



Appeal Decision

Site visit made on 13 May 2024

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th May 2024

Appeal Ref: APP/U5360/W/23/3333340

54-56 Scrutton Street, Hackney, London EC2A 4PH

- 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 Culture Lounge Ltd against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/0935.
 - The development proposed is described as a change of use from restaurant (use class E) to a mixed use comprising Shisha Lounge (Sui Generis) and Restaurant (use class E) and the construction of a shelter in the rear with fully retractable roof.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As set out on the application form, development has started and is now complete. However, my assessment of the proposal is based on the plans before the Council at the time of the planning application. I will refer to the 'proposed development' throughout my decision, although certain aspects may already be completed.

Main Issue

3. The main issue is the effect the proposed development would have upon the living conditions of neighbouring residential occupants with particular reference to noise and disturbance.

Reasons

4. The appeal site lies within a mixed commercial and residential area. The proposed development seeks to operate from 18:00 to 00:00 Tuesdays to Sundays and 18:00 to 02:00 Fridays and Saturdays.
5. Neighbouring residential occupiers are sited reasonably close to the proposed development and the appellant's submitted Noise Impact Assessment demonstrates that the proposed development would meet acceptable requirements regarding adverse noise and disturbance impacts.
6. Nonetheless, the Noise Impact Assessment is predicated on the roof being closed and therefore utilising the sound insulation provided by this roof. I have considered imposing a condition to ensure the roof remains closed, however, it has not been robustly demonstrated that the proposed Shisha Lounge could operate with the roof closed and comply with Smoke Free Legislation.

7. With the roof open, acoustic protection would be reduced and the only noise mitigation would be noise attenuation over distance. In this scenario, the appellant has not clearly shown that this would be acceptable.
8. I appreciate the appellant's desire to maximise space and grow their business in a location where night-time economy would be acceptable in principle. I also acknowledge the development would create jobs and add to the overall vitality and vibrancy of the area. However, new development must also avoid significant adverse noise impacts on health and quality of life of existing occupiers.
9. In this case the appellant has not shown the proposed development can operate with the roof closed or if the roof would be open, without significant adverse noise impacts to neighbouring occupiers. Given the scale of the proposed development the moderate benefits which would arise would not outweigh the harm I have identified.
10. The proposed development would consequently have an unacceptable effect on the living conditions of neighbouring residential occupants with particular reference to noise and disturbance. As such, it would conflict with the relevant provisions of Policies LP2 and LP58 of the Hackney Local Plan (2020) and Policy D14 of the London Plan (2021). These policies, amongst other things, seek to ensure a satisfactory level of amenity for occupiers of neighbouring properties.
11. I have not included Policy D6 of the London Plan as it is not clear how this policy applies directly to the proposed development.

Conclusion

12. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR