The Planning Inspectorate

Appeal Decision

Site visit made on 9 October 2020

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/N5090/W/20/3248236
119-121 Brent Street, Hendon, London, NW4 2DX

- 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 Sanjeev Shah against the decision of London Borough of Barnet.
- The application Ref 19/5863/FUL, dated 18 October 2019, was refused by notice dated 27 December 2019.
- The development proposed is alterations to the existing building to form two floors of additional office accommodation and ancillary accommodation over the existing commercial space.

Decision

1. The appeal is allowed and planning permission is granted for alterations to the existing building to form two floors of additional office accommodation and ancillary accommodation over the existing commercial space at 119-121 Brent Street, Hendon, London, NW4 2DX in accordance with the terms of the application, Ref 19/5863/FUL, dated 18 October 2019, subject to the conditions set out in the schedule attached to this decision.

Main Issues

2. The main issues in this case are the effect of the height, scale, massing and design of the proposed development on the character and appearance of the existing building and the street scene, and the effect of the proposed development on the living and working conditions of neighbours.

Reasons

3. The appeal premises are of 3 stories with a flat roof. On the ground floor there is a bakery/restaurant, with 2 floors of offices above. It is the second building from the southern end of a 3-storey terrace which consists of 6 separate buildings. It is situated within the Town Centre boundary and Primary Retail Frontage of Brent Street. The area is typical of a town centre with commercial uses on the ground floor and office and residential uses on the upper floors.

4. The proposal is to erect 2 additional floors of office space and ancillary services including lift shaft, resulting in a 5-storey building. The proposed fourth storey would be slightly recessed and generally follows the form of the lower floors with a raised parapet line and finished in matching render and brickwork. The

fifth storey would take the form of a 'mansard roof' with steeply pitched slopes, punctured by dormers to all elevations, finished in contrasting zinc materials.

5. The council quotes policies from the National Planning Policies Framework, National Planning Practice Guidance, the London Plan 2016, Draft London Plan, Barnet Local Plan 2012, the emerging Local Plan, and Supplementary Planning Documents. The policies are known to both parties and I need not repeat them here.

6. Quite clearly this is a sustainable location and the development would benefit the vitality and viability of the town centre by increasing the supply of office space. It thus benefits from the presumption in favour of sustainable development.

7. It appears that there was a substantial amount of pre-application correspondence including advice given to the applicant. This resulted in the commissioning of a Character Analysis of the area in the vicinity of the site, and a Daylight and Sunlight Report in order to assess the impact of the proposals upon the amenity of adjoining occupiers.

8. The Character Analysis was prepared by the firm of architects that were commissioned to design the scheme. The Analysis study area encapsulates the essential extent of the town centre. The preparation of such an analysis should be regarded as being within the firm's professional competence and I consider that reliance can be placed upon it.

The character and appearance of the existing building and the street scene

9. Here it is only necessary for me to highlight the findings of the Character Analysis with what I consider to be the cogent points, using extracts or my précis of its contents (I indent it to distinguish it from my reasoning):

> The streetscape is varied with a number of different building uses along its length as well as disparate architectural styling, building heights, frontage widths and massing. Overall both frontages of Brent Street from Queen's Road to Church Road/Finchley Lane predominantly comprise "stand alone" buildings on individual plots with only limited sections being remnants of organised terraces of buildings. These being generally of older pre-20th century development.
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> Different roof-forms along this section of Brent Street are seen, as well as the abrupt height differences between neighbouring properties and those on opposite sides of the road. A variety of roof styles are evident on commercial properties along the length of Brent Street. The office buildings at Foframe House (Nos. 35-37), The Post Office (No. 131), Churchill House (Nos. 137-139), GMB (No. 152) and Shield House on Harmony Way all have flat roof designs along with numerous retail units including the Sentinel Square Shopping Centre. Another characteristic of the area is the sudden variation in building height and frontage width. An awkward conglomeration of diverse, and somewhat mediocre buildings has led to a weak 'local character'.
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> The existing building at 119-121 Brent is of limited architectural merit and has a neutral to negative impact on the character of the street scene. It half-heartedly seeks to extend the short adjacent terrace of three late Victorian properties, but with a broader frontage and a mid 20th century aesthetic,

before an abrupt change in building height to the south of 117 Brent Street. It makes a negative contribution to the street scene when viewed from the north.

The design of the proposal provides a more formal frontage, not dissimilar to that of No. 93-95 Brent Street further along the terrace. This would also "bookend" the short consistent terrace adjacent (mirroring the Barclays Bank on the corner of Brampton Grove) further improving the street scene in this location. With additional height, as proposed, 119-121 Brent Street would also continue the tradition of height variation. The existing parapet line is only raised slightly leaving the "wall" of the street elevation consistent with the adjoining short terrace to the north at three stories. The additional bulk now proposed being in the form of a steeply pitched hipped roof, over a recessed fourth floor, with dormer windows in a contemporary style.

10. I place considerable reliance on this Character Analysis, since it can be regarded as an expert appraisal, and deals with the kernel of this issue. From it, and my own appraisal at my site visit, I draw the following conclusions. The appeal property has limited architectural merit and is set within part of Brent Street that has an awkward conglomeration of diverse and somewhat mediocre buildings that has led to a weak local character. This is not to say, of course, that further mediocrity or poor design should be countenanced. The merit of the built frontages is that there is considerable variety and contrast that provides interest and sometimes provokes a wry smile.

11. I have come to the conclusion that the appeal proposal in fact builds on a mediocre modern building, bringing an improved scale to the building itself: the fact that it rises above its neighbours would simply repeat a feature of the area generally. The slightly raised height of the parapet makes for a better relationship with its neighbour at number 113, whilst the recessed proposed fourth storey surmounted by the steeply pitched hipped roof containing the fifth storey, has a separation and modelling which provides interest. Whilst using similar fenestration to the existing building below, it provides a verticality that is sympathetic to its older neighbours and that dilutes the more horizontal emphasis of the existing building. Furthermore, the reality of viewing the building in 3 dimensions, as one would from the street, would be markedly different from the apparent effect when a flat elevational drawing is viewed. Taking account of the effect of the height, scale, massing and design of the proposed development, it would in my judgement add to the character and appearance of the existing building and be beneficial to the street scene.

Effect on neighbours

12. Turning to the effect of the proposed development on the living and working conditions of neighbours, the principle concern raised is in respect of adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users. The documentation accompanying the appeal includes a Daylight/Sunlight Report prepared by a firm of consultants. The study was undertaken by constructing a detailed 3D model, using specialist computer software to simulate the light levels to the neighbouring residential properties. The technical assessment was been undertaken in accordance with the methodology outlined in The Building Research Establishment (BRE) Report "Site Layout for Daylight and Sunlight 2011" (BRE 209). The BRE document is the principle guidance when considering daylight, sunlight and overshadowing. The findings indicate that the development is of an appropriate scale for the

immediate surrounding area in daylight and sunlight terms, and will meet the intentions of the BRE guide.

13. The council does not accept the conclusion of the study as being determinate. It points to a third method for calculating daylight, the Average Daylight Factor (ADF) that has not been included. The ADF analysis is more detailed and therefore is more precise in its measurement of daylight. In addition, no assessment has been undertaken of the neighbouring outdoor amenity areas, in particular at ground level for no.123 Brent Street. Whilst the appellant refers to the existing relationship between no.123 Brent Street and the appeal site, the council states that this does not justify new development which would degrade the situation to a greater extent.

14. However, I am satisfied from the study that has been provided that there are unlikely to be adverse effects on neighbours, in respect of sunlight and daylight, that would warrant the refusal of planning permission.

15. In relation to neighbouring occupiers there is a concern, raised on behalf of second floor tenants of the office accommodation in the appeal building, on the basis that the proposal would bring disruption to second floor tenants of the building, and create a potentially uncomfortable and unsafe working environment. Clearly such disruption would be for a limited duration, and a condition of permission could require a construction method statement to be submitted and approved that would go some way towards allaying these concerns. In respect of a possible unsafe working environment, I would expect such matters to be dealt with under health and safety regulations.

16. I therefore conclude that there should be no undue detrimental effect on the living and working conditions of neighbours arising from the proposed development.

Other matters

17. A concern raised by interested persons is that no additional parking provision is proposed. Further it is said that Brampton Lane is a narrow back alley which is inadequate as an access for a large increase in commercial traffic, when there is no provision for vehicles to turn around and no separate footway, and the existing carpark is inadequate for present use.

18. However, I note that a car parking survey was commissioned from an independent survey company that observed parking activity on two 'neutral' weekdays on the surrounding roads up to 500m from the application site, using standardised survey methodology for commercial uses. The survey demonstrated that there is the potential overspill of 3-4 spaces to be safely accommodated on streets surrounding the site. The highways officer therefore raised no objection to the proposal on highways grounds. I see no reason to disagree with that view

Conclusions

19. My overall conclusion is that the concerns raised in the refusal of planning permission by the Council have been rebutted to demonstrate an acceptable scheme, and recognising that the proposal is for sustainable development within a town centre, adding to the centre's diversity and viability, the appeal should be upheld.

Conditions

20. The Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the text. I consider that they should be imposed for the following reasons: condition 2 – for certainty and avoidance of doubt; condition 3 – to ensure a satisfactory appearance; condition 4 – to enable control to be maintained so as to avoid a change of use that has an unacceptable impact on neighbouring uses; condition 5 – to safeguard the living conditions of occupiers of adjoining residential properties; condition 6 – to secure cycle parking facilities for the development in order to promote cycling as a mode of transport; condition 7 – to secure highway safety and good air quality and for the reasons given in paragraph 15 above.

21. Condition 7, suggested by the council, is a 'pre-commencement condition'. Section 100ZA, (5) and (6), of the TCPA90 provides that planning permission for the development of the land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. In this case it has been confirmed on behalf of the appellant that there is agreement to the imposition of the pre-commencement conditions.

Terrence Kemmann-Lane

INSPECTOR

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Schedule of conditions

1) The development hereby permitted shall begin no 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: GA001, GA011, GA012, GA200, GA300, GA301, GA302, GA303, GA304, GA401, GA402, GA403, GA501, GA502, GA503, GA504, GA505, GA506, GA507, GA508.

3) Notwithstanding the details shown, before the development hereby permitted commences, details of the materials to be used for the external surfaces of the building and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

4) The premises shall be used for offices and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

5) No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, or before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days unless previously approved in writing by the Local Planning Authority.

6) a) Before the use of the development hereby permitted is first commenced cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme that shall be submitted to and approved in writing by Local Planning Authority.
b) before the use of the development hereby permitted is first brought into use the approved scheme shall be implemented in accordance with the details approved and the spaces shall be permanently retained thereafter.

7) a) No development or site works shall take place on site until a 'Demolition & Construction Method Statement' has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise dust, noise and vibration pollution.
b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.