



Appeal Decision

Site visit made on 5 March 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/E5900/W/23/3326966

Land south-west side of Purdy Street, London E3 3PD

- 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 Shah Husan against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/23/00072.
 - The development proposed is office unit and storage unit. Removal of storage unit's side canopy.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The revised National Planning Policy Framework was published in December 2023. I do not consider in this case that this raises any matters that require me to seek any further representations from the parties and I am satisfied that no interests have been prejudiced in this regard.
3. In the banner heading above, I have removed the words 'retrospective' and 'retention' from the description of development as stated on the application form since these are not acts of development.
4. The application the subject of this appeal follows a previous appeal on this site against an enforcement notice¹ under section 174 of the Town and Country Planning Act 1990. With some variations, including the compliance period, the enforcement notice was upheld in July 2022, and required the motor vehicle sales use to cease, and removal of the office unit, garage/workshop and debris.
5. Although the description of development refers to retention of the office and storage units, the appellant states that they now only seek to retain the office which is still in-situ. During my visit I observed that the garage/workshop structure had been removed in accordance with the requirements of the enforcement notice; other than the office unit, the site was largely vacant. However, there were still a couple of cars, a motorcycle and a small outside storage area containing items associated with motor vehicles, including tyres. Given this, and the continuing presence of the office unit, it is unclear to me whether the use of the land for vehicle sales has ceased entirely. The appellant claims that the site has a Class B8 storage use, specifically for cars, whilst the Council contend that it has no lawful use. The evidence before me is not sufficiently clear on the site's lawful use. In any case it is not the purpose of this

¹ Appeal ref: APP/E5900/C/22/3291782

appeal to determine the lawful use. There are other routes available to the appellant to resolve the lawful use, such as through a certificate of lawfulness.

Main Issues

6. The main issues are the effect of the proposal on the living conditions of neighbouring occupants, having regard to noise, disturbance and fumes; and the effect upon the safe and efficient operation of the local highway network.

Reasons

Living conditions

7. The site is an L shaped parcel of land at the end of Purdy Street. The northern part of the site is beneath the railway line serving the District and Hammersmith Tube. There is a slope down from the eastern part of the site to the western side adjoining the Docklands Light Railway. The rear gardens of dwellings on Purdy Street adjoin the southern site boundary. The site has a concrete surface and is enclosed by a combination of high walls, timber fences and palisade fencing. Gates and roller shutter doors provide access. Purdy Street is predominantly residential and features mainly two storey terraced dwellings which are generally set back from the road with private rear gardens. There are also high-rise flats to the north and west beyond the railway lines.
8. Permission is sought for the retention of the office unit adjacent to the site entrance on the basis that it would serve as a security office to monitor and maintain the site. The appellant says that issues have arisen relating to unlawful and anti-social behaviour on the site and there is said to be a risk of unlawful possession of the site by travellers currently occupying adjacent land.
9. I note the appellant's contention that the appeal is concerned only with a proposed security office and not with the use of the land itself. However, whilst the office unit could be used for such purposes, it would be used in connection with and facilitate the wider use of the land within the site edged red which encompasses the entire site. The office is of a high quality specification with the appearance of a car sales office. Its design and siting at the site entrance lend itself to other uses, including use as a car sales dealership, which has been found unacceptable for the reasons given in the previous appeal decision.
10. The site has a close relationship with dwellings just beyond the southern boundary. It is also within proximity of dwellings on the eastern side of Purdy Street and the flats on Rainhill Way and Campbell Road, albeit these are on the other side of the railway lines. The noise climate of Purdy Street is influenced by noise from passing trains, though in the intervals between train services it seemed to me to be a relatively quiet residential area of family dwellings.
11. To access the appeal site vehicles must pass the dwellings lining Purdy Street and adjacent cul-de-sacs. Given the uncertainty over whether the use for car sales has ceased, and in the absence of any controls over the end user, a commercial use of the type previously carried out from the site, is likely to result in an unacceptable effect on the living conditions of neighbouring occupiers due to noise and disturbance from potentially significant traffic movements on Purdy Street. Such an intensive use of the site and associated vehicle movements could also give rise to increased car fumes further compromising the living conditions of nearby residential occupiers.

12. For these reasons I conclude that the proposal would be harmful to the living conditions of neighbouring occupiers with particular regard to noise, disturbance and fume from vehicles. It would conflict with Policies D.DH8 and D.ES9 of the Tower Hamlets Local Plan 2031 (adopted 2020) (Local Plan), which seek, amongst other things, to ensure that development safeguards the amenity of existing occupants, including in respect of noise and fumes.

Local highway network

13. Although a pedestrian access under the railway links Purdy Street to Rainhill Way, the northern end of the street is not a through road for vehicular traffic. Therefore, access to the site is obtained solely from the south from Purdy Street via the gates at the end of cul-de-sac. For much of its length parking bays along both sides of the street considerably reduce its width. There are a several residential driveways directly onto Purdy Street and there are also a number of cul-de-sacs off the main street. The site access is particularly close to the cul-de-sac entrance to the south.
14. The proposal would be likely to give rise to non-residential traffic of a more intensive nature than would reasonably be expected in this residential area. There would be potential for conflict between vehicles accessing the site and existing residential occupiers' vehicles. This would result in an increased potential for collisions on Purdy Street and compromise highway safety.
15. For the above reasons, I conclude that the development would be detrimental to the safe and efficient operation of the local highway network. It would conflict with Local Plan Policies D.TR2 and D.TR4, which seek to promote sustainable travel and limit impacts of development on the transport network.

Other Matters

16. I have considered the appellant's suggested condition to ensure the appeal site is not used for any purpose until its use is established through a subsequent application. However, that would fail the test of reasonableness in my view as it would nullify any lawful use or uses which may exist on the site. Whilst the office unit could provide improved security through increased surveillance of the site, there is little evidence before me to demonstrate the extent of the security issues or the likelihood of unlawful occupation. In this respect, I noted during my visit that the office did not appear to be in active use for security purposes. Nor has any substantive evidence been provided to show that other security measures have been fully investigated, which could be as effective as the appeal proposal in this regard. Therefore, I give only limited weight to this matter, which is not sufficient to outweigh the harm I have identified. Although the appellant may have substantially invested in the office unit, this is not sufficient justification to allow what would be an unacceptable form of development.

Conclusion

17. The proposal does not accord with the development plan as a whole and there are no other considerations that indicate that I should take a different decision other than in accordance with the development plan. For the reasons given, I conclude that the appeal should be dismissed.

M Ollerenshaw – INSPECTOR