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## Appeal Decision

Site visit made on 26 October 2021

**by M Cryan BA(Hons) DipTP MSc MRTPI**

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

**Decision date: 22 November 2021**

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**Appeal Ref: APP/T5150/W/21/3275330**  
**46 High Street, London NW10 4LS**

- 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 Abdisaid Gele against the decision of the Council of the London Borough of Brent.
  - The application Ref 21/0196, dated 20 January 2021, was refused by notice dated 30 March 2021.
  - The development proposed is the conversion of first and second floor of commercial premises (Use Class E(a)) to 4 room HMO (Use Class C4) with alterations to shop front to create additional access door to upper floors and insertion of 2 sash windows to first floor flank elevation.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. Both main parties were given the opportunity to comment on the revised Framework as part of their appeal representations. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.

### Main Issues

3. The main issues are:
  - The effect of the proposal on the supply of employment floorspace;
  - Whether or not the proposed residential accommodation would provide acceptable living conditions for future occupiers, with particular regard to communal and amenity space; and
  - The effect of the proposed development on the character and appearance of the Harlesden Conservation Area.

### Reasons

#### *Employment floorspace*

4. The appeal site is a three floor property within Harlesden Town Centre. A financial services business previously operated from the ground floor, with

ancillary offices and facilities in an extension at the rear of the ground floor and on the upper floors. The proposal is to convert the first and second floors of the building to a House in Multiple Occupation ("HMO") with four bedrooms, along with other works to facilitate such a change of use. The ground floor would be retained as a shop unit with ancillary office space and services in the rear part of the building.

5. The conversion of the upper floors to an HMO would result in a loss of employment floorspace to residential uses. Policy DMP14 of the 2016 Brent Local Plan Development Management Policies Plan ("the DMPP") seeks to support the continued provision of employment sites. For Local Employment Sites such as the appeal property, DMP14 allows for non-employment uses only where continued use of the entire site for employment is unviable, or where there are other "significant benefits". The supporting text to the policy indicates that a lack of demand for ongoing employment use should be demonstrated by evidence that the site is vacant, and that a thorough marketing exercise "at realistic prices for the area" has been carried out over a period of 24 months.
6. It is not clear from the evidence before me when precisely the upper floor offices became vacant. The planning application was accompanied by a letter from an estate agent dated 2 February 2021 indicating that the property had been marketed to let for commercial use from 9 January 2020 – it is not clear for what length of time – but that this had not been successful primarily "due to the layout of the premises". The appellant's appeal statement states that further marketing was undertaken by a different estate agent between January and May 2021; an accompanying letter from that agent indicated that "there is no demand for offices in this area due to Covid-19".
7. I do not doubt that changing working patterns during the Covid-19 epidemic, notably the increase in people working from home, have had a significant effect on demand for office space. However, the marketing evidence submitted by the appellant does not cover a 24-month period, nor is there any information of the price or terms on which the property was available. In the light of the appeal site's town centre location, and the strong protection which the development plan seeks to give to Local Employment Sites, on the basis of the limited evidence before me I am therefore unable to rule out the possibility that there is a realistic prospect of suitable employment uses being found for the building.
8. I therefore conclude that the proposal would result in an unacceptable loss of employment floorspace. It would conflict with Policy DMP14 of the DMPP which seeks to support economic growth by ensuring that the borough has sufficient employment land and sites, including those which are suitable for small businesses. For the same reason, I also find that the proposal would conflict with Policy BE3 of the emerging Brent Local Plan ("the BLP"). I note that although it is at an advanced stage of preparation the BLP has not yet been adopted; consequently I afford conflict with that policy limited weight in my decision, although this does not alter my overall conclusion.
9. The decision notice issued by the Council also indicated that the proposal conflicted with Policy DMP1 of the DMPP, although it is not clear from the submitted evidence why that is so in respect of employment floorspace. On this matter I therefore find no conflict with that policy, although again this does not alter my overall conclusion.

### *Living conditions*

10. The proposed HMO would have four bedrooms, each capable of accommodating two people. The appellant has referred to the space standard set out in the Council's HMO Property Licencing Scheme ("the PLS"), which requires a room for two people to have a minimum area of 10.2m<sup>2</sup> in cases where, as here, a separate shared kitchen is provided. The bedrooms in this scheme range from 11.2m<sup>2</sup> to 15.9m<sup>2</sup>, excluding their ensuite WC and shower rooms. The Council refers to the Technical Housing Standards – Nationally Described Space Standards ("the NDSS") which, it considers are a "helpful basis" for assessing bedroom space standards. While neither the PLS nor the NDSS form part of the development plan where proposals for large HMOs are concerned, they are a useful guide to what might be acceptable standards. While two of the bedrooms would fall slightly short of the NDSS minimum floorspace requirement for a double or twin bedroom of 11.5m<sup>2</sup>, the Council considers that all would have adequate space, layout, light and outlook. On the basis of the evidence before me, I see no reason to take a different view.
11. The Council measured the shared kitchen at 15.5m<sup>2</sup> while the appellant came up with a slightly larger 16.6m<sup>2</sup>, although as this latter figure included a store room it seems to me that there is not actually a significant disagreement between the parties as to the size of the room. The appellant has again directed me to the PLS, noting that it requires two sets of kitchen facilities to serve an HMO of the size proposed, and that a single kitchen with two sets of facilities should measure not less than 11m<sup>2</sup>. However, the room is described in the proposal as being a combined kitchen and dining room for the property and, excluding stairways and hallways or landings, it would be the only communal space within the HMO. It would therefore not only have to accommodate up to eight people cooking, but would also need to have adequate space for them to then sit and eat. In my view, even taking the larger measurement provided, the kitchen/dining room would be of a size unsuited to its intended purpose and the number of people it would have to accommodate, and it would be likely to be cramped as a result. The proposed development would not therefore provide an acceptable standard of accommodation for future occupiers.
12. No outdoor amenity space of any type – private or communal – is proposed for the HMO. When taken with the limited internal communal space which would be provided, I consider that this lack of external amenity space would result in the proposed development providing an oppressive living environment for future occupiers. While the appeal site is in an area with good access to public transport and a range of shops and other services, this is not a factor which would mitigate the scheme's shortcomings.
13. I conclude that the proposed development would not provide acceptable living conditions for future occupiers. It would therefore conflict with Policies DMP1 and DMP20 of the DMPP, which together require developments such as HMOs with shared facilities to provide high levels of internal and external amenity, including communal and external amenity space, so that they offer living conditions of an acceptable standard.

### *Character and appearance*

14. The appeal site lies within the Harlesden Conservation Area ("the HCA"). I therefore have a statutory duty to pay special attention to the desirability of

preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).

15. As part of the planning application the appellant submitted a Planning and Heritage Statement ("PHS"), but although this gives a description of the terrace including the appeal site it does not identify the character or appearance of the HCA, nor does it describe its significance. While the appeal statement addresses the scheme's proposed materials, overall the information provided by the appellant falls well short of describing the significance of the HCA in line with the requirements of paragraph 194 of the Framework.
16. The Council's 2006 HCA Character Appraisal also provides limited information about the overall significance of the HCA, although its observation that changing shopfront design has resulted in the loss of key architectural features was borne out by what I saw in the area at the time of my site visit. The proposed scheme would see an additional front door added to the existing shopfront to provide separate accesses to the shop and the HMO. In its current condition the appeal site shopfront is somewhat run down, and so it does not contribute to the quality of the HCA. However, while I note the appellant's comment that "a significant number of shops along the High Road are characterised with dual door frontages", the examples provided in the PHS appear to me to detract from, rather than preserve or enhance the Conservation Area; they do not therefore provide weight in support of the current proposal.
17. I note also the advice in the 2018 Shopfronts Supplementary Planning Document that shopfronts should not be designed in isolation. The submitted drawings show the proposed shopfront entirely on its own, with neither upper floors of the appeal site nor the surrounding buildings illustrated, and even details such as projecting signage and lighting are absent. The appellant has stated that, in the event of my allowing the appeal, they would be happy for a condition to be imposed which would require full details of a new shopfront to be submitted to the Council and agreed before implementation. However, while that may be a suitable approach to deal with matters such as materials, given the importance of preserving or enhancing the HCA and my statutory duty in that respect, I do not think in this case it is an appropriate means of dealing with such a fundamental matter as the design of the shopfront as a whole.
18. Taking all of this together, I am unable to conclude that the proposed development would not be harmful to the character and appearance of the area. Consequently, I cannot be satisfied that the character or appearance of the HCA would be preserved or enhanced. In the Framework's terms, harm to the significance of the HCA as a designated heritage asset arising from the proposal would be less than substantial. However, no public benefits arising from the scheme have been put forward by the appellant.
19. I therefore conclude that the proposal conflicts with Policies DMP1 and DMP7 of the DMPP, which among other things seek to ensure that development conserves or enhances the significance of heritage assets and their settings. For the same reason it fails to comply with the requirements in respect of the

historic environment set out in chapter 16 of the Framework. The proposal also conflicts with advice set out in the SPD which seek to ensure that shopfronts are well-designed and contribute to the quality and vibrancy of shopping areas.

### **Conclusion**

20. The proposed development would result in a loss of employment floorspace, and the proposed HMO would not provide acceptable living conditions for future occupiers. On the basis of the evidence before me I also cannot be satisfied that the proposal would not harm the character and appearance of the HCA. Harm to heritage assets must be afforded great weight, and would not be outweighed by any public benefits.
21. The scheme conflicts with the development plan read as a whole. None of the material considerations identified, including the Framework, outweigh this conflict or justify a decision other than in accordance with the development plan. The appeal is therefore dismissed.

*M Cryan*

Inspector