



Appeal Decision

Site visit made on 16 July 2024

by H A Orr MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal Ref: APP/F5730/C/23/3333433

34 Standard Road, LONDON, NW10 6EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ahmed Yusuf (Oppa Lounge) against an enforcement notice issued by Old Oak and Park Royal Development Corporation.
 - The notice was issued on 20 October 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the first floor to a shisha lounge (Sui Generis).
 - The requirements of the notice are to:
 1. Cease the use of the first floor of the building as a shisha lounge.
 2. Remove internal and external fittings and fixtures facilitating the unauthorised change of use, including but not limited to kitchen fittings and fixtures including the fridge and cooler, tables and chairs, shisha pipes, shisha tobacco and any shisha paraphernalia.
 3. Remove all debris resulting from compliance with the above steps.
 - The period for compliance with the requirement is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2) (f) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The Old Oak and Park Royal Development Corporation (OPDC) is a Mayoral Development Corporation and the local planning authority, responsible for exercising planning controls in the area in which the appeal site is located. Planning powers were transferred from the London Borough of Ealing following the establishment of OPDC in April 2015.

Reasons for ground (f)

3. Firstly, I should explain that the appeal has been brought on ground (f) only, so it is important to note that the merits of the development do not fall to be considered. The main issue for determining this appeal is therefore whether the requirements of the notice exceed what is necessary to achieve the purpose of the notice.
4. The purposes of an enforcement notice are set out in section 173 of the 1990 Act and are to remedy the breach of planning control (s173(4)(a)), or as the case may be, to remedy injury to amenity (s173(4)(b)). In this case the notice requires that, the use of the first floor as a shisha lounge ceases, all internal and external fixtures and fittings that facilitate the unauthorised use, are removed and any resultant debris is removed. The purpose of the notice is therefore to remedy the breach of planning control.

5. In summary, the appellant's appeal form and statement, sets out that he will comply with the requirements at paragraph 5 of the notice, by ceasing the use and removing all of the shisha-related paraphernalia and fittings that facilitate this use, within the required three calendar months. The property will then be restored to its permitted use. However, he submits that the freestanding fridges, coolers, tables and chairs should remain for the use of staff and thus their removal goes beyond what is required to remedy the breach.
6. The appellant has provided a copy of the planning permission that was granted on 26 June 2013 (PP/2013/1490) for the change of use of No 34, from Class B2 (general industry) to a mixed use B2 and Class B8 storage or distribution). I have nothing to suggest that this permission was not implemented and in his appeal statement he indicates that the first floor will revert to storage.
7. The building is located in Standard Road within a number of similar business units. At the time of my site visit the ground floor was occupied by Wow Sweets with a shop style frontage, an internal counter area and several tables and chairs. The external access to the first floor was through a separate side entrance and staircase.
8. At the time of my visit the first floor appeared to have been largely cleared of the shisha related equipment. That said, there was a significant number of chairs roughly piled up, close to a kitchen area with a sink. Further timber chairs/tables were being stored under the eaves. There were two toilets, a separate area with several stored kitchen style appliances and a wash area with a second sink. A partially blocked doorway, marked as a fire exit, led to a further three storage areas, including two refrigerated storage rooms. The various food items and small plastic cups kept in this part of the building, appear to relate to Wow Sweets. An internal staircase led from here, down to the ground floor business premises.
9. An appeal under ground (f) provides some scope for a solution short of a complete remedy. However, it is well established in case law that the notice can legitimately require the removal of works integral to, and solely for, the purpose of facilitating an unauthorised use. There is nothing to suggest that the fixtures and fittings in dispute, were installed or provided, for any reason other than to facilitate the material change of use of the first floor to a shisha lounge.
10. I accept that staff working on the site may benefit from an area for refreshment, but I have been provided with no detailed information to explain how the first floor is, or will, be used, or the number of staff involved. The two business areas appear to be operating separately from each other and there is no suggestion that Wow Sweets do not have suitable facilities available on the ground floor for their staff.
11. For the above reasons, in the absence of any ongoing storage use, other than the fridges/coolers, tables and chairs provided for the shisha lounge, I am not satisfied that the appellant has provided sufficient evidence to demonstrate that on the balance of probability, the requirements are excessive and that lesser steps would achieve the purpose of the notice.
12. Consequently, I find that the remedial nature of the notice can only be achieved by ceasing the unauthorised use and the removal of all facilitating works, including all of the fixtures, fittings and equipment introduced to

facilitate the operation of the shisha lounge. Consequently, the appeal on ground (f) fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Hilary Orr

INSPECTOR

