



Appeal Decision

Site visit made on 25 February 2010

**by Christopher Thomas BSc (Hons) Dip
TP MRTPI**

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

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**Decision date:
17 March 2010**

Appeal Ref: APP/Y5420/A/09/2107975

434 St Ann's Road, Haringey, N15 3JH

- 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 Ali Sanli against the decision of the Council of the London Borough of Haringey.
- The application Ref. HGY/2009/0637, dated 12 April 2009, was refused by notice dated 5 June 2009.
- The development proposed is change of use from A1 (travel agent) to A3 (coffee shop) and installation of extractor flue system to rear.

Procedural matters

1. In the relevant bullet point above I have used the Council's description of the proposal as set out on the decision notice which comprehensively yet succinctly describes what is proposed.
2. It was apparent at my visit that the use has commenced and I have determined the appeal on this basis.
3. I also saw on my visit that a raised seating area with a canopy over has been created at the rear of the premises where car parking is shown on the submitted drawing. This did not form part of the application and is not before me in this appeal.

Decision

4. I allow the appeal, and grant planning permission for change of use from A1 (travel agent) to A3 (coffee shop) and installation of extractor flue system to rear at 434 St Ann's Road, Haringey, N15 3JH in accordance with the terms of the application, ref. HGY/2009/0637, dated 12 April 2009 and the plans and drawings submitted with it, subject to the following conditions;
 - 1) No customers shall be on the premises of the use hereby permitted outside the following times:-
 - 0630 - 2300 Mondays to Saturdays;
 - 0700 - 2230 Sundays and bank and other public holidays.
 - 2) Notwithstanding the details of the extraction duct shown on the submitted drawing no. 01 Rev. A, full details of the fume extraction and filtration equipment shall be submitted to the Local Planning Authority within one month of the date of this decision. Any modifications to or replacement of the existing system shall be installed and brought into use

within two months of the date of approval in writing of the local planning authority.

- 3) The approved fume extraction and filtration system shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
- 4) Full details of waste storage within the site shall be submitted to the local planning authority for approval within one month of the date of this decision. The approved details of waste storage shall be brought into use within one month of the date of approval in writing of the local planning authority.
- 5) Delivery vehicles shall be parked within the car parking area at the rear of the premises.

Main issues

5. I consider the main issues in this appeal are first, whether the proposal is harmful to the retail function of the Green Lanes Town Centre, and second, whether it is harmful to the living conditions of nearby residents by reason of the effect of odours, noise and lack of on-site waste storage.

Reasons

Effect on retail function of Green Lanes Town Centre

6. The proposal relates to the ground floor and rear parking area and store of a two storey, corner building fronting on to St Ann's Road with a side elevation on to Glenwood Road. Glenwood Road is primarily residential in character and St Ann's Road in the vicinity of the appeal site is a mixture of residential, retail and community uses. At the time of my visit there was what appeared to me to be a travel agent's premises opposite the appeal site on the other corner of Glenwood Road and St Ann's Road.
7. Even though I have not been provided with any information which defines the primary and secondary frontages within the GLTC, from what I saw on my visit the appeal premises are separated by a terrace of residential properties from the block of retail and food outlets on St Ann's Road which I would consider is the limit of a secondary frontage. I also note that the Council describes the appeal premises as being located within close proximity to the GLTC and not as being situated within a primary or secondary frontage. On this basis I consider the site's location is peripheral to the GLTC and therefore less likely to have any direct influence on its retail function.
8. The Council has cited policy TCR1 of the Haringey Unitary Development Plan (July 2006) (UDP) in its reason for refusal. However, in the light of the conclusion I have reached above regarding the site's relationship to the GLTC I consider the policy is not directly relevant to this appeal since it relates to development in town and local shopping centres.
9. On the other hand I consider UDP policy TCR4, to which the Council also refers, is relevant since it seeks to protect local shops anywhere in the borough. Amongst other matters the policy requires that in putting forward proposals for

a change of use from Class A1 retail it should be demonstrated that there is no realistic prospect of the unit being used for such purposes in the foreseeable future. Furthermore, individually or cumulatively the proposal should not have an adverse effect on the vitality, viability or, where appropriate, predominately retail function of an area.

10. No evidence has been put before me that the premises have been marketed for retail purposes prior to the carrying out of the development. Accordingly, I am unable to conclude whether or not there was a realistic prospect of its retail use in the foreseeable future. Notwithstanding this uncertainty however, I consider that as a retail unit the appeal premises would in all probability remain vacant for a considerable period in view of the current economic circumstances. This I believe would have a detrimental effect on the area since dead frontages contribute little to the vitality of an area and are often the catalyst for further economic decline.
11. I have taken into account that in applying policy TCR4 the supporting text indicates that the Council will seek to retain individual shops in the borough unless it can be demonstrated that they no longer serve a function to the local community (paragraph 6.39). The appellant states that business at the former travel agents was low, which I consider is not unexpected in the current economic climate. Furthermore, in view of the presence of other travel agents' premises locally I do not consider that the community has been seriously disadvantaged by its loss.
12. From my own observations and according to the Council there are a considerable number of units in Class A3/4/5 use in the GLTC. However, the Council has merely asserted that the proposal would cumulatively result in an adverse effect on the vitality and viability of the GLTC without putting forward any quantitative data to support its case, and I have therefore given very little weight to this argument. Furthermore, the supporting text to policy TCR5, which deals specifically with the type of use proposed, indicates that proposals for such uses outside recognised centres will be assessed on their merits (paragraph 6.41) which is the approach I have taken in this case.
13. I conclude on this main issue therefore that the use is not harmful to the retail function of the GLTC and complies with UDP policies TCR4 and TCR5.

Effect on living conditions

14. I saw on my visit that a fume extraction flue was present at the premises, but I do not know whether or not this is in accordance with the details applied for. What is more, the Council says that although information regarding the proposed extraction system was provided with the application it was insufficient to enable consent to be granted and more detailed technical specifications were required for that purpose. I do not know whether such information has been given to the Council but in view of the Council's continued objection to the proposal for this reason I must assume that it has not.
15. I consider that modern extraction and filtration systems can be effective in dealing with fumes and cooking smells and information on the Council's requirements in this regard are contained in its supplementary planning guidance note SPG 6c *Restaurants/Hot Food Premises (Use Class A3): Ventilation and Extraction*. I do not doubt therefore that a suitable system can

be provided which would deal with this issue. Accordingly I consider that a condition could be imposed which would enable the Council to exercise control in accordance with SPG 6c over the details of the extraction equipment either in relation to a different scheme than that which has been installed or with modifications to it, if necessary.

16. The premises have evidently been in business/commercial use for a number of years leading to a certain level of activity at this location during daytime hours. The hours of opening proposed are from 0600 in the morning until 2300 in the evening every weekday and at weekends. It seems to me that both in the early morning and late evening the coming and going of customers could be the source of unacceptably noisy activity which may impinge on the peace and quiet that occupiers of nearby residential properties on St Ann's Road and in Glenwood Road could reasonably expect to enjoy, particularly on Sundays and Bank Holidays but also on weekdays and Saturdays in the early morning. It seems to me, however, that with some slight adjustment to the opening and closing times any potential harm could be overcome and this could be achieved by way of a planning condition. The Council has expressed concern that an area for waste storage has not been indicated. I consider however that this could be made the subject of an appropriate planning condition.
17. I have concluded therefore that subject to the imposition of conditions to ensure that fume extraction equipment which satisfies the Council's requirements is installed, suitable hours of opening and closing are adopted and waste storage is provided within the site that the proposal would not be harmful to the living conditions of nearby occupiers of residential properties. Accordingly the proposal conforms to the requirements of UDP policy TCR5 which indicates that the effectiveness of measures to mitigate litter, undue smell, odours and noise from the premises will be taken into account in assessing proposals which fall within Class A3.

Other matters

18. Some local residents have expressed concern that there are sufficient coffee houses already in the locality, but this is not a matter I have taken into account because competition is not a planning issue. The possibility that the use would attract undesirable and even unlawful activities has been raised but again this is not a matter for me to consider. Some local residents are also concerned that the proposal would add to parking problems in the area. Whilst there are parking restrictions on surrounding streets I note that the Council did not object to the proposal for this reason and I am satisfied that customers would be able to find available parking spaces in the area or would find alternative means of transport.

Conditions

19. The Council has not suggested any planning conditions were I to allow the appeal. As discussed above I consider that a condition should be imposed to ensure that the details of the extraction and filtration system are submitted to the Council for approval and that any alterations necessary to bring the existing system up to the Council's requirements are carried out within a reasonable period.

20. Also as I have indicated already I consider a condition is required to control the hours of opening in the interests of the living conditions of the occupiers of nearby residential properties. I consider that an opening time of 0630 hours Monday to Saturday and 0700 hours on Sunday and bank and other public holidays and a closing time of 2300 hours Monday to Saturday and 2230 hours Sunday and bank and other public holidays is reasonable.
21. Waste storage is necessary within the site and a condition is required to ensure that details are submitted to and approved by the Council and that the approved scheme is implemented within a reasonable timescale.
22. As I have indicated under Procedural Matters the area at the rear of the premises which is shown on the submitted layout plan as providing car parking spaces was not available for this purpose at the time of my visit. The Council's transportation section consider that it is necessary for delivery vehicles to park within the curtilage of the site so that the free flow of vehicles can be maintained on the adjacent roads. I concur with this and have imposed a condition along the lines suggested but which I have amended to ensure it is precise and enforceable.

Conclusion

23. I have taken into account all other matters raised in the representations but for the reasons I have given this appeal has been allowed.

Christopher Thomas

Inspector