



Appeal Decision

Site visit made on 2 August 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/T5150/W/21/3287997

282 Preston Road, HARROW, HA3 0QA

- 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 Randhir Patel against the decision of London Borough of Brent.
 - The application Ref 21/1669, dated 6 May 2021, was refused by notice dated 8 September 2021.
 - The development proposed is Change of use from (Use Class E) to Takeaway (Use Class Sui Generis) at the front of the host building and demolition of timber structure at the rear on the ground floor, followed by the erection of a single storey rear extension to incorporate a kitchen in the rear with associated bin stores.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of this appeal the London Borough of Brent adopted the Brent Local Plan 2019-41, February 2022 (LP). I have sought the views of the parties on the implications of this and have proceeded to determine this appeal on the basis of the policies within the adopted development plan.

Main Issues

3. The main issues are:
 - the effect of the proposal on the function of the Preston Road Town Centre; and
 - whether or not the proposal would provide satisfactory arrangements for cycle provision and refuse storage; and
 - the effect of the proposal on the living conditions of neighbouring residents with particular regard to noise and odour.

Reasons

4. The appeal property is a mid-terrace unit which comprises retail use at ground floor level with residential above. The building has previously been split into two separate units. The site is located within the primary shopping frontage of Preston Road town centre.
5. The proposal is for a change of use to facilitate the use of one of the retail units within the building as a takeaway and demolition of the timber structure at the

rear on the ground floor, followed by the erection of a single storey rear extension to incorporate a kitchen with associated bin stores.

The effect on the function of the Town Centre

6. Policy BE4 of the LP states that no further drinking establishments or takeaway uses will be permitted within the defined Primary Shopping Frontage of Brent's town centres. This policy is followed by Policy BE5 of the LP which states that, subject to other policies within the development plan, takeaways will be approved except where they would result in any of a number of criteria. These include instances where a proposal would result in the introduction of any new takeaway use within the designated primary frontage of a town centre. In this respect, as the proposed site is within a primary shopping frontage, the development would conflict with these policies.
7. Furthermore, Policy BE5 also sets out that developments which would lead to more than 6% of the units within a town centre frontage being takeaways should not be approved. The evidence before me states that, based on a 2021 health check, around 9% of the town centre frontage is already in use as takeaways. This exceeds the 6% limit set by Policy BE5. As such, any further increase to the number of takeaways would further increase this over concentration of units in use as a takeaway. The proposal would, therefore, also conflict with Policy BE5 in this respect.
8. These policies have been adopted with the aim of ensuring there is not an overconcentration of particular uses within any single length of frontage and to protect Brent's diverse range of well functioning town centres which each help to serve their immediate communities. I note that the proposal intends to change only one of the two units on site and that a considerable number of retail premises would remain across the town centre frontage. However, even though the increase would be small, I nevertheless consider that the proposal would result in a harmful over concentration of takeaway uses within Preston Road Town Centre to the detriment of the retail function of the centre.

Cycle provision and refuse storage

9. Policy T5 of the London Plan 2021 (the London Plan) states that development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. The London Plan sets out that this will be achieved by, amongst other things, securing the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located.
10. Developments should provide cycle parking at least in accordance with the minimum standards set out in Table 10.2 of the London Plan. This table sets out that takeaways above 100 sqm are required to provide bicycle parking at a rate of one space per 175 sqm for long-stay parking (e.g for residents or employees) and one space per 40 sqm for short-stay parking. Policy T5 of the London Plan further states that a minimum of two short-stay and two long-stay cycle parking spaces should be provided where the application of the minimum standards would result in a lower provision.
11. The Council state that the proposed extension would increase the floor area of the unit above 100 sqm and the plans appear to indicate that this would indeed

be the case. Therefore, the proposal would generate a new bicycle parking requirement of four spaces.

12. The applicant has proposed no bicycle parking and the appeal statement instead refers to existing on-street bike stands nearby. However, this is not new provision and the spaces are not considered well-located in respect of the site as they are located on the opposite side of Preston Road.
13. The Council accept that the site does not possess a private forecourt area where short-term bicycle parking might be accommodated alongside Preston Road. However, Policy T5 (D) of the London Plan states that "where it is not possible to provide suitable short-stay cycle parking off the public highway, the Borough should work with stakeholders to identify an appropriate on-street location for the required provision. This may mean the reallocation of space from other uses such as on-street car parking. Alternatively, in town centres, adding the required provision to general town centre cycle parking is also acceptable. In such cases, a commuted sum should be paid to the local authority to secure provision". No such arrangement or financial contribution has been proposed by the appellant in respect of the proposal before me.
14. Consequently, I consider that the proposal would fail to provide satisfactory arrangements for cycle provision and would, therefore, conflict with Policy T5 of the London Plan.
15. Turning now to the issue of refuse storage. A bin store is proposed to be incorporated to the rear. The Council have confirmed that no bin storage is required for the upper floor flats and, in their appeal statement suggest that the bin storage arrangements are generally fine, as long as the retained retail unit has access to the bin storage area too. In order to ensure that this would be the case the Council have suggested that details could be clarified in respect of the arrangements for waste collection from the two commercial units. I concur with this view and find that such details could be secured through a planning condition were the appeal to be allowed. I therefore consider that the proposal would provide satisfactory arrangements for refuse storage.

Living conditions

16. The proposed use would include the installation of an odour extraction system. The details submitted as part of this proposal do not include a noise impact assessment or an odour impact assessment in respect of the proposed extraction system. However, the appellant has advised that a noise impact assessment was provided as part of a previous application which was withdrawn. The appellant states that, at that time, the Council deemed the report satisfactory.
17. The comments provided by the Council's environmental monitoring team (included as Appendix A of the appellant's statement) in respect of this proposal do indeed state that insufficient information has been submitted. However, the comments go on to suggest two conditions to be imposed should permission be granted.
18. As such, and on the basis of the evidence which has been provided, I consider that, were I otherwise minded to allow the appeal, the details and parameters of any extraction equipment could be secured by a suitably worded planning condition.

19. I therefore consider that the proposal would accord with Policy DMP1 of the LP insofar as it states that, subject to other policies within the development plan, development will be acceptable provided it is not unacceptably increasing, and where possible reducing, exposure to flood risk, noise, dust, contamination, smells, waste, light, other forms of pollution and general disturbance or detrimentally impacting on air or water quality.

Other Matters

20. I note that in other respects, such as the distance from a school or further education establishment and the effect of the proposal on on-street parking, the proposal would accord with policies within the adopted development plan. I also acknowledge the appellant's aim to improve local amenities by providing more choice of food establishments and recognise that the proposal is only to change the use for one of the two units within the building. Additionally, I note that no objections to the proposal from neighbouring occupiers were received.
21. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the proposal would cause harm to the function of the Preston Road Town Centre and would fail to provide satisfactory arrangements for cycle parking.
22. I also note the appellant's statement that the proposal would provide much needed employment opportunities. However, employment opportunities would also be present should the building remain in retail use and I consider that this benefit could be achieved through an alternative proposal which would not cause harm or conflict with the adopted development plan.

Conclusion

23. For the reasons given above I conclude that the appeal should fail.

L J O'Brien

INSPECTOR