



## Appeal Decision

Hearing (Virtual) Held on 12 April 2021

Site Visit made on 15 April 2021

**by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 May 2021**

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**Appeal Ref: APP/T5150/W/20/3251391**

**All Units at Dowlings Parade, HNS Autos & Delta Hand Car Wash,  
Bridgewater Road, Wembley HA0 1AJ**

- 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 Vardy Limited against the decision of London Borough of Brent.
  - The application Ref 19/3819, dated 25 October 2019, was refused by notice dated 3 February 2020.
  - The development proposed is demolition of existing buildings and erection of new building of part 2, part 4 and part 8 storeys containing 32 residential units and 560sqm of commercial space to accommodate a range of Class B uses, associated cycle and blue badge parking, amenity space and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application form gave the address as 1&2 Dowling Parade. For the sake of clarity and precision I have used the fuller address given on the appeal form and the Council's decision notice. The description of the development on the application form and in the banner heading above refers to a 'range of Class B uses.' However, the Council's decision notice and the appeal form amended this to read: 'partial demolition of the HNS Autos building and other associated buildings on site and erection of new building of part 2, part 4 and part 8 storeys comprising 32 residential units at 1st to 7th floors and commercial space to accommodate a range of Class B uses (B1(a), B1(b) and B1(c) and B8 at ground floor level, cycle parking spaces, blue badge parking, amenity space and landscaping'. Although the amended description is more precise, changes to the Use Classes Order has resulted in Class B being replaced by Class E. This was discussed at the Hearing and it was agreed that the appeal should be determined on the basis that permission was sought for a 'range of Class E' uses. I have assessed it accordingly.
3. The Council refused the scheme for 5 reasons, one of which related to the lack of a planning obligation to secure provision of affordable housing within the scheme together with contributions towards carbon reduction, job & training opportunities for local residents, necessary highway improvements and the implementation of a future controlled parking zone. The provisions set out in a draft S106 agreement were discussed at the Hearing and a final draft agreement was submitted subsequently. I return to this matter later.

## Main Issues

4. Having regard to all the evidence presented and the representations of local people at the Hearing, I consider the main issues to be the effects of the development on:
  - a) the supply of employment floorspace;
  - b) the character and appearance of the area;
  - c) the living conditions of occupants of:
    - 2 Bridgewater Road in relation to overlooking and loss of privacy;
    - Flat 2 in relation to outlook;
    - the proposed flats having regard to their proximity to the adjoining site;
    - 1-15 Bridgewater Road in relation to overbearing appearance.
  - d) the need for the services and facilities set out in the planning obligation.

## Reasons

### *Supply of employment land*

5. The appeal site is currently predominantly in commercial use as a car repair business and a car wash. It is therefore a mix of Sui Generis and what were previously designated as B uses. These occupy a total floor area of 332sq.m and employ approximately 8 people. In addition, the two-storey building situated adjacent to Bridgehill Close has residential uses on the first floor.
6. The site is designated as a Locally Significant Industrial Site (LSIS) within the development plan. Policy CP20 of the Brent Core Strategy 2010 (BCS) seeks to protect such sites for employment use with office space only being acceptable where it is ancillary to other uses. Policy DMP14 of the Brent Local Plan Development Management Policies 2016 (BLPDMP) seeks to limit the loss of employment sites and sets out a series of criteria that should be met for the release of such sites. The criteria of most relevance to this proposal is the delivery of additional homes at least 50% of which should be affordable.
7. The recently published London Plan (LP) seeks to ensure adequate provision of sites for employment use throughout the capital. Firstly, through Policy E4 which seeks to provide a sufficient supply of land and premises to meet current and future demands for industrial and related functions. Secondly, Policy E7 states that development plans and proposals should be proactive and encourage intensification of business uses through co-location and mixed use of sites.
8. Following the loss of designated employment land across London over the last decade the Greater London Authority (GLA) is advocating more restrictive policies to limit unplanned losses. From what I heard Brent is now seeking to safeguard all its LSISs in order to prevent further loss of industrial land. Added to that Brent has now been set challenging targets of finding an additional 46.9 hectares of land for employment use, an increase of approximately 10% over and above that which currently exists. The Council also has to find ways of delivering significantly increased numbers of new homes. These targets are only likely to be achieved through the co-location of activities.

9. The Council is responding to these challenges within its emerging Local Plan which is at an advanced stage of preparation. Emerging Policies BE2 and BSWSA1 support intensification and co-location subject to a series of criteria, the most relevant of which relate to the need for a net increase in employment floorspace supporting an appropriate mix of associated uses. Where mixed use development comes forward the policy requires either that the existing employment floorspace is replaced or that it represents a 0.65 plot ratio, whichever is the higher. I understand that the examination of the emerging plan has concluded. Modifications will be published prior to the plan's formal adoption, which is expected to take place in the autumn. However, there are no outstanding objections in respect of the policies relevant to this case, so it is not anticipated that they will be amended. I can therefore give any conflict with them significant weight in my assessment of the scheme.
10. In this policy context, and given the need to provide additional homes and employment space, every site within an LSIS has an important role to play in contributing towards the Borough's needs. It was acknowledged at the Hearing that to comply with the increased requirement set out in Policy BSWSA1 the employment floorspace would need to be approximately 750sq.m. Whilst the proposal would deliver an increase from that which currently exists from 332sq.m to 560sq.m, this would, nevertheless, represent a notable shortfall on the requirements of the emerging local plan.
11. I appreciate that the scheme was developed following pre-application advice which at that time sought a plot ratio of 50%, rather than the 65% now required. The appellant's frustration at this change is therefore understandable. However, from what was said at the Hearing, it would be possible to increase the footprint of the building as a means of providing additional floorspace and meeting this enhanced requirement. In my view, not to do so would amount to a missed opportunity which would have detrimental consequences to the Borough's long-term supply of employment land.
12. It is then necessary to consider how any commercial floorspace would be used, having regard to the revised Use Classes Order. The Council does not wish to see offices on this site which are more suitably located within town centres, rather than an edge of centre site such as this one. It was evident from the discussion at the Hearing that the appellant is willing to be flexible about how the space is used. I am therefore satisfied that this could be controlled by a suitably worded condition, restricting the use of the commercial space within the scheme to those within Use Class E(g), if the proposal was acceptable in all other respects. However, although the wording of such a condition was agreed by the parties, it would not overcome the shortfall in the total amount of space which the appeal proposal would provide.
13. Taking all these factors into consideration, I conclude that the proposal would fail to deliver an adequate contribution to the supply of employment floorspace, contrary to Policy CP20 of the CS, Policy DMP14 of the BLPDMP, Policies E4 and E7 of the London Plan. It would also conflict with the requirements of Policies BE2 and BSWSA1 in the emerging Brent Local Plan.

#### *Character and appearance*

14. Although Bridgewater Road to the north of its junction with Manor Farm Road carries significant volumes of traffic, it is predominantly a residential street. It is characterised by terraces of two-storey dwelling with commonly repeated

features such as gables and bay windows. The properties have small front gardens set back from the street along a uniform building line. There is a wide pavement that includes a grass verge and regularly spaced street trees. The appeal site is close to No 2, only separated by the narrow Bridgehill Close that leads to One Tree Hill Recreation Ground, and immediately opposite the site is a row of two-storey terrace houses (Nos 1-15).

15. The appeal site marks a change in character along the street from residential to commercial activities, all of which are currently within low rise buildings. However, to the south of the junction with Manor Farm Road the density of development and the height of the buildings is significantly different as the area around Alpertons tube station is in the process of redevelopment and intensification.
16. Policy BD2 of the emerging Local Plan has identified the area centred on the junction of Ealing Road and Bridgewater Road as one where tall buildings will be appropriate. This is surrounded by a small area identified as the transition between taller buildings and the surrounding, more traditional residential areas where two-storey dwellings predominate. The appeal site is therefore in a sensitive location where these very different forms of development meet.
17. Since this application was determined the Council has, subject to the completion of a S106 agreement, granted permission<sup>1</sup> on the adjacent site for the demolition of the existing buildings and the erection of a co-location scheme ranging in height from 4 to 19 storeys. A block which will be 11 stories in height will be located on part of that site closest to the shared boundary with the appeal site. These tall blocks will be set back from the street to the rear of a 4-storey block which will help to reduce the effect of their additional bulk on the surrounding street scene.
18. In this context the construction of an 8-storey block on the appeal site would be a very significant and abrupt step-up from the two-storey properties that form the first terrace along the northern section of Bridgewater Road. This would be accentuated by its rectangular shape and height which would have a dominating and incongruous appearance alongside the adjacent modest houses with their pitched roofs and front facing gables. Even though the 8-storey block would be set in from the side elevation and set back from the street, its height and bulk would appear to represent an overly severe increase in scale, particularly given the proximity of the proposal to the adjacent dwellings. The introduction of a building of this height would also be seen from elsewhere on Bridgewater Road and most particularly from immediately opposite the site. From here its excessive height would appear visually intrusive as these dwellings are set just below the road.
19. Taking all these factors into account, the proposal would fail to provide an appropriate transition between the existing housing and the significantly taller developments that are planned, and are already being built, within the Alpertons Growth Area. The proposal would not integrate effectively with its surroundings but would appear out of scale to the detriment of the local character and context.
20. I conclude that the proposal would harm the character and appearance of the area, contrary to Policy DMP1 of the BLPDMP which permits development that

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<sup>1</sup> Ref: 19/4541

complements the locality having regard, amongst other things, to layout, scale, detailing and design. It would also fail to accord with the advice set out in the Brent Design Guide: Supplementary Design Guide 2018, (SPD1) which seeks to facilitate good urban design by ensuring that the height, massing and façade design of new development respects the existing context and scale.

### *Living conditions*

21. There would be a separation distance of only 8m between the flank wall of the development and the boundary of No 2. This is below the standard of 9m required by SPD1. Furthermore, the first floor flat within the scheme (Flat 2) would have a balcony which projected beyond this flank wall and would overlook the rear garden of No 2. Although the size of this garden and views into it are restricted by the presence of outbuildings, there would be a noticeable loss of privacy for the occupants of No 2. In my view overlooking from an open balcony would feel more intrusive than that which would take place through any of the windows. This situation cannot be compared with overlooking from the first floor flat within the existing building as those windows face No 2's flank wall, not its garden.
22. The harm caused by overlooking of No 2 could be addressed by the introduction of privacy screens on the balcony. However, this would result in the outlook from the living/kitchen/dining area of Flat 2 being significantly restricted. This would give rise to unsatisfactory living conditions for any future occupants.
23. The south east elevation of the proposal would include a number of windows which would look towards the adjacent site. Rooms in some of the flats would be within 3-4m of the shared boundary, which is significantly below SPD1's requirements. However, I have been presented with details of the separation distances that would be achieved through implementation of the scheme on the adjacent site referred to above. As the upper sections of the adjacent block would be set further from the boundary, separation distances between the facades would be between 14.3m and 18.1m. This would not fully comply with the requirements of SPD1. However, as the blocks would not directly face each other, any intervisibility between habitable rooms would only be likely to cause a minor loss of privacy for the occupants of either scheme. In these circumstances, I do not consider this would be a reason for the proposal before me to fail.
24. Nos 1-15 Bridgewater Road form a terrace of 8 dwellings immediately opposite the appeal site. These properties are set slightly below the road. The height of the scheme would represent a significant change in the surroundings for the occupants of these properties. This could appear overbearing from the front rooms of these houses. However, the tallest part of the buildings would be set back from the street and would be experienced from the other side of the road. Therefore, although I appreciate that the proposal would introduce buildings of a different scale into the area, I am not persuaded that this would be unduly harmful to the living conditions of the occupants of Nos 1-15.
25. Taking all these matters into consideration, I conclude that the proposal would either lead to an unacceptable loss of privacy for the occupants of No 2, or unsatisfactory living conditions for the occupants of Flat 2 due to poor outlook. In these respects, it would conflict with Policy DMP1 of the BLPDMP which requires development to provide high levels of internal and external amenity.

### *Planning obligation*

26. A planning obligation was presented in the form of a finally agreed draft endorsed by the appellant, but which had not been formally engrossed by the Council. I have considered its provisions and if I had found the scheme acceptable in all other respects would have required it to be completed to enable me to take it fully into account in my decision.
27. The agreement would make provision for affordable housing within the scheme, agreed works on the highway, contributions towards sustainability, water and energy, street trees, funding for membership of a Car Club for occupants for two years and a contribution towards the implementation of a Controlled Parking Zone. I am satisfied that these provisions and contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. They therefore meet the tests of Paragraph 56 of the National Planning Policy Framework.
28. The obligation would also restrict the eligibility of future occupants to parking permits ensuring that it would operate as a 'car-free' development in the future. I am satisfied that this could be secured under Section 16 of the Greater London Council (General Powers) Act 1974. However, its provisions could only be effective if the CPZ is implemented. The parties are in agreement that the development should be car-free and from what I have read, seen and heard I consider this would be necessary to make the development acceptable in planning terms. Although the Council indicated it would be its intention to implement a CPZ for the area, no specific details of how or when this would take place were presented at the Hearing. If the development had been acceptable in all other respects, this is a matter upon which I would have sought further assurances regarding an implementation timetable. However, as I am dismissing the appeal for other reasons, it has not been necessary for me to pursue the matter further.

### **Planning balance**

29. The proposal would provide an increase in employment floorspace and 32 flats, 50% of which would be affordable. These are significant benefits. However, the scheme would fail to comply with the enhanced need for provision of employment space, would cause significant harm to the character and appearance of the area and would either be detrimental to the privacy of the occupants of 2 Bridgewater Road or result in unsatisfactory living conditions for the occupants of Flat 2. In my view these collective and permanent harms would outweigh the benefits of the scheme.
30. Furthermore, since this application was determined a revised scheme has been submitted to the Council, ref:20/1151. The members agreed the officer's recommendation to approve this proposal, subject to a S106 agreement which is being prepared but has not yet been finalised. The revised scheme would deliver an increased amount of employment floorspace, reduced the overall height of the scheme to 7 stories and made other design amendments to mitigate overlooking and increase separation distances. In all these respects it would comply with the development plan. It is therefore apparent that most of the benefits of the current proposal could be achieved with the alternative scheme without causing the harms that I have identified.

## **Conclusion**

31. For all these reasons, I find that the proposal fails to comply with the development plan as a whole and there are no other considerations to indicate that the appeal should be determined otherwise.
32. I therefore conclude that the proposal is unacceptable and the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

## **APPEARANCES**

FOR THE APPELLANT

Alan Gunne-Jones  
MRTPI

Michael Trentham  
BA Hons, Dip Arch, ARB, RIBA

Mr Raymond Fusciardi

FOR THE LOCAL PLANNING AUTHORITY

Denis Toomey  
BA(Hons) MSc MRTPI

Paul Lewin  
BA(Hons) PgDip MRTPI

INTERESTED PERSONS

Cllr Anton Georgiou

Ingrid Taylor

Melanie Kemps

## **ADDITIONAL DOCUMENTS SUBMITTED**

1. Statement by Councillor Georgiou.
2. Extracts from the Local Plan proposals map showing areas where tall buildings may be permitted.
3. Plans and 'minded to grant' decision notice relating to application 19/4541 on the adjacent site.
4. Updated deed of agreement made under S106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 16 of the Greater London Council (General Powers) Act 1974 and Sections 38 and 278 of the Highways Act 1980, which has been agreed by the parties and only requires formal signature.
5. Wording for additional condition relating piling.
6. Plans associated with application 20/1151 for an alternative scheme on the appeal site.