
Appeal Decision

Site visit made on 31 March 2025

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 May 2025

Appeal Ref: APP/G5750/W/24/3356225

86 and 88 Katherine Road, East Ham, London E6 1EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mohammed Shahnawaz Ali against the decision of the Council of the London Borough of Newham.
 - The application Ref 24/00982/FUL, dated 7 May 2024, was refused by notice dated 10 October 2024.
 - The development proposed is described as "proposed seating for an existing restaurant/takeaway at 86 Katherine Road".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The ground floor premises at No 88 Katherine Road is used as a restaurant/takeaway. The proposal seeks permission for a change of use of the ground floor commercial premises at No 86 for use in conjunction with the use at No 86. The submitted plans indicate that the new area would provide seating for the restaurant/takeaway.

Main Issue

3. The main issue in this appeal is whether the proposal would result in an unacceptable concentration of a particular use.

Reasons

4. The London Plan (2021) Policy GG3 seeks to create a healthy food environment. Policy E9 of The London Plan states that boroughs should carefully manage over-concentration of hot food takeaway uses through the use of locally-defined thresholds in Development Plans. The London Borough of Newham Local Plan (2018) (LP) includes Policy SP2 which seeks to promote healthy living through, among other things, assessing the cumulative effects of hot food takeaway establishments. Policy SP9 outlines that to avoid over-concentrations of specific uses (including takeaways), it should be ensured that there are no more than 3 premises in the same use within 400m of each other and a 400m catchment drawn around a proposed specified use does not overlap with any more than two other catchment areas drawn around existing, committed or proposed units in the same specified use. It also seeks to prevent

linear concentrations, stating that there should be a separation distance of at least two units in other uses between pairs in the same specified use.

5. The Council indicates that the proposal would result in an additional property being used as part of a restaurant/takeaway and the sections of Policy SP9, as set out above, which seek to avoid undue concentrations, would be breached. However, the appellant indicates that the Council has mis-applied the policy as the use of No 86 would be for seating only and would not increase the capacity of the takeaway use.
6. The ground floor at No 86 would be used in conjunction with the existing business at No 88. No 88 currently has seating within its frontage and the submitted plans indicate that seating would be placed within No 86. Notwithstanding the appellant's description of the proposal, which I have used in the heading of this decision, the effect of the permission would be to change the use of the ground floor commercial unit at No 86 to the same use as No 88, that is a restaurant/takeaway. This supports the Council's approach to its assessment of the application, in my view. Additionally, if such a change of use were to be granted, the permission would apply to the premises and not the named appellant and whilst he may wish to use it in a particular way, there would realistically be no means to limit the use of No 86 for seating only. The restaurant/takeaway use would be expanded by the proposal and it would occupy the 2 adjacent units. Having taken account of the submissions set out by the appellant and the Council, I consider that the Council has correctly applied the policies, as set out above.
7. Within the context of the Policies of The London Plan and the Council's LP, I consider that the proposal would not meet the minimum spatial requirements designed to avoid an unacceptable concentration of such uses. As a consequence, the proposal conflicts with Policy E9 of The London Plan and Policies SP2 and SP9 of the LP. I find that there are no matters which are sufficient to outweigh that conflict. As a consequence, the appeal is dismissed.

T Wood

INSPECTOR