The Planning Inspectorate

Appeal Decisions

Site visit made on 3 January 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/N5090/W/16/3159688
Marks and Spencer Plc, 3-7 The Broadway, Mill Hill, London NW7 3LN

- 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 Bhokhari Estates Ltd against the decision of the Council of the London Borough of Barnet.
- The application Ref 16/4453/FUL, dated 6 July 2016, was refused by notice dated 31 August 2016.
- The development proposed is the erection of a bespoke rooftop mansard structure which will incorporate a digital advertisement display unit (LPA ref 16/3796/ADV) and screen rooftop plant equipment.

Appeal Ref: APP/N5090/W/16/3159681
Marks and Spencer Plc, 3-7 The Broadway, Mill Hill, London NW7 3LN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Bhokhari Estates Ltd against the decision of the Council of the London Borough of Barnet.
- The application Ref 16/3796/ADV, dated 9 June 2016, was refused by notice dated 4 August 2016.
- The advertisement proposed is one 96 sheet digital advertising display.

Decisions

Appeal A: APP/N5090/W/16/3159688

1. The appeal is dismissed.

Appeal B: APP/N5090/H/16/3159681

2. The appeal is dismissed.

Procedural Matters

3. These appeals relate to the refusal of an application for planning permission for a mansard roof structure and the refusal of an application for advertisement consent for a digital advert which would be incorporated into the proposed mansard roof structure. Thus both proposals are directly linked and whilst I have considered each proposal on its own merits, in order to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.

Main Issues

4. In relation to both Appeal A and B, the Council object on the grounds that the proposals would harm the character and appearance of the area.

5. With regard to Appeal A only, the Council object on the grounds that the proposed development would harm the living conditions of nearby residents with particular regard to outlook and light. Thus, the main issues are:

For both Appeal A and B:

- The effect of the proposed development and advertisement on the character and appearance of the area including the visual amenity of the area;

For Appeal A only:

- The effect of the proposed development on the living conditions of nearby residents with particular regard to outlook and light.

Reasons

Character and appearance

6. The appeal building is a modern flat roof retail unit with its street frontage mainly dominated by large signs. To the south west is a car park underneath the M1 motorway and mainline railway line. When viewed from the M1 and railway, the character of the area is dominated by infrastructure.

7. The appeal site is adjacent to a two and three storey brick built terrace which has mainly commercial uses at street level and has relatively attractive gable and bay window details on the upper storeys. The other buildings nearby on the Broadway also have similar traditional characteristics. Overall, when viewed from the Broadway the area has a relatively traditional character and appearance.

8. The proposed mansard roof structure would be a substantial modern addition which would dominate this part of the Broadway street scene. The proposed advert would be large and would draw attention to the proposed bulky mansard roof structure which would be of a contrasting colour and form to the appeal building and other buildings nearby.

9. Even though I acknowledge, the proposals would screen the graffiti on the gable end and would more closely relate to the height of the neighbouring building, in my view the proposed advert and mansard roof (collectively or individually) would be of a highly modern appearance and incongruous features of the Broadway street scene which would be at odds with the prevailing traditional character of the area.

10. When viewed from the M1 and railway line there are a number of large adverts nearby and the proposed mansard roof structure and advert would not appear out of place. Furthermore, the proposals would have the benefit of screening the existing roof top equipment. However, this benefit is outweighed by the harm I have identified above.

11. In reaching these conclusions I have considered the appeal decisions[1], Council decisions[2] and the photographs of adverts referred to in the appellant's statement. However, the majority of these examples are some distance from the appeal site such that they have no influence on the character and

[1] Appeal Ref: APP/N5090/H/10/2137838, APP/N5090/A/02/1099688, APP/F5540/H/13/2208640, APP/F5540/H/10/2136023
[2] Council Ref: H/01371/14, W00408BH/03

appearance of the area which is relevant to this case. Furthermore, none of the examples nearby are as prominently located as the proposed advert or fixed to a structure such as that proposed. I have therefore afforded these examples limited weight.

12. I have also considered the comments about whether or not a full application for planning permission should have been required by the Council and note the example considered by Westminster City Council[3]. However, overall for the reasons given, I find both the advert and the proposed supporting structure harmful to the visual amenity and character and appearance of the area.

13. For the same reasons, even though the development plan policies have not been decisive in my determination of Appeal B, both appeal proposals A and B would conflict with Policies CS1 and CS5 of Barnet's Local Plan Core Strategy Development Plan Document (2012) (CSDPD), Policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document (2012) (DMPDPD) and paragraph 67 of the National Planning Policy Framework. These policies, taken together seek to ensure good design and that new development does not harm the character of an area.

Living conditions

14. The proposed mansard roof structure would be visible from the rear gardens and rear elevations of the dwellings on Mill Way. However, the appeal building is already relatively tall and the dwellings on Mill Way have relatively long rear gardens.

15. The proposed mansard roof structure would therefore be a significant distance away from the rear elevations of the dwellings on Mill Way. Furthermore, given the effect of the existing appeal building it would not significantly reduce the amount of light enjoyed in the rear gardens or rear elevation windows. For the same reasons the proposed mansard roof structure would not be overbearing.

16. For these reasons I find the development proposed in Appeal A would not harm the living conditions of nearby residents with particular regard to outlook and light. In this regard it would accord with Policies DM01 of the DMPDPD and Policies CS1 and CS5 of the CSDPD which taken together seek to ensure good design and that new development does not harm the living conditions of residents living nearby.

Other Matters

17. I acknowledge the advantages of digital advertisements and the economic benefits associated with more effective advertising. I also note that such technology is targeted towards arterial routes and the appeal site benefits from being close to such. However, these matters do not outweigh the harm I have identified.

Conclusion

18. Whilst I have found no harm in terms of living conditions, I have found harm in terms of the character and appearance and the visual amenity of the area, thus on balance the proposals would not accord with the development plan.

[3] Council ref: 16/3831/ADV

Therefore, for the reasons given having had regard to all other matters raised both Appeal A and B are dismissed.

L Fleming

INSPECTOR