



Appeal Decision

Site visit made on 25 February 2025

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2025

Appeal Ref: APP/G5750/W/24/3353828

Land adjacent 1A Warwick Road, Manor Park, Newham, London E12 6QP

- 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 Ali Ghulam of Rana Investments Ltd against the decision of the London Borough of Newham.
 - The application Ref is 24/01283/FUL.
 - The development is described as retention of open air vehicle showroom/storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is dispute as to whether the use falls wholly within B8 (storage) or is a sui generis car sales use. The development is described as comprising an open-air vehicle showroom/storage, and the appellant's design and access statement highlights that the business primarily operates online with vehicles being stored and displayed at the site.
3. Accordingly, I have considered the appeal on the basis of the description used, that is to say, it includes the use of the appeal site as a showroom, rather than simply as a B8 storage use.
4. I saw that the use of the appeal site has commenced, and I have considered the appeal on this basis.

Main Issues

5. The main issues are:
 - whether the appeal site is a suitable location for the development;
 - the effect of the proposal upon biodiversity interests;
 - the effect of the proposal upon the character and appearance of the area;
 - the effect of the proposal upon the living conditions of occupiers of nearby properties and users of public realm, with a particular regard to noise and disturbance, and;
 - the effect of the proposal upon highway safety and the operation of the highway network.

Reasons

Suitable location

6. Policies J1 and J2 of the Newham Local Plan 2018 ('NLP') together set out the spatial approach to employment related development in the borough, and generally direct such uses to specifically identified sites and areas. It has not been shown that the appeal site lies within such an area. NLP Policy S6 sets out that employment within the borough will be improved through the support of mixed use areas in line with Policy J1. Policies E5 and E6 of the London Plan ('LP') state that allocated employment areas should be proactively managed to sustain them as the largest concentrations of industrial, logistics and related capacity.
7. NLP Policy SP7 identifies High Street North, which the appeal site addresses, as a Key Movement Corridor and Linear Gateway. The policy seeks to consolidate ribbon developments of commercial uses into defined centres.
8. NLP Policies J1 and J2 are stated as applying to both B1, B2, B8 development and "other Sui Generis employment uses including waste, utilities and transport depots". The use of a site as an open-air showroom and storage does not explicitly fall within the sui generis uses identified within the policies. However, this is not a closed list.
9. Given the nature of the use, which is stated to primarily comprise online sales and with viewing by appointment only, the character of the site is very much of a storage use. In this context, even if sui generis, I consider that it would fall within the scope of NLP Policies J1 and J2.
10. These policies make provision for some development outside of allocated areas, however such circumstances are limited and specific. There is no evidence before me to demonstrate that the appeal proposal would meet any of the exceptions. As the appeal site exceeds 100 square metres, it would not be subject to NLP Policy J2 (f), which makes allowance for small-scale B class or sui generis uses outside of defined employment areas. Furthermore, the development would further elongate commercial ribbon development along High Street North.
11. I am aware that there are a number of other vehicle storage or car sales businesses within the borough, and I saw the examples cited. However, I have not been provided with the full details of any planning permissions that may exist for such uses, or the circumstances of any such approvals. It is also possible that the examples cited are longstanding and pre-date the current planning policy context.
12. Furthermore, the appellant states that the examples fall below 100 square metres in size. This being the case, it is therefore possible, that unlike the proposal before me, that they could fall within one of the provisions of NLP Policy J2 (f) in relation to small scale employment development outside of designated sites.
13. Moreover, the situation of many of the examples provided differed from the development which is before me as they were located within notably diverse commercial areas, with a wide variety of uses evident. In comparison, I saw that the area around the appeal site is primarily characterised by retail and food businesses. Overall, none of the examples cited is sufficiently comparable, or carries sufficient weight, to indicate that the proposal would not be contrary to the local plan in this respect.

14. The appeal site would not be a suitable location for the development. It would be contrary to London Plan Policies E5, E6, SD6, SD7, SD8 and D8, and Newham Local Plan Policies S6, SP7 J1 and J2. Together, and amongst other factors, these policies seek to direct employment uses to appropriate sites as set out above, and ensure that the economic role of the area, including town centres is supported through appropriately located mixed use areas.
15. The Council has also cited conflict with LP Policy GG1, however I have not been directed to any specific wording in this policy in relation to this main issue, and no conflict with it has been demonstrated.

Biodiversity

16. NLP Policies SC1 and SC4 seek to protect and enhance biodiversity with all development contributing to the achievement of net gain, and where compatible, improvements to access to nature. The supporting text to NLP Policy SC4 sets out that despite Newham's urban structure and proximity to central London, it supports a diverse array of wildlife, including species that have adapted their behaviours to urban environments. Sites not necessarily recognised for their biodiversity offer, such as brownfield land, may include habitats and species of value. LP Policy G6 has similar aims and sets out that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain.
17. As the use has commenced, and the appeal site is now predominantly covered in hardstanding, the condition of the site prior to this occurring is not wholly clear. An undated overhead photograph has been provided but provides little detail beyond demonstrating that the site contained greenery. However, there is agreement between the main parties that it contained some shrubs, albeit largely unmanaged.
18. Despite any lack of management, and as recognised by NLP Policy SC4, urban sites can have a positive contribution upon biodiversity. The introduction of hardstanding across the site means that it is unlikely that the development has led to the protection or enhancement of biodiversity, and this is acknowledged by the appellant.
19. It has been put to me that planting within the appeal site could be secured by means of a planning condition, however no details of such planting are before me, and given the level of hardstanding across the site, it is unclear how such planting would be achieved, or the extent to which it would represent an enhancement. It would not, therefore, be appropriate to secure this by means of a planning condition.
20. I therefore conclude that the development would be contrary to NLP Policies SC1 and SC4, and LP Policy G6, the requirements of which I have set out above.

Character and appearance

21. The appeal site is prominently located at the corner of Warwick Road and High Street North and currently comprises hardstanding surrounded by a metal fence. A site cabin is located towards the rear corner of the site. Warwick Road is a residential street of terraced houses, while High Street North is a bustling key movement corridor characterised by shops and other commercial premises. The appeal site lies at the northern edge of this area, adjacent to a large red-brick religious building and provides some setting to this area.

22. The use of the appeal site for the storage of vehicles on a concrete pad has resulted in a relatively stark appearance to this corner site, however it is not inherently harmful to the character and appearance of the area. As a storage location, it exhibits many of the characteristics of a car park such as fencing, gate and site cabin which are not incongruous in such a location. Furthermore, the absence of substantial buildings provides High Street North with an open aspect and allows the appreciation of the landmark religious building to which the site is adjacent.
23. While I acknowledge that any soft landscaping or trees which may have previously occupied the site may also have not been harmful to the streetscene, I am unaware of the extent or quality of these, and it is notable that the main parties are agreed that the site was previously overgrown and disused. In any event, the site has since changed and the extent or nature of any enforcement action that could result from my decision in terms of reinstatement, is not a matter that falls within the scope of this appeal.
24. I conclude that the development is not harmful to the character and appearance of the area. It would therefore accord with LP Policies D3, D5 and D8, as well as NLP Policies S6, SP1, SP3 and SP8 insofar as they relate to this main issue. Together, and amongst other factors, these policies state that development should reflect and respond to local context, character and distinctiveness, be accessible, take account of the public realm and integrate into the streetscene.
25. The Council has also cited conflict with LP Policy D1 in relation to this main issue, however this policy relates to the production of area assessments and the preparation of development plans. It is not, therefore, relevant to this main issue. Furthermore, the Council has cited NLP Policy SP2 within its reason for refusal. This policy relates to healthy neighbourhoods, however I have not been directed to any specific text within it relevant to this main issue, and as a result, I conclude that there is no conflict with it.

Living conditions

26. I saw that the development is low key in terms of its operation. Although the delivery and collection of cars would form part of the use, the appellant has indicated that these would not exceed two movements in a single day. The site is not large and the number of vehicles likely to be on the site at any time would not be significant.
27. Some inconvenience and noise could result from deliveries, collections or visits to the site, and it is possible that this could be discernible by occupiers of properties on Warwick Road or users of High Street North. However, having regard to the nature of the surrounding area, which includes both residential and commercial uses, a railway line and a busy road, and likely intensity of the development, it is has not been shown that such additional noise and disturbance would be unacceptably harmful. It is also notable the Council has not disagreed with the appellant's claim that the business has operated for 8 months without complaint in this respect.
28. I conclude that the development is not harmful to the living conditions of occupiers of nearby properties or users of public realm, with particular regard to noise and disturbance. It would, insofar as they relate to this main issue, accord with LP Policies D3, D8 and D14 and NLP Policies J1, S6, SP1, SP2, SP3, and SP8.

Together, and amongst other factors, these policies state that development should prevent or mitigate the impacts of noise, that effects upon public realm should be considered, that developments achieve a good level of neighbourliness, and that the environmental impacts of economic development are attended to.

Highway safety and network operation

29. The development is accessed via a sliding gate onto High Street North, at a point opposite Sherrard Road. It is stated that the gate takes around six seconds to open fully. Therefore, it is possible that any traffic waiting to turn into the appeal site would have to wait until the gate was open before doing so. I accept that this could lead to traffic queuing on High Street North and could affect the operation of the existing junction.
30. However, given the short delay in opening the gate, it is unlikely that such delays would be significant and there is no evidence before me to support the Council's assertion that the volume of vehicle movements associated with the site would be high, or which would indicate that the operation of the High Street North and Warwick Road, or High Street North and Sherrard Road junctions are particularly sensitive to queuing traffic. Given these factors, the evidence before me does not indicate that any adverse effects that could result from the development would be anything other than infrequent and minor in nature. While vehicles crossing the footway to access the site would be potentially inconvenient to pedestrians, the evidence indicates that such instances are likely to be infrequent, and there is no reason for me to conclude that such manoeuvres would be inherently unsafe.
31. It has not been shown that the development has caused, or will cause in the future, a severe adverse impact upon the highway network or be detrimental to highway safety. The proposal would therefore accord with LP Policies T1, T2, T3, T4, T5 and T6, as well as NLP Policy INF2. Together, and amongst other factors these policies seek to ensure that impacts upon transport capacity and the wider network are fully considered, and unacceptable adverse impacts avoided.

Other Matters

32. It is stated that local residents are not opposed to the development, but there are no representations before me to indicate either objection or support. In such circumstances, any lack of objection does not weigh in favour of the scheme. Furthermore, the fact that an alternative proposal for the site may have attracted significant levels of local objection, also does not weigh in favour of the scheme before me.
33. I understand that the appeal site lies within proximity of the Epping Forest Special Area of Conservation. The Conservation of Habitats and Species Regulations 2017 state that a competent authority must consider the potential effects of developments upon the qualifying features of the protected sites, through means of an appropriate assessment. In the context of this appeal, this responsibility falls to me. As I am dismissing the appeal on other grounds, it is not necessary for me to consider this matter further.

Conclusion

34. Although I have found in favour of the appellant in terms of the effect of the proposal upon the character and appearance of the area, highway safety and its

effect upon living conditions, the development nevertheless conflicts with the spatial strategy in relation to the location of employment uses, and would not protect or enhance biodiversity interests. In doing so, it conflicts with the development plan when read as a whole. I afford this conflict, and the harm that results, significant weight in my considerations.

35. I am mindful that the National Planning Policy Framework ('the Framework') gives substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. However, it has not been shown that there is an identified need for the development which could not be accommodated on other allocated sites.
36. The use of the site for the use stated would contribute to the local and wider economy, however there is no evidence before me to demonstrate the extent of this. In such circumstances, I afford this minor weight in favour of the proposal.
37. It is stated that the appeal site was previously subject to anti-social behaviour. The evidence before me provides little detail in relation to the nature or frequency of this. While I accept that the appeal scheme would likely represent an improvement in this respect, given the level of detail before me, it is a factor to which I afford minor weight in favour of the scheme.
38. The appeal should be determined in accordance with the development plan unless considerations indicate otherwise. There are no material considerations, including the Framework, which would indicate taking a decision other than in accordance with the development plan.
39. I therefore conclude that the appeal is dismissed.

C Harding

INSPECTOR