



Appeal Decision

Site visit made on 30 January 2024

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/B5480/C/22/3304750

Land at the rear of 172-174 Collier Row Lane and at the rear of Hillfoot Road, Romford RM5 3EZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Gohar Mateen of Crown Auto Hub against an enforcement notice issued by the Council of the London Borough of Havering.
 - The enforcement notice was issued on 28 July 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land to use for a mixed-use of a retail shop or retail unit within Class E of the Town and Country Planning (Use Classes) Order 1987 as amended, dwellings within Class C3 of the same Order and land used for vehicle storage within Class B8 of the same Order.
 - The requirements of the notice are:
 1. Cease the use of the land for the mixed-use of a retail shop or retail unit, dwellings and use within Class B8 of the Town and Country Planning (Use Classes) Order 1987 by ceasing all use within Class B8 of the Town and Country Planning (Use Classes) Order 1987 as amended including the storage of motor vehicles on the land; and
 2. Remove all motor vehicles forming part of the unlawful use from the land; and
 3. Remove all the hard standing laid on the land as part of the use of the land for B8 purposes as set out in the allegation; and
 4. Remove all debris resulting from step 3 from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 as amended (the 1990 Act).

The ground (a) appeal and the deemed application

Main Issues

2. The main issues are the effect of the development on (i) the character and appearance of the area; (ii) whether there is sufficient space to manoeuvre vehicles without detriment to other users of the shared space; (iii) whether the development results in an increased risk of flooding; and (iv) the effect of the development on the living conditions of neighbouring occupiers, having regard to noise and disturbance.

Reasons

Character and appearance

3. The appeal site comprises a detached building with two vacant shop units at ground floor level and what appears to be two flats above, accessed from an external staircase to the rear. The commercial units have been significantly extended into the rear garden area in the past and the Council state that they were occupied by a double glazing business. Some of the garden area remains as grass but there is also an old hard surfaced area accessed from an unmade lane that runs between Nos 172/174 and 170 Colliers Row Lane to the south. This is described by the Council as a yard and was probably used by the former business. The hard surfaced area has been enlarged more recently by the addition of part of the rear gardens at Nos 89 and 91 Hillfoot Road.
4. The lane also provides access to a substation and the rear of No 170, another vacant commercial unit at ground floor level with a flat above. There is a car parking area to the south of the lane that appears to be shared between the purpose-built shops and flats above at Nos 162-168 Colliers Row Lane and a block of flats known as Henham Court, which faces onto Mowbrays Road. This courtyard parking area also provides access to a detached bungalow situated to the rear of 96 Mowbrays Road, known as Little Acorns. Access from the lane into the car park is controlled by a barrier but there is a properly made access through the flats from Mowbrays Road.
5. Colliers Row Lane is a long residential road with intermittent blocks of shops and roads leading off into residential areas. The appeal site is bounded to the north and east by the long gardens of residential properties as well as the curtilage of Little Acorns. The courtyard parking area is also bounded by the gardens of the flats above the shops and the shared garden serving Henham Court. The distinctive character and appearance of the area is reflective of its suburban development in the 1930's with, in particular, long rear gardens.
6. The appellant is using the hard surfaced area to store cars. It is not known how long each car remains there or why they are being stored but the appellant states they are "driveable" and do not need vehicle recovery lorries. The boundary of the garden and hard surfaced area with the lane is marked by a high fence and a pair of metal gates.
7. Although the use is only visible to the users of neighbouring commercial and residential units, given its backland position, I find it nevertheless represents an intrusion into a residential area. The appellant submits that the use of the appeal site is no different to the courtyard parking to the rear of Nos 162-168. However, this is to misunderstand the difference in the uses that are taking place. The appellant is using the appeal site to store vehicles, which is different from parking. A stored car could be left unmoved for weeks or months and as such the space would be intensively used with cars double parked or more as frequent access would not be necessary. Cars that are parked are left by their owners for short periods such as overnight before being used to travel to work or to run errands. As such, the appeal site use has a more permanent effect on the character and appearance of the area.
8. I therefore find the use is incongruous and inconsistent with the established character and appearance of the area. The development therefore does not accord with Policies 26 and 27 of the Havering Local Plan 2016-2031, adopted

November 2021 (HLP). The objectives of these policies state that new development provides the opportunity to enhance the character of an area and the policies require new development to respect existing groups of buildings and to take full account of the landscape character of the site and its wider setting. Policy 10 of the HLP is not relevant to my consideration as it is directed at the development of new dwellings in gardens.

Space to manoeuvre vehicles

9. The lane is only wide enough for the use of one car at a time and it exits onto Colliers Row Lane, which is a busy thoroughfare. Road markings indicate that the exit point is part of a double length bus stop area and it is therefore important in terms of highway safety that vehicles leave in forward gear. At the time of my visit the number of cars being stored meant that there was room to manoeuvre within the site to enable an exit in forward gear. That may not always be the case.
10. However, it is unlikely that the appellant would store so many cars at the site that he would prevent himself from leaving in forward gear. Whilst it would be possible to reverse along the lane, I doubt this would happen, given its length, width and unmade surface. The nature of the use also means that it is unlikely that cars are being moved frequently as it is not a car park where vehicles come and go continuously.
11. At my visit I noted that some users of the commercial units at Nos 162-168 parked on a forecourt in front of the premises. It was not clear whether this was permitted but there appeared to be no road markings or physical impediments to prevent it. Given there is a properly made access into the courtyard parking area from Mowbrays Road, it is doubtful that the lane is frequently used and the chances of conflict with other vehicles is therefore minimal.
12. The appellant states that his proposed car parking layout would overcome the Council's concerns but no such plan was attached to the Statement of Case. In any event I find that the Council's concerns have not been substantiated and there is therefore no conflict with Policy 23 of the HLP. This requires development to ensure safe use of the highway, amongst other matters. Policy 24 deals with standards for residential parking and is therefore not relevant.

Flooding

13. The former yard area has a concrete surface with no obvious signs of a soakaway but the land does slope gently downwards from the yard to the remainder of the garden area, which is grassed and therefore porous. The new hard standing area, which was part of the gardens in Hillfoot Road, appears to comprise hard core laid on top of grass as where the hard core is worn away, the grass is growing through. It seems to me that surface water will either drain naturally through the hard core or drain towards the grassed area where it will be held. It has therefore not been substantiated that the development would lead to an increase in the risk of flooding. This aspect of the development therefore accords with Policy 32 of the HLP which requires development not to increase the risk of flooding, amongst other matters.

Living conditions

14. Due to the length of rear gardens in the area, neighbouring occupiers are situated at some distance from the storage area except for the occupiers of Little Acorns, who directly border the site. This is an infill development with a small garden to the side and rear. The Council are concerned that the open storage use could lead to an unacceptable increase in noise and disturbance but they do not state whether this arises from the movement of vehicles, the position and operation of security lighting or whether it is related to other aspects of the use. The appellant states that no vehicle repairs or washing takes place but I noted that a caravan is sited in the corner adjacent to Little Acorns and the detritus of discarded car washing materials lay round about.
15. The appellant submits that there would be no more than two vehicle movements a day and neighbours would not notice this given the levels of traffic along Collier Row Lane. I agree if that were to continue to be the case. I also note that the occupiers of Little Acorns directly abut the courtyard parking area, which means there is already an intermittent level of background noise and disturbance from the car parking use. However, without conditions to control the operating hours of the business and the manner of the use in order to protect neighbouring amenities, the development has the potential to cause harm to living conditions. There is therefore conflict with Policy 26 of the HLP. Policy 13 deals with development in town centres but the appeal site does not lie within a town centre and it is therefore not relevant. In addition, for the reasons set out above, Policy 24 is not relevant.

Planning balance

16. I have found that in respect of two of the main issues, there is no conflict with the development plan. Although conditions could be imposed to safeguard the living conditions of neighbouring occupiers, the development is nevertheless harmful to the character and appearance of the area. This is contrary to the development plan and for these reasons the ground (a) appeal fails.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

D Fleming

INSPECTOR