



Appeal Decision

Site visit made on 1 September 2020

by **J Bowyer BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th September 2020

Appeal Ref: APP/N5090/W/20/3251295

New Budleigh, Popes Drive, Finchley, London N3 1QL

- 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 Grey Oak 800 Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5449/FUL, dated 2 October 2019, was refused by notice dated 31 January 2020.
 - The development proposed is described as 'material change of use of the outbuilding to Office (Use Class B1)'.
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Decision

1. The appeal is allowed and planning permission is granted for material change of use of the outbuilding to Office (Use Class B1) at New Budleigh, Popes Drive, Finchley, London N3 1QL in accordance with the terms of the application Ref 19/5449/FUL, dated 2 October 2019 subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Grey Oak 800 Ltd against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural Matters

3. The site address in the banner heading above is taken from the application form. The Council's decision notice and appeal form refer instead to the site as 'New Budleigh, Rear of 14 The Grove, London, N3 1QL', but I am satisfied that they relate to the same site.
4. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ('the Amendment Regulations') came into force on 1 September 2020, amending the Town and Country Planning (Use Classes) Order 1987 ('the Use Classes Order'). Regulation 4 of the Amendment Regulations states '*if prior to the commencement of the material period, a relevant planning application was submitted, or was deemed to be submitted, to the local planning authority which referred to uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020, that application must be determined by reference to those uses or use classes*'. The main parties were given the opportunity to comment on any implications for the appeal proposal of the Amendment Regulations, and I have had regard to the comments received and to the Amendment Regulations in reaching my decision.

Main Issues

5. The main issues are (i) the effect of the proposal on town centre vitality and viability having regard to the position of the site on the edge of the Finchley Church End Town Centre; and (ii) the effect of the proposal on the character and appearance of the area.

Reasons

Town Centre Vitality and Viability

6. The appeal site is located outside of, but adjacent to, the boundary of the Finchley Church End Town Centre as defined within Barnet's Local Plan Development Management Policies 2012 (DMP). It contains a detached building which the main parties indicate was granted planning permission¹ for use as a garage and for storage incidental to the dwelling at 14 The Grove. The appeal proposes use of this building as office (Use Class B1).
7. The National Planning Policy Framework (the Framework) highlights the role that town centres play within communities. It seeks to promote their long-term vitality and viability, and directs 'main town centre uses' which include offices to town centre, and then edge of centre locations before out of centre sites are considered. Policy DM14 of the DMP also requires that proposals for new office space follow a sequential approach which considers town centre sites before edge of centre sites, and the supporting text to this policy further advises that edge of centre proposals will need to demonstrate that there are no available town centre sites.
8. To address these requirements, the appellant provided a 'Sequential Test' (ST) which did not identify any sites suitable to meet the needs of the development within either the Finchley Church End or North Finchley town centres. The Council asserts that the starting point for the assessment of alternative sites should be the entire borough unless a different catchment area is demonstrated to be appropriate. It considers that the appellant's ST is not sufficiently robust citing inadequate justification for the smaller catchment area considered, but no further concerns are specified within the evidence before me.
9. Policy DM14 does not offer guidance on the catchment area which should be considered in a sequential test for new office space, but the Planning Practice Guidance outlines that application of the sequential test within the Framework should be proportionate and appropriate for the given proposal².
10. The ST identifies that the development is proposed to accommodate a property maintenance and management company which has operations centred on the Finchley Area. The Council has commented that the Finchley area could be reached quickly from other town centres. Be that as it may, it seems to me that this would inevitably result in an increase in the length of journeys, either by staff travelling to properties which are focused around Finchley for management or maintenance, or by clients associated with these properties visiting the premises. Such an outcome would be contrary to requirements within the Framework to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities. An increase in the use of private vehicles which may be more likely as a result of greater

¹ Application reference C09556A

² Paragraph: 011 Reference ID: 2b-011-20190722

journey distances would also be contrary to Framework objectives for the promotion of walking, cycling and public transport use.

11. In this context, I consider that the geographic focus of the business around Finchley represents a particular locational requirement which provides a compelling justification to limit the area of search within the ST to the Finchley Church End and North Finchley town centres. Given this and the absence of any substantive challenge to the approach taken to the identification or assessment of sites within these centres, I do not find the ST to be inadequate or lacking a suitable degree of robustness. Consequently, and with regard to the lack of suitable and available sites within town centres to accommodate the development, the proposal would accord with the sequential approach outlined within the Framework and Policy DMP14 of the DMP.
12. Even if this were not the case, the site is adjacent to the Finchley Church End Town Centre area, with direct and convenient access to the town centre itself and its transport links, including Finchley Central Station and bus stops along Ballards Lane. This would accord with the Framework's advice that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. The very close proximity and relationship of the site to the town centre would also be likely to encourage use of shops and services within the town by employees and visitors of the site, supporting the vitality and viability of the area. While the benefit would be fairly small given the scale of the development, these factors would in my view outweigh any harm resulting from the location of the site outside of the town centre boundary.
13. For these reasons, I conclude on this main issue that the position of the site on the edge of the Finchley Church End Town Centre would accord with the sequential approach, and the proposal would support the vitality and viability of the town centre. I therefore find no conflict with Policy DM14 of the DMP or Policy 4.2 of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 which seek, amongst other things, to ensure that the vitality of town centres is maintained and that needs for office space are met in appropriate locations. The proposal would also comply with requirements within the Framework to support the long-term vitality and viability of town centres.

Character and Appearance

14. The appeal site is to the rear of the semi-detached building at 14 The Grove. With a distinctive angled bay feature and attractive detailing to its front, No 14 is of similar general appearance and two-storey scale to the other buildings which characterise this part of The Grove, although Marlow Court on the nearby junction of The Grove with Popes Drive is a three-storey block of flats. No 14 is in residential use, with a fence and vegetation dividing the main part of its rear garden from the appeal site which has a separate gated access from Popes Drive. Popes Drive leads on to Shakespeare Road and Albert Place where there are multi-storey commercial buildings, and also provides access to the rear of buildings in mixed uses fronting Ballards Lane, a large supermarket and its multi-level car park, a day nursery and preschool, and a small car park adjacent to the appeal site which is associated with Marlow Court.
15. The building on the appeal site fronts Popes Drive from where it appears single-storey, but it also has a lower ground floor level which extends beneath

the forecourt to its front. To its rear, there is a single-storey projection set between the upper and lower floors which includes a porch allowing access onto a small fenced external space.

16. External alterations to the building would be fairly limited, involving replacement of the existing front timber doors and roller shutter with a glazed door and full height glazing, demolition of the porch and a new door to the rear, and the addition of a lightwell within the forecourt serving the lower level. The proposal also includes relocation of the fence which is at the rear of the site closer to the appeal building, increasing the depth of the garden to No 14.
17. The appeal would result in the formal subdivision of the appeal site from No 14. However, this would not be apparent from The Grove. From Popes Drive, the existing fence between the building and No 14 is supplemented by fairly dense vegetation of some height which is clearly apparent. This border is broadly level with the walls and vegetation which separate the rear of the gardens to 10 and 12 The Grove from the small car park adjacent to the site, and beyond these, the edge of the splayed wall between Marlow Court and the Popes Drive footway. Together, these boundaries give rise to a distinct perception of the appeal site and the adjacent car park as discrete elements which are removed from the residential gardens beyond, even while the car park is associated with Marlow Court. The sense of detachment is further heightened by the independent accesses to the site and car park from Popes Drive, as well as by the flat roof design and the roller shutter to the appeal building which are more akin to the nearby commercial developments served by this street than the residential buildings on The Grove.
18. Given these factors, I find that the appeal site has little relationship with the residential character of the buildings fronting The Grove, and it already appears set apart and disconnected from the dwellings on this street. Instead, it has a much stronger relationship and visual association with the mixed use character and street scene of Popes Drive.
19. Against these mixed uses, the proposed office use of the building and resulting level of activity on the site would not be inconsistent. The visual impact of alterations to the building would also be fairly minor, and would in any case be sympathetic to the varied appearance of the development around Popes Drive and I note that full-height glazing is already present to the nearby entrances to the supermarket and the day nursery and preschool here. While the site would be seen against the longer rear garden to No 16, the fence separating the appeal building and No 14 would be positioned between the rear boundary of this neighbour and the shorter garden to No 12. The depth of the retained garden to No 14 would not therefore be uncharacteristic.
20. For these reasons, I conclude on this main issue that the proposal would assimilate well with the surrounding context, and would not harm the character or appearance of the area. Accordingly, I find no conflict with Policies CS1 or CS5 of Barnet's Local Plan Core Strategy 2012 or Policy DM01 of the DMP. Amongst other things, these policies seek high quality development that preserves or enhances local character including through respecting the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. For the same reasons, I find no conflict with requirements within the Framework seeking development that is sympathetic to local character.

Other Matters

21. The amended Use Classes Order contains a new '*Commercial, business and service*' use class (Class E) which incorporates previous classes including shops (Class A1) and offices and other business uses (Class B1). I have no firm evidence regarding the availability or suitability of any premises which would now fall within Class E for the proposed use. Nevertheless, given that the change to the Use Classes Order post-dates the Council's decision and submission of the appeal, I consider it would be unreasonable to expect the appellant's ST to take this amendment into account.
22. No change is proposed to access or parking arrangements on the site, and there is no substantive evidence before me that harm would be caused to the safety or operation of the surrounding highway network. Although the site is adjacent to neighbouring gardens, it is set some distance from residential buildings and windows and I see no reason that it would be necessary or reasonable to control smoking on the site. It would also be unreasonable to impose requirements on any permission relating to the future maintenance of trees between the site and the garden to No 14 given that these are existing features and that no alterations are proposed to them. While there have been a number of previous applications on the site, this fact does not alter my conclusions on the planning merits of the appeal.

Conditions

23. The Council has suggested conditions which I have considered with regard to the tests set out at paragraph 55 of the Framework. Where necessary, I have amended them for the sake of clarity and precision.
24. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans (2) for the avoidance of doubt and in the interests of certainty. Owing to the relationship of the site with nearby dwellings, a condition to control the use of the building (3) is necessary and reasonable in this case in the interests of the living conditions of neighbouring occupiers. Because the application was submitted prior to 1 September 2020, the appeal is to be determined with reference to the previous use classes in accordance with regulation 4 of the Amendment Regulations. I have therefore cited Class B1 of the Use Classes Order within the condition.
25. I have also imposed a condition to require implementation of cycle parking (4) to ensure suitable provision in accordance with the requirements of the development plan. Further conditions requiring the implementation of boundary treatment (5) and controlling the hours during which the public may visit the premises (6) are necessary in the interests of the living conditions of neighbouring occupiers.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

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: Location Plan, 2209-S01, 2209-S02, 2209-P01 and 2209-P02.
- 3) The premises shall be used for offices and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) Before the development hereby permitted is first occupied, cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority, and shall be permanently retained as such thereafter.
- 5) Before the development hereby permitted is first occupied, boundary enclosures shall be implemented in accordance with a scheme which has first been submitted to and approved in writing by the Local Planning Authority, and shall be permanently retained as such thereafter.
- 6) The use hereby permitted shall only be open to members of the public between the hours of 0800 – 1800 Mondays to Saturdays and 0830 - 1600 on Sundays and Bank and Public Holidays.

End of Schedule