instruction.

11. The appellant's appeal statement describes the use as a seminary for girls aged 16 and over for the orthodox Jewish Hareidi community. It describes girls attending as in-house apprentices receiving job training in a religious setting. At the Hearing the appellant advised the currently unused areas would extend that to girls and young women aged between 16 and 25. The Council state there were around 80 girls and three members of staff at the times of their visits. They say that seminary staff present at those visits variously described it as a temporary club and a community centre, and at the Hearing as a seminary, and a training venue for apprentices.
12. The appellant advises that training focuses on projects, in areas such as event planning, bookkeeping, graphic design, interior design, floristry, and cooking. In each case the girls receive instruction and provide a service to a business sponsor in return for support for the seminary; thereby providing a practical education and business skills free of charge to those attending. Religious festivals are also celebrated, and all training is delivered in a manner which accords with their religious beliefs.
13. In terms of the property, parts of the ground floor remain unused and unfinished. The rear of the building functions as the entrance and active frontage. Those areas in use, at the rear and on the mezzanine floor, are laid out in the form of classrooms and associated facilities. Some are set up with equipment for specific purposes, such as the computer labs and kitchens. Others are laid out as general course rooms with teacher/instructor and student desks, and with or without being labelled for specific purposes, such as art room, interior design and accounting.
14. Notwithstanding the practical application of learning to local businesses, there is no convincing evidence of use as an office, for research and development of products or services, or for industrial purposes, even accounting for the reference in Class E to "use, or part use". Class E also incorporates uses for a number of other purposes but, in each case, principally to visiting members of the public. I have seen no evidence that members of the public visit, and the layout does little to accommodate such visits; with no reception in the lobby, and the duty office located on the mezzanine level, away from the entrance.
15. The appellant also considers that the prospective use of the unused ground floor floorspace in future for use by those graduating from the existing educational use would itself amount to a Class E use. However, that space is unfinished and unused, and no such use has occurred to date.
16. The use is a private one, for girls and young women attending the seminary, and not one for public worship. Aspects of the use, such as the observance of religious festivals and prayers, may be considered to be for, or in connection with, religious instruction. However, notwithstanding the broad nature of uses described in Class F.1(f), I have not seen a convincing argument that practical learning in subjects such as bookkeeping and interior design are sufficiently "for, or in connection with, ... religious instruction". Therefore, considered as a whole, the use is not one which falls within the definition in Class F.1(f).
17. The evidence indicates use as a learning and non-residential institution. The layout of the property and arrangement of rooms demonstrate class teaching, and a variety of 'courses' are provided. Rooms such as 'Head Teacher', 'Staff Room', 'Private Tuition', 'Assembly Room' and separate 'Staff Toilets', as indicated on the layout plan provided by the appellant, are also typical of an

educational establishment. In addition, I note the Council's education service officers, at their visits, considered it to be an educational setting.

18. At the Hearing there was some discussion around the interface between religious instruction and education delivered in a manner which reflects the religious beliefs of the community. The courses described at the Hearing are not inherently religious activities, even if there may be particular ways of approaching them in the traditions of this community. Furthermore, although I note that those attending also practice religious festivals and prayers, I have not seen evidence that doing so differs significantly from other faith-based educational establishments.
19. Consequently, I find the matters stated in the allegation have occurred, and the appeal on ground (b) fails.
20. In relation to ground (c), the property is the unit of occupation and physically and functionally separate from other uses of the building. The parties agree that the property is a single planning unit, and I have no reason to disagree. The use occurring is materially different from the authorised use of the property as (the former) B.1 Business use. Section 55 of the Act defines material changes of use as development. There is no permitted change² between Class F.1 and Class E, and no planning permission has been granted. The development therefore constitutes a breach of planning control, and the appeal on ground (c) therefore fails.

The appeal on ground (a) and the DPA

21. Appeals on ground (a) are made on the basis that planning permission ought to be granted for the development alleged in the Notice.

Main Issues

22. The main issues are:

- The effect of the development on the provision of employment and commercial floorspace within the Theydon Road Priority Industrial Area;
- The suitability of the development in the area, with particular regard to the industrial nature of the area, accessibility of the development, and its effect on highway safety and the surrounding transport infrastructure;
- The suitability of the building for the use, with particular regard to its entrance facilities, the extent of external space, and cycle and waste storage facilities;
- The effect of the development on the living conditions of residential occupiers of the building; and
- The need for the development to serve the local Jewish Hareidi community.

23. At the Hearing the Council clarified and updated its position with respect to the relevant development plan policies in relation to each issue, and I have considered the appeal on that basis.

² In the Town and Country Planning (General Permitted Development) (England) Order 2015

Reasons

Employment and commercial floorspace

24. The building is located within the Theydon Road Priority Industrial Area. It was erected pursuant to a planning permission for a mixed use with Class B.1 'commercial' floorspace at ground floor and mezzanine levels, and flats above³. A Section 106 planning obligation sought to secure 10% affordable workspace provision within the property. The officer report for the original planning permission for the building (the Original Officer Report) also states that affordable housing was provided at a lower rate than normally sought on account of viability of the scheme with B.1 floorspace and affordable workspace. The commercial floorspace, as part of a mixed commercial and residential development, was therefore an important part of the justification for the redevelopment of the building.
25. The Original Officer Report anticipated the B.1 floorspace would make provision for 45-60 full time equivalent posts, replacing two employees prior to the redevelopment. The appellant advises there are currently 25-30 people working at the property, plus 45 desks proposed, although the Council claims there were only three staff in attendance at the time of its visits. Although active use of the unutilised space is likely to increase overall employment numbers, it seems unlikely that employment associated with educational use would be as high as that envisaged by the Council when it first granted planning permission for the redevelopment.
26. The appellant advises that marketing of the property for B.1 use was unsuccessful in attracting business users. Vacancy of the property prior to the appellant entering into a lease in July 2022 is undisputed. However, I have not seen any substantive or compelling evidence that robust marketing has been carried out on appropriate terms. In particular, I note the Original Officer Report envisaged the space would be particularly suitable for start-up/incubator business units or as studio space for artists, designers or other suitable businesses. Many such businesses may not be in a position to accommodate the entire space, or complete the development internally prior to occupation, particularly given the scale of works required for its completion from a shell.
27. Overall, although the use provides some employment opportunities, it does not maximise the delivery of employment floorspace by maintaining or re-providing the same quantum as that which it replaces. Neither is there evidence that it provides the maximum viable amount of employment floorspace.
28. In conclusion, the development is therefore harmful to the provision of employment and commercial floorspace within the Theydon Road Priority Industrial Area. As a consequence, it conflicts with Hackney Local Plan 2033 (2020) (HLP) Policies LP26 and LP28. These policies seek to maximise employment floorspace and protect and promote industrial land and floorspace within Priority Industrial Areas. At the same time, I have not found conflict with HLP Policy LP29, as the development does not meet the 1000sqm threshold.

³ Planning permission 2017/4985, variation of condition following permission 2014/2552.

Suitability of the development in the area

29. The property is located on the edge of an industrial area, and adjacent to and opposite industrial land. The upper floors of the building, and other buildings on the same side of the road, are in residential use over five stories. The adjacent building is a relatively modern self-storage unit over several floors.
30. No severe impact on the transport network arising from the use is alleged, but the property is not in a highly accessible public transport area, being in PTAL2⁴. Even so, the planning permissions for the building granted a car-free development, and a bus stop is located not far from the development, albeit further into the industrial area.
31. The appellant advises that the use provides further education exclusively for girls (and potentially young women) of the Satmar community of Hareidi Jews. In this community, women and girls are not permitted to drive or ride cycles, and most girls walk to the seminary in groups. Others, and their teachers, travel by taxi.
32. I made an unaccompanied visit from the road and canal towpath on the morning of the Hearing, when students were arriving, and an accompanied visit late afternoon, at the end of the Hearing. At the times of my visits most students entered and exited the area to and from the east. By that route, the property is located within the first building in the industrial area, and pedestrians follow footpaths with street lighting. Outside the building, a small number of on-street parking spaces also provide a buffer from traffic when in use.
33. Those travelling by bus must walk through a short part of the industrial area, and cross the road, but there are footpaths, street lights, and residential uses along parts of the short route to the property. The road was lightly trafficked at the times of my visits, and a sharp bend reduced traffic speeds. I have not seen any evidence of significantly greater traffic speeds or volumes at other times.
34. Although the Original Officer Report stated the ground floor 'commercial units' were to be accessed through an internal corridor through the building, the seminary is currently accessed from the rear entrance. Accessing the building from the rear requires seminary users to walk through a yard used by commercial vehicles between the self-storage building and the residential building beyond it. This arrangement provides poor access for pedestrians, and the potential for conflicts between commercial vehicles and students. I consider this matter further below in relation to the suitability of the building for the use.
35. In the vicinity of the property the area is therefore one of mixed character, with both industrial and residential uses. On the side of the road with the appeal site the predominant use is residential. Access to the front of the property runs through an area with an element of industrial character, but not unacceptably so for girls and women aged 16 years and older.
36. However, exclusive use of the rear access of the building gives rise to potential conflict with commercial vehicles. But use of the main entrance of the building,

⁴ Transport for London Public Transport Accessibility Level.

on the frontage with Leaside Road, would overcome this conflict, and could be required by planning condition.

37. In conclusion, subject to a suitable planning condition requiring access from the roadside frontage of the building, the development is not an unsuitable one in the area. It therefore accords with the relevant aspects of the London Plan (2021) (TLP) Policies S3 and T4, and HLP Policies LP8, LP42 and LP43. Together these policies seek accessible education facilities and community infrastructure in locations with good public transport accessibility and access by walking, entrances away from busy roads, with suitable accessible outdoor space. They also require new development to be located where its transport needs can be met in a sustainable manner, and where they do not increase road danger.

Suitability of the building for the use

38. The property was originally designed for industrial use with access from the road and a second access onto the canal towpath.
39. However, the active frontage and main entrance of the seminary is at the rear of the building, facing the canal and its towpath. Students access it via a gap between the self-storage building and the residential building beyond it. Although the gap is overlooked by residential flats, it is not well lit, and is used as access and parking for commercial vehicles. The canal towpath is narrow, poorly lit, and not well overlooked. Vegetation and a tunnel below the railway bridge further limit its suitability in terms of security. It also has minimal low-level fencing along the canal edge, which is not suitable for regular use by groups of children. Access from the rear of the building is therefore not appropriate for girls and young women attending the seminary.
40. The location of building services at the front of the building mean it is not possible for the development to provide an active window frontage with the street. However, use of the main entrance of the building, on the frontage with Leaside Road, could be required by planning condition, as could an acknowledgement of the use on the street frontage.
41. The property takes advantage of the aspect to the rear, with views of the canal and green space beyond it, and of vegetation along one side facing the railway embankment. Internally, the areas in use were therefore not unpleasant, or oppressive in nature. Full height glazing is not necessarily a requirement when considering active frontages, and it is not particularly unusual to obscure ground floor windows immediately adjoining a public walkway.
42. There is no external space associated with the property, but an informal enclosed area provides views across the canal and the open space beyond it. A number of green spaces can be accessed via the canal path, with the closest being around 500m away, and there are extensive areas within easy walking distance, including several parks and recreation grounds. Although there is no intervisibility between the interior of the property and the street, the main classrooms have windows facing the landscaped railway embankment along the side of the building, and there is significant glazing at the rear. As a use for students aged 16 and over, the accessible open space in the surrounding area is therefore sufficient for the use.

43. The building was designed with two bin stores, and the appellant advises that the seminary now has exclusive use of the second store. It is reasonable to assume that the approved commercial units were intended to have separate waste facilities to the residential units, and the waste store is an adequate size for the use.
44. Although the appellant advised that Satmar women and girls do not cycle, he acknowledged that any planning permission would run with the land, and could therefore be used by others in future. The Council advised roughly 7 of the secure cycle parking places provided within the internal access street were designed to serve users of the approved commercial space. The parties agreed that the policy requirement, as found in TLP Policy T5, which relates to cycling, amounted to a minimum of one space per 8 full-time staff and 1 in 8 pupils. At those rates, some additional cycle storage space would be required, but could be provided if necessary on the ground floor of the building and secured by planning condition. That would not be necessary if the use was limited by condition to girls and women of the Satmar Hareidi community.
45. In conclusion, subject to planning conditions requiring use of the front entrance, acknowledgement of the use on the street frontage, the provision of additional cycle storage if necessary, and securing long-term use of suitable waste facilities, the building is not unsuitable for the use. It therefore accords with TLP Policies S3, D3 and T5 and HLP Policies LP8, LP42 and LP57. Together these policies set out criteria for education, social and community facilities and design, walking and cycling, waste and recycling.

Living conditions

46. The Council is concerned that comings and goings associated with the use generates noise and disturbs residents in the building.
47. The appellant advises that hours of operation are typically 9am to 4 or 6pm four days a week. These hours are similar to those expected for deliveries for the approved 'commercial units', although hours of operation of the commercial units was not limited. A small number of deliveries were expected to occur to service the commercial units, but those associated with the educational use are more likely to occur simultaneously. Nevertheless, I have not seen evidence of significant numbers of vehicles dropping off or collecting students or staff from the roadside, and note the reliance on walking for most students.
48. The planning permissions for the building contained conditions requiring measures to be taken to mitigate sound transfer between the commercial floorspace and residential units above it, and to ensure maximum vibration levels are not exceeded from road, rail or industrial sources. However, that has not necessarily been the case between the internal communal access areas and the residential flats above.
49. The appellant advises that the lease provides for access from the rear, but from the layout of the building, the Original Officer Report for its construction, and the servicing plan, the ground floor space was clearly designed to be accessed and serviced from the front through the building. I also found above that suitability of the building and the area for the use depends on active use of the roadside entrance, as it was originally designed.

50. Use of the internal corridor by around 80 students is likely to result in greater sound levels through the building at peak times than business use of the property. In relation to two of the three residential flats above the "internal access street", the plan showing the first floor of the building indicates it lies beneath corridors, bathrooms, service areas and kitchens; and consequently, the use is likely to have only limited effects on the living conditions of those residents. Repetitive use of the entrance gates could result in some disturbance of occupants of the front first floor flat, which has bedrooms above the entrance gates. But use at around 9am and between 4 and 6pm should not be unduly harmful to living conditions, subject to a planning condition to secure measures to ensure noise is brought within acceptable levels, whether by means of internal works to the building, hours of operation, or by other means, such as replacement of the entrance gates.
51. In conclusion, subject to a suitable condition, the development would not be materially harmful to the living conditions of residential occupiers of the building. It therefore accords with TLP Policies D13 and D14 and HLP Policy LP2, which apply the agent of change principle, placing the responsibility for mitigating impacts on new developments, ensuring there are no significant adverse impacts, and controlling and mitigating potential adverse effects.

Need for the development

52. In my assessment and decision taking I must exercise the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 (EA). In doing so I must have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations (EA s149(1)). The protected characteristic of particular relevance to these appeals is religion or belief.
53. Having due regard to the need to advance equality of opportunity between the appellant and the Satmar community and those who do not share their protected characteristic will involve examining the need to remove or minimise disadvantages suffered by them and to take steps to meet their different needs (EA s149(3)).
54. In terms of the Human Rights Act 1998, throughout I have kept in mind the qualified right of Article 9, the right to freedom of thought, conscience and religion and Article 2 of the First Protocol, the right to education.
55. The appellant advises that girls of the Satmar Hareidi Jewish community leave school at 16. The seminary currently provides opportunities for continuing their education for girls aged 16 and over, and on their graduation, would do so for young women up to the age of 25.
56. He also advises they were unable to secure any other potentially suitable building. Although little evidence of the alternatives explored has been put before me, the relatively low cost of the premises was a significant factor in selection of this location, and the appellant considers its car-free nature was a factor in its price and availability. He considers the seminary provides the highest standard of provision compared to all others locally, and that, if the appeal is dismissed, their only other option would be to seek to convert two residential houses, at a substantially greater cost.
57. Evidence of postcodes of the current students demonstrates that most live within 2km of the appeal site, and all live within 3km. In that respect, the

premises is accessible by walking. The closest equivalent alternative facilities for girls of the community are located in Leyton and Wood Green, respectively 20-30 minutes and 45 minutes driving, and students would be unable to walk to them.

58. As girls and women in the community cannot drive or cycle, were the seminary to close, the appellant advises that girls would have to try to attend local colleges, and to pursue their religious education at home. That may be taken up by some, but would not necessarily result in all students continuing their education, and the appellant advises some girls would have to do without it. Much of the curriculum appears to be practical rather than religious in nature, but it appears to offer a broader range of subjects than many further education courses, encompassing domestic and business practice, rather than a specialised focus on an individual topic or topics. It is also delivered free of charge to students. The educational offer is therefore somewhat different to many college courses, even if religious education could be undertaken at home or in a religious setting.
59. The Council acknowledges the need for education, and for this community, but considers it not particularly more intense than that for general need. At the same time, they consider it must be met in a way which accords with planning policy and allows education to be properly conveyed.
60. Considering all these matters together, the seminary meets aspects of TLP Policy S3 in terms of meeting demand and offering educational choice in a location accessible by walking and near to parks and other green spaces. It provides a very specific educational facility for this community, providing opportunities for girls and young women aged 16 and over, and providing further education to those who may not access it elsewhere. It also brings together a sufficient volume of girls to facilitate security of travel in groups, and reduce the harassment reported to have been experienced by some members of the community.
61. The use has very specific requirements, which are influenced by the limited travel options available to women and girls of this community. As a result, there is a narrow geographical area within which a use served by walking would be feasible.
62. In conclusion, the use is an important facility for the Satmar Hareidi Jewish community. It offers a facility to meet demand and educational choice in an accessible location for the community it serves, in accordance with TLP Policy S3, which relates to education and childcare facilities.

The planning balance and conclusion

63. In favour of the development, the use provides an important educational facility for girls and young women of the Satmar Hareidi Jewish community, and gains the support of educational development plan policy, attracting significant weight. Subject to suitable planning conditions, the development also gains the support of most relevant development plan policies, attracting further moderate weight.
64. Against the development I attach significant weight to the conflict with development plan policies seeking to protect and promote industrial land and floorspace within the Theydon Road Priority Industrial Area.

65. In relation to other matters, I also note the concerns of some residents regarding use of the entrance gates and doors and security arising from greater numbers of people entering and leaving the building. Although the use is likely to generate increased visitor numbers during peak hours, it is less likely to result in use during anti-social hours arising from commercial use operating with unlimited hours. These matters therefore attract only limited additional weight against the development.
66. I have therefore attributed significant weight to both the specific needs of this community and to industrial land and floorspace policies. However, on balance, the matters in favour of the development outweigh those against it. For the reasons given above, allowing the appeal would reduce the disadvantages experienced by the Satmar community, and refusing planning permission on grounds of the net loss of industrial land and floorspace would be disproportionate, notwithstanding the harm arising.
67. As I am allowing the appeal and granting full planning permission for the development, there will be no interference with the appellant's rights to freedom of thought, conscience and religion or to education, under Article 9 and Article 2 of the First Protocol, as set out in the Human Rights Act 1998.

Conditions

68. Considering the conditions suggested by the Council, I have had regard to the approach in the National Planning Policy Framework and the Planning Practice Guidance. As discussed at the Hearing, and having consulted the main parties, I have re-structured those conditions which require the submission of details into a single condition requiring a scheme, without altering their fundamental aims.
69. The suitability of the building and the area depends on the particular nature of the use, including its reliance on walking, and the absence of any on-site external provision means it would be unsuitable for younger children. It is therefore necessary and reasonable to limit the use to a learning and non-residential institution for the provision of education for girls and women of the Satmar Hareidi Jewish community aged 16 and over, and to exclude changes to other uses in Use Class F.1 with different characteristics.
70. As described above, direct pedestrian access from Leaside Road is also necessary to ensure the suitability of the use in this location. Despite the limitations afforded by services on the building frontage, suitable signposting or other acknowledgement of the use from the roadside frontage should mitigate, in part, the absence of an active frontage.
71. I have set out above the need for measures to prevent disturbance to residential occupiers on the first floor of the building arising from internal access to the premises. Hours of operation and maximum numbers of students will inform decisions on the measures to be taken, and are required to ensure the successful integration of the use with the residential units on the upper floors.
72. Refuse storage should be secured, as described above, for the duration of the educational use. Given the very specific limitation of the use to girls and young women who do not cycle, additional cycle parking provision is not required.

73. Condition 2 is imposed to ensure the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure their approval and implementation before the development takes place.
74. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Overall conclusion on ground (a) and the DPA

75. On account of the conflict I identify with employment policies, the development conflicts with the development plan policies read as a whole. Nevertheless, the significant benefits of the development outweigh this conflict and, for the reasons given above, a decision should be made other than in accordance with the development plan. The appeal on ground (a) should therefore be allowed.

Conclusion

76. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice.

Decision

77. It is directed that the enforcement notice is corrected by:

- deleting the words "and First Floor" and inserting "Leaside Road" before the word 'Hackney' in Section 2, and
- by deleting the plan attached to the Notice

and varied by:

- inserting the words, "as a learning and non-residential institution" after 'Class F1(a)', and deleting ", or in connection with," in Sections 5.1 and 5.2.
- deleting Section 5.3.

78. Subject to the corrections and variations, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the material change of use of the property to a learning and non-residential institution for the provision of education (Use Class F1 (a)) at Ground Floor, Huntswharf House, Leaside Road, Hackney, London E5 9UE, subject to the following conditions:

1. The property shall be used for a learning and non-residential institution for the provision of education for girls and women of the Satmar Hareidi Jewish community aged 16 and over and for no other purpose (including any other purpose in Class F.1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

2. The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
- (i) Within 3 months of the date of this decision a scheme for direct pedestrian access from Leaside Road, signposting of the use from the roadside frontage, hours of operation, maximum numbers of students, measures to prevent disturbance to residential occupiers on the first floor of the building arising from access through the building, refuse storage, and a timetable for its implementation, shall have been submitted for the written approval of the local planning authority.
 - (ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - (iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - (iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Peter White

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Angelica Rokad	Barrister
Alvin Ormonde	Planning & Project Management Services
Mr M E Benedikt	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Brendan Brett	Barrister
Ryan Pinkett	Planning Enforcement Officer

INTERESTED PARTIES:

Mr Baruch Berger
Mr Isaac Meisels

DOCUMENTS SUBMITTED AT THE HEARING:

1. Floor plans indicative of the current use submitted by the appellant
2. Approved commercial space floor plans - drawing number 250
3. Approved 1st floor plan - drawing number 251
4. Annotated floor plans of the Council's visit on 15/09/2022
5. The London Plan 2021 Policy D14
6. Conditions suggested by the Council
7. Appellants comments on the Council's conditions