



Appeal Decision

Site visit made on 15 December 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/T5150/W/20/3255421
278 Neasden Lane, London NW10 0AD

- 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 Ghulam Mohammad Dost against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/3785, dated 4 November 2019, was refused by notice dated 28 April 2020.
 - The development was originally described as partial change of use of retail store (Use Class A1) to takeaway (Use Class A5) with installation of flue and bricking of window to flat to rear elevation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The proposed development includes the installation of a flue. The reasons for refusal on the Council's decision notice indicate the effect upon the vitality and viability of the town centre and living conditions are the matters in dispute. I have no reason to disagree with the Council's conclusion that the rest of the proposed development is acceptable in planning terms. My reasoning below therefore relates to the matters in dispute.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the vitality and viability of Neasden Town Centre; and
 - The effect of the proposed development upon the living conditions of existing occupiers, with specific regard to noise and activity.

Reasons

Vitality and viability of Neasden Town Centre

5. The appeal site comprises a ground floor retail unit located within the primary shopping frontage of Neasden Town Centre.
6. Policy DMP3 of the London Borough of Brent Local Plan Development Management Policies (2016) (DMP) sets out that takeaways will be permitted except where it would result in a number of situations. One of which is where more than 6% of units within a town centre frontage would be occupied by takeaways. The Council contend that the proposed development would result in the number of takeaways along the frontage exceeding this figure. This has not been contested by the appellant.
7. I acknowledge that the proposed development would occupy the rear part of an existing shop which would continue to operate. I also note that the opening hours would reflect that of the existing shop and may well generate linked trips to the premises. However, it would result in an overall reduction of retail floorspace in the town centre and an over concentration of takeaway uses.
8. As such, the proposed development would undermine the retail function of Neasden Town Centre to the detriment of its vitality and viability contrary to Policy DMP3. It would also be contrary to Policy BE5 of the emerging Brent Local Plan which echoes Policy DMP3.
9. The appellant has made reference to a number of other similar examples. However, these are not justification for a scheme that I have found to be harmful and do not lead me to reach a different conclusion on the matter.

Living conditions of existing occupiers

10. Neasden Town Centre is a compact town centre with a mix of daytime and evening uses. I acknowledge that the appellant has not submitted a noise assessment. However, given the busy commercial character of the area I am satisfied that the resultant additional activities and comings and goings of the proposed development would not be significant and would not unduly harm the living conditions of nearby occupiers in respect of noise and disturbance.
11. Based on the evidence before me I am satisfied that relevant conditions regarding ventilation and extraction could be imposed if I were minded to allow the appeal.
12. As such, I conclude that the proposed development would accord with DMP Policy 1 which, amongst other things, seeks to ensure that developments do not unacceptably increase exposure to noise and general disturbance.

Other Matters

13. I acknowledge that waste from the premises would be collected by a registered waste carrier. However, this would not overcome the harm that I have identified.
14. The support of nearby occupants counts neither for nor against the proposal and does not overcome the harm I have identified in relation to the vitality and viability of the town centre.

Conclusion

15. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR