
Appeal Decision

Site visit made on 22 November 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 15th December 2016

Appeal Ref: APP/N5090/W/16/3157484

4 Downland Close, Whetstone, London N20 9LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Skinner on behalf of VER and A1 Dairies Limited against the Council of the London Borough of Barnet.
 - The application Ref 16/2868/FUL, is dated 25 April 2016.
 - The development proposed are external alterations to a warehouse building, including an increase in height.
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Decision

1. The appeal is allowed and planning permission is granted for external alterations to a warehouse building, including an increase in height at 4 Downland Close, Whetstone, London N20 9LB in accordance with the terms of the application, Ref 16/2868/FUL, dated 25 April 2016, subject to conditions set out in the attached Schedule.

Procedural Matters

2. The Council has advised that had it been in a position to determine the application, it would have refused planning permission for reasons relating to: (1) the harmful visual and overbearing impact of the proposal on the occupiers of residential properties on St Margaret's Avenue and future occupiers of Northway House; (2) insufficient information has been provided to demonstrate that the proposal would not harm the living conditions of the occupiers of neighbouring residential properties on St Margaret's Avenue and future occupiers of Northway House, with particular regard to noise and disturbance; and (3) the proposed use of the unit would constitute a material change of use and would not be ancillary or de-minimis to the existing operations.
 3. The Council believes that the proposal would result in a material change of use of the existing warehouse building. This is not however a matter for me to determine in the context of an appeal under Section 78 of the Town and Country Planning Act, 1990. There is no evidence before me to suggest that the existing operations are unlawful, and the development proposed is described as external alterations to a warehouse building, including an increase in height. Accordingly, I shall determine the appeal on the basis of what has been applied for.
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Main Issue

- The main issue in this case is the effect on the living conditions of neighbouring occupiers, with particular regard to outlook and noise.

Reasons

Outlook

4. The appeal premises are located at the end of a short cul-de-sac where similar warehouse units are located. Immediately to the East of the site is Northway House which is currently being redeveloped and extended to provide a mixture of commercial and residential accommodation. Residential housing on St Margaret's Avenue lies to the south east.
5. The proposal would extend the height of the existing warehouse to approximately 23m. It would retain the same footprint and form as the existing building, and be constructed in profile sheet cladding to match the existing materials of external construction. The appeal premises are currently used to store stages, sets and equipment used in music concerts and festivals. The appellant states that increasing the building's height would allow the company to expand and facilitate the erection of full staging equipment at 'concert scale' for testing within the building, prior to the sets/equipment being despatched. These operations currently take place within the building but the scale of the sets that can be erected is constrained by the buildings existing height.
6. Northway House is a substantial multi- storey building which fronts onto High Road. At the time of my site visit its redevelopment was well advanced and the new extension providing residential accommodation and undercroft car parking adjacent to the appeal site had been constructed to roof level. Currently the proposed residential units in the upper two floors of this extension would have views over the roof of the appeal premises, whilst those units on the lower floors face towards the premises flank wall. There is a landscape buffer between the two sites.
7. The proposed extension to the warehouse would bring its roof height to a level just below the height of the newly constructed residential block. Consequently, views which currently exist from some of the proposed accommodation over the building would be lost. However, the appeal proposal would not bring the building any closer to this residential accommodation and it would be a similar height to it. Whilst I accept that the outlook from the facing residential units would change, the resultant height of the appeal premises would be no higher than this residential block and there would be a sufficient distance between these two buildings for the proposal not to be oppressive or overbearing. Furthermore, it is clear that the majority of the adjacent residential units would have a dual aspect and not all their habitable room windows would be face towards the appeal premises.
8. Despite the recent introduction of residential accommodation onto Downland Close, the street is characterised by warehousing units. Units 1 & 2 lie adjacent to the entrance of the Downland Close and have a similar relationship to Northway House as the appeal site. Unit 2 has an extant planning permission to extend its height by some 6m, and by reason of its existing elevated position and prominent corner location, it is already a more

visually dominant building than the appeal premises. Consequently, although the proposed increase in height will raise the prominence of the appeal premises, I am not convinced that it would be visually obtrusive or incongruous in this location.

9. St Margaret's Way lies to the south east of the appeal site and on higher ground. The traditional semi-detached properties have deep rear gardens which adjoin Northway House and the appeal site. Existing views of the appeal premises from these properties are limited to its upper half and are filtered by trees. The proposed extension would increase the prominence of this building on the skyline when viewed from their upstairs windows and in particular during the winter months when the trees have shed their leaves. However, the deep garden areas mean that the living accommodation and more private patio/amenity areas are a substantial distance away from the appeal site. Consequently, although the extended form would undoubtedly be more conspicuous, and views of the western skyline for the occupants of properties on St Margaret's Avenue would be changed, I do not believe that the proposed development would be unduly overbearing. Moreover, in the context of the existing urban grain it would not appear visually obtrusive.
10. I conclude that the appeal proposal would not have a significantly harmful effect on the living conditions of neighbouring occupiers, with particular regard to outlook. The proposed development complies with the development plan and in particular I find no conflict with Policies CS NPPF, CS1 and CS5 of Barnet's Local Plan Core Strategy, 2012 (CS) which aim to promote sustainable development and provide a quality environment with positive economic benefits and protect and enhance Barnet's character. I also find no conflict with Policy DM01 of Barnet's Local Plan, Development Management Policies, Development Plan Document, 2012 (DPD) which seeks to ensure that new development proposals are designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

Noise

11. The proposed development seeks to extend a purpose built warehouse in a sustainable location and on a site which was developed for employment purposes. The proposed development would allow the existing operator to expand and documents accompanying the planning application, including a statement by KP Acoustics Ltd, confirmed that the nature of the existing operations and business within the building would not change. Furthermore, it is understood that the appellant has never been made aware of any noise complaints during the four years they have operated on the site.
12. I understand that the Council are concerned that an increase in the capacity of the building may result in a change in the existing operations and in particular make reference to the use of cherry pickers, scissor lifts and mobile generators. However, it would seem to me that the use of such equipment would not be unusual within a warehouse. Moreover, it is clear from the Council's Committee Report in respect of the residential development at Northway House, that they fully considered the potential for noise/nuisance from neighbouring site operations, and in doing so also considered possible future intensification of activity from the appeal premises. I have not been provided with any substantive evidence that would lead me to conclude that

the level of noise emitted from the appeal premises as a result of the proposed development would increase.

13. The Planning Statement which accompanied the application indicates that the proposed extension would be sound insulated to ensure that noise emitted from the building remains at its existing levels. Furthermore, the Council has suggested a condition that would require details relating to noise emissions and appropriate mitigation measures to be provided and I am satisfied that these conditions would be reasonable and necessary to safeguard the living conditions of neighbouring occupiers.
14. I therefore conclude that subject to a condition in relating to details of noise and suitable mitigation measures, the proposed development would not have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise. I therefore find no conflict with Policies CS NPPF and CS13 of the CS and Policy DM04 of the DPD which seek to promote sustainable development, improve noise quality and ensure that new noise impacts are mitigated through design, layout and insulation where appropriate.

Other Matters

15. I have had regard to third party concerns relating to the impact the development would have on nearby allotments. However, the allotments do not directly adjoin the site, and there is an existing warehouse building situated between them and the appeal site. I am therefore satisfied that the proposed development would not cause any undue overshadowing of the allotments.
16. Concerns have been raised regarding a possible harmful increase in traffic generated by the proposal. The site lies in a sustainable location close to public transport routes. The appeal premises have a large service area and I note that the Council has not raised any objections on traffic generation or highway safety grounds. From my inspection of the site I see no reason to disagree.

Conditions

17. The Council has suggested a number of conditions which I have considered against the National Planning Policy Framework and Planning Practice Guidance. As a result I have amended some for clarity, consistency and to eliminate duplication.
18. I have imposed condition to specify the approved plans as this provided certainty and a condition specifying materials is necessary to safeguard the character and appearance of the area.
19. A condition is necessary requiring details of the method of construction to safeguard the living conditions of neighbouring residents.
20. Conditions relating to details of noise and sound mitigation measures for plant, machinery and the building are necessary to safeguard the living conditions of neighbouring residents.

Conclusion

21. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 1015_101; Proposed & Existing Site Plan, 1015_102; Existing & Proposed Building Plan, 1015_103; Existing Elevations, 1015_105; Proposed Elevations, 1015_106; Existing Site Section, 1015_107; Proposed Site Sections 1015_108.
- 3)
 - a) No development shall take place until a noise assessment, carried out by an acoustic consultant, which assesses the likely impacts of noise from the development on neighbouring properties and measures to be implemented to address its findings has been submitted to and approved in writing by the Local Planning Authority. The report shall include all calculations and baseline data, and to set out so that the Local planning Authority can fully audit the report and critically analyse the content and recommendations.
 - b) The measures approved under this condition shall be implemented in full prior to the first occupation of the development and retained as such thereafter.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;
 - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vi) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) Before any plant and/or machinery is used on the premises, it shall be enclosed with sound-insulating material and mounted in a way which will minimise transmission of structure-borne sound in accordance with a scheme that shall first have been submitted to and approved in writing by

the local planning authority. The measures implemented as approved shall be retained thereafter.

- 6) The materials to be used in the external surfaces of the extension hereby permitted shall match those used on the existing building.

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