

Appeal Decision

Site visit made on 10 January 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/T5150/W/16/3159427

73 Cricklewood Broadway, London, NW2 3JR

- 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 Abdulrahman against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/1554, dated 1 April 2016, was refused by notice dated 2 August 2016.
 - The development proposed is the erection of an outbuilding, 2 sheds, barbeque and installation of an ETFE tent to rear of restaurant.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council refused planning permission the Council has adopted its Development Management Policies Document 2016 (DMP) which replaces the former Brent Unitary Development Plan 2004. Policies BE2 and BE9 have not been carried forward to the DMP as they are covered by national planning policy or by the London Plan. UDP Policy BE25 has been replaced by DMP Policy DMP 7 and UDP Policy SH10 has been replaced by DMP Policies DMP1 and DMP2. The appellant has been provided with the new policies as part of the appeal documentation but, in any event, as so far as this appeal is concerned; the new policies have similar aims and objectives to the former ones. Therefore, there is no prejudice to the appellant as a consequence of the changes.
3. There is some confusion over the approved plans as the Officer Report describes the barbeque as being in a different place to that shown on the submitted plans. The appellant has not responded to queries in relation to this matter but the precise position of the barbeque is not material to my decision as the impacts of the development would be the same no matter where the barbeque is placed within the yard.

Main Issues

4. The main issues are the effect of the proposed development upon (i) the living conditions of neighbours with particular regard to noise, disturbance and cooking fumes/smells and; (ii) the character and appearance of the building and area.
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Reasons

Living Conditions

5. I saw at my visit that the premises have been fitted out as a restaurant. The building is situated within a long terraced parade of retail uses with residential accommodation above and there are residential properties to the rear of the site.
6. The addition of a barbeque would have the potential to attract large groups of people into the yard who would be likely to cause noise and disturbance to the occupiers of the adjoining dwellings. I appreciate that the yard is used as a smoking area and that other nearby premises have seating areas to the rear. However, even if it is lawful for customers to use the yard, the barbeque would present the additional nuisance of cooking smells and odours. There is an existing external flue that would assist in removing the cooking smoke and fumes. However, I have no technical evidence about how this would work and I am unconvinced that all smells and smoke would be removed by the flue, especially as the outside location would allow the wind to blow smoke and smells around. The combination of groups of customers and the outdoor cooking would unacceptably result in noise, disturbance, fumes and odour which would be unpleasant for people using their gardens and for people on the upper floors especially in the summer when windows are open.
7. I conclude that the proposed development would have a harmful effect upon the living conditions of the neighbours. The proposal would therefore conflict with DMP Policy DMP 1 which indicates that development should not unacceptably increase exposure to noise, smells or general disturbance. I also find conflict with Paragraph 17 of the National Planning Policy Framework which says that planning should seek to secure a good standard of amenity for occupiers of land and buildings. I do not find any conflict with DMP Policy DMP 2 as I have no evidence that the proposal would harm the viability of the shopping frontage.

Character and Appearance

8. In addition to the barbeque, the proposal would introduce two gazebo-type structures (described by the appellant as ETEF tents), and 3 small outbuildings. All of these structures be almost completely screened by the boundary treatment. There would be no public views of the rear yard and, given the small scale nature of the structures, I consider that there would be little impact upon the character and appearance of the area which is already commercial in nature. I understand that the Mapesbury Conservation Area is adjacent to the rear boundary but given the screening, I consider that the setting of the conservation area would not be harmed.
9. I therefore consider that the proposed development would not materially harm the character and appearance of the area. Therefore, in this respect, I find no conflict with DMP Policy DMP 7 which seeks to protect Brent's heritage assets or with Brent Core Strategy Policy CP 17 which seeks to protect the suburban character of Brent from inappropriate development.

Conclusion

10. I have taken into account all other considerations including the representations from interested parties but none outweigh the conclusions I have reached.

Although I find no harm to the character and appearance of the area I do find demonstrable harm to the living conditions of neighbours and consequent conflict with the development plan.

11. The appeal is therefore dismissed.

Siobhan Watson

INSPECTOR