



Appeal Decision

Site visit made on 5 March 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/W5780/W/23/3325762

Lake Forest House, Forest Road, Hainault, Ilford IG6 3HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Dapson Talabi of Cabana Ldn Ltd against the decision of the Council of the London Borough of Redbridge.
 - The application Ref is 0464/23.
 - The proposed development is described as "retain change in class of use on first floor from Class E (Office) to sui generis (restaurant with shisha bar)".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw on my site inspection that the proposed change of use has been undertaken. I have determined the appeal on this basis.
3. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context, and both parties have had the opportunity to make comments on the revised Framework within their statements and final comments.
4. Notwithstanding the Council's comments relating to external alterations to the building, the proposal is for a change of use of the appeal property only, the application form also states no materials are proposed to be used externally. Consequently, the appeal proposal has been determined on this basis.

Main Issues

5. The main issues are:
 - the suitability of the site for the proposed development; and,
 - loss of employment floorspace.

Reasons

Suitability of the site

6. The appeal site is part of the first floor of a large building on the designated Forrest Road Local Business Area (LBA), which is located away from the nearby urban areas. The range of uses on the LBA, include a gym, tyre fitting

business, vehicle repairs workshop, together with engineering and manufacturing uses. Bounding the LBA is agricultural land, playing fields, and Fairlop Waters Country Park on the opposite side of Forrest Road.

7. Policy LP11 of the Redbridge Local Plan 2015-2030, dated March 2018 (RLP) seeks to resist the proliferation of shisha bars in the Borough by requiring them to be located within the it's town centres (metropolitan, district and local), and not in areas such as the LBA, to protect the vitality and viability of town centres. Paragraph 91 of the Framework states local planning authorities should apply a sequential test to planning applications for town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. The Framework states "references to town centres, or centres apply to city centres, town centres, district centres and local centres..." As such, the proposed restaurant/shisha bar should be located in town centres, and if there are no suitable or available sites, edge of centre locations should be considered before other locations, such as the appeal site. Furthermore, paragraph 95 of the Framework states that where an application fails to satisfy the sequential test it should be refused.
8. Against this policy background, shisha bars should be located within existing town centre areas, unless there are no suitable or available sites within or on the edges of town centres. The appellant has not submitted a sequential test to demonstrate why sites within or on the edge of nearby centre locations are not suitable or available for the proposed development. As a result, the proposal has not been justified in this location, and it could adversely affect the vitality and viability of nearby town centres.
9. The proposed floor plans and submitted information do not provide any substantive evidence of the split between the shisha bar use and restaurant use, and how the shisha bar would be subservient. Furthermore, the floor plans indicate that such uses would be integrated together. Whilst it is said a change to a restaurant use may be undertaken through Use Class E(g)(i) of the Use Classes Order 1987 (as amended), what is before me is not wholly a restaurant use, it is a mixed use explicitly including a shisha bar. As such, I am required to assess the proposed development against the development plan along with any other material considerations.
10. I also note that Policy LP11 of the RLP says the Council will resist the proliferation and concentration of betting/gambling shops, money lenders and shisha bars (sui generis) in the borough by requiring each new sui generis unit to be separated from any existing sui generis unit or group of units by at least two non sui generis units. The Council has said an adjacent unit is used as a driving test centre, which they say is a sui generis use. Whilst this maybe so, I cannot be certain that such a use exists from my site observations. Nevertheless, the proposed location of the shisha bar close to it, would not lead to an unacceptable concentration of those uses that Policy LP11 of the RLP is specifically seeking to avoid.
11. In view of my findings above, I conclude that there is insufficient information to justify the appeal site as the most suitable site for the proposed development, and there would be conflict with Policies LP11 and LP14 of the RLP, insofar as they seek to direct shisha bar uses to town centre locations and protect employment uses on LBA's. In addition, on the basis of the information submitted the proposal would conflict with paragraphs 91 and 95 of the

Framework without a sequential test to demonstrate why the appeal site is the most suitable site.

12. Whilst there could be a degree of conflict with part of Policy LP11 in terms of a nearby sui generis use, the proposed shisha bar would be consistent with the objective of that part of Policy LP11 of ensuring there would not a concentration of betting/gambling shops, money lenders and shisha bars in this immediate area.
13. The Council referred to the proposal being contrary to Policy LP26 of the RLP, this policy is focussed on good quality design. With the proposal being for a change of use of part of an existing building only, and on the limited evidence before me, I did not find the proposal would be in conflict with this policy on this main issue.

Loss of employment floorspace

14. Policy LP14 of the RLP promotes business and employment uses, and seeks to maintain the viability of key employment sites, such as this LBA. The existing plans show an office use at the appeal property and the proposed development would result in this office floorspace being lost. Although the proposal would create some employment, I have no substantive evidence that this would be greater than the employment arising from an office use, and that restaurant/shisha bar use would promote or and maintain the viability of the designated LBA. I am not aware of any compelling reasons as to why the proposal has to be located at the appeal property that would justify the loss of employment use at the appeal site.
15. Although the Council has suggested that the proposed use could impede the operations of adjoining uses, they have not identified exactly how this restaurant/shisha bar would affect the mixture of adjoining business uses. From the information available to me and my own site observations, I am not persuaded that the proposed use would be harmful to adjoining uses.
16. In view of my findings above, the proposal would result in an unjustified loss of existing employment floorspace on a LBA and conflict with Policy LP14 of the RLP and Policy E7 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP), which amongst other things require development proposals to promote and encourage the intensification of employment and business uses on employment sites.
17. The Council has referred to the proposal being in conflict with Policy E6 of the LP. However, that policy relates mainly to plan formulation in regard to the allocation of business/industrial areas. Consequently, I did not find this policy to be directly determinative on this main issue.

Other Matters

18. It is noted that the appellant has said that there are no building operations proposed and there would be no harm to the character and appearance of the area; that the appeal site is not within a Conservation Area; the proposals would share the building with a gym; the proposals are said to mostly operate when nearby businesses are closed, which would not be harmful to nearby occupiers; and that no objections have been raised regarding waste and recycling or in terms of parking and highway safety. Nevertheless, these

matters, either individually or collectively do not outweigh the harm identified above and the conflict with the development plan and the Framework.

Conclusion

19. In view of my findings above, the proposal conflicts with the development plan taken as a whole, there are no other considerations, including the Framework, which indicate a decision other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR