



Appeal Decision

Site visit made on 6 November 2024

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/E5900/W/24/3347550

Simko House, 34 Copperfield Road, Tower Hamlets, London E3 4RR

- 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 Simko Trading Limited against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/00328.
 - The development proposed is described as the change of use from Class B8 (storage) to Class E(g)(i)(offices) at the ground floor of 34 Copperfield Road; and insertion of windows to the front and rear fenestrations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I noted, during the site visit, that work had started and is partly retrospective. 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 complete. Equally any reference to 'existing' in this decision relates to the situation as shown on the relevant drawings.
3. Some of these retrospective works include the installation of glazing to the ground floor which would prevent vehicles accessing the ground floor. However, there is no documented evidence before me to suggest such works do not require planning permission or if they have been consented in any other way. I will therefore consider the appeal on the evidence before me and as set out above.

Main Issue

4. The main issues are the effect of the proposal on:
 - The local highway network in terms of delivery and servicing arrangements; and
 - Waste storage.

Reasons

Delivery and Servicing

5. An office use would require servicing, however, limited evidence has been submitted to prove that the proposed use would have no greater impact on

deliveries and servicing, including waste collection, over the existing Class B8 use. Even if this was the case, the existing building is served by a dropped kerb which gives access to a roller shutter door allowing for vehicle entry into the building.

6. Drawing 1523/03, which was included in Appendix 1 of the appellant's Statement of Case, shows that the immediate area beyond the door is used for deliveries. On this basis it is reasonable to conclude that servicing such as deliveries and waste collection, can be undertaken off the highway in association with the existing use.
7. The proposed development would close this vehicular access and therefore generate a need to be serviced from the highway. However, the highway locally along Copperfield Way is controlled by restrictions including double yellow lines, disabled parking, and permit holder bays.
8. There appears to be limited, if any, places to stop along the highway for deliveries, waste collection or other servicing. While the appellant submitted a transport assessment, it is not clear from the documented evidence how deliveries, waste collection, and other servicing could be achieved without obstructing the highway or breaching any highway restrictions.
9. In the absence of such information, I cannot be satisfied that deliveries, waste collection or other servicing would not have an unacceptable impact upon the safe operation of the highway including traffic flow.
10. The appellant suggests that this use could be carried out within this area 'without detriment to amenity' as set out in the Use Class Order¹. However, this part of the Use Class Order qualifies that impact as noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. It has not been robustly shown that this would include highway matters such as congestion or safety. This therefore has limited bearing on my overall findings.
11. Consequently, the proposed development has not been shown to be acceptable regarding the impact upon the local highway network in terms of delivery and servicing arrangements. It would therefore fail to accord with the relevant provisions of Policies D.TR2 and D.TR3 of the Tower Hamlets Local Plan 2020 ("the Local Plan"). All of which seek to, amongst other things, ensure that development would not be detrimental to the safety of the transport network.

Waste Storage

12. The proposed development would introduce office floorspace to the ground floor. My attention is drawn to an application where prior approval was given for the conversion of the first floor of the appeal building into a two-bed flat and a three-bed flat, reference PA/16/01793. The main parties both agree that this consent has been implemented and it included a designated ground floor area for recycling and refuse to serve the flats above.
13. All new development is required² to include sufficient accessible space to separate and store dry recyclables, organics, and residual waste for collection.

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, Schedule 2, Part A, Class E (g)

² Policy D.MW3 of the Local Plan

The proposed drawings in this appeal show that the recycling and refuse area which serve the flats above would be lost to accommodate 'Office 1'.

14. Given the designated recycling and refuse area would be lost and no alternative provision would be offered, this would conflict with Policy D.MW3 of the Local Plan. However, the appellant states that waste storage was not one of the prior approval matters in the determination of application reference PA/16/01793. While this may be true, and I have no evidence before me to come to another view, these recycling and refuse facilities are nonetheless shown on the approved drawings³. These approved drawings are listed on the decision notice and exercised by condition one of PA/16/01793. On this basis I do not agree that there is not an explicit requirement for the subject space to be used exclusively as shown on the drawings, given the presence of this condition.
15. While reference is made to the earlier use of the first floor, this was for a different use and there is limited evidence before me to draw comparisons of waste generated between uses. The appellant also suggests that the internal works do not constitute development, and this represents a realistic fallback position. As indicated above, the drawings were approved based on their layout and a condition was imposed to ensure the development was carried out in accordance with the approved plans. This condition therefore carries considerable weight and I therefore do not consider that the internal works represent a realistic fallback position.
16. Considering the foregoing, I do not know if the existing flats rely on these facilities. There is no documented evidence to show that no harm would occur without the dedicated refuse and recycling area serving these flats to thus enable me to come to a different finding.
17. Consequently, the proposed development would not be acceptable regarding its effect on waste storage. It would therefore fail to accord with the relevant provisions of Policy D.MW3 of the Local Plan. Which looks to, amongst other things, ensure that waste is collected and managed in a sustainable manner.

Other Matters

18. The appeal site would provide 'car free' flexible office space in a sustainable location with good access to public transport. There would be economic benefits including job creation, social benefits, and the proposed development would provide accessibility benefits to ensure ease of access. Given the limited quantum of development proposed, I ascribe the cumulative impact of all these benefits moderate weight.
19. The Council also found no other harm other than that listed within its decision notice. However, the absence of harm elsewhere is neutral in the planning balance and neither weighs for or against the development proposal.
20. However, the impact I have found regarding the effect on the local highway network and waste storage would be significant and has not been shown to be acceptable. This harm would therefore attract significant weight. Accordingly, this harm would not be outweighed by the benefits to tip the planning balance in the appeal scheme's favour when set against its conflict with the development plan.

³ Drawing 1523/03

Conclusion

21. The proposal would conflict with the development plan when taken as a whole and for this reason the appeal should be dismissed. There are also no other material considerations of sufficient weight to indicate a decision should be made contrary to this conclusion.

N Praine

INSPECTOR