



Appeal Decision

Site visit made on 1 March 2023

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/T5150/W/22/3293133

A C Car Services, 207A Kilburn High Road, London NW6 7JG

- 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 A C Car Services against the decision of London Borough of Brent.
 - The application Ref 21/0959, dated 16 March 2021, was refused by notice dated 20 August 2021.
 - The development proposed is described as 'alterations and first floor extension including the change of use from A1/Sui Generis to an A3 cafe/snack bar and A5 (take away) with the retention of the Sui Generis on the first floor addition to a mixed use comprising an A3 restaurant and A5 (take away).'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description above has been taken from the planning application form. The Council however suggested it be changed to 'proposed change of use from Hairdressers (Use Class: E) and Mini Cab office (Use Class: Sui Generis) to Cafe/Snack Bar (Use Class: E) and Takeaway (Use Class: Sui Generis). Alterations to provide new shop front, retractable awning to front elevation, installation of flue extraction unit, first floor extension and retention of Sui Generis use to first floor.'
3. Whilst I have no specific agreement to this change from the appellant before me, they have used the description on the appeal form. In addition, it more precisely identifies the development subject of the appeal and does not change anything fundamental in regard to it. I have therefore taken it into account in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with specific regard to noise and odour and light and outlook.

Reasons

5. There are a number of strands to the Council's concerns in regard to the alleged affects of the proposed development. The noise/odour concerns relate to the instillation of extraction equipment for the proposed hot food uses and the matter of light and outlook are in regard to a proposed first floor rear extension. I shall address each sub matter in turn.

6. The appeal site is the rear section of a much larger building that faces Kilburn High Road. It backs onto Waterloo Passage, a pedestrian route along the rear of the larger building and others in the row. The proposed hot food use would operate from the intended ground floor and the flue serving it would extend therefrom, through the new first floor and out through the roof, adjacent an existing chimney.
7. There are a variety of commercial uses on the ground floors of buildings facing both Kilburn High Road and Willesden Lane. I am not aware of the opening hours of any being restricted. Some have venting ducts and there is roof mounted plant and other equipment close to the appeal site and along Waterloo Passage. The two roads are busy and carry a constant flow of vehicular traffic. Whilst the immediate area is therefore far from quiet, I am unsure, in the absence of confirmative details, if such a situation persists during night time hours.
8. I have seen technical specifications of the extraction equipment that is proposed in the appellant's evidence, but this does not relate to the appeal site and specifically whether its proximity to the first and second floor residential uses both above the larger building to the frontage or flats that occupy the upper floors that present to Waterloo Passage would be suitable, particularly in regard to the flats above No 209 Kilburn High Road.
9. The flat above No 209, closest to the proposed extension, has a number of windows that both feature on the side elevation that would face it and Waterloo Passage. By virtue of the extent, scale and close proximity of built form to the rear of Kilburn High Road buildings there is a strong sense of enclosure experienced in the area. Not only in views from said windows but also in terms of the general experience of being in and around them, accessing and egressing. Whilst arguably typical of a densely developed inner city location such matters are, the proposed extension would move more than marginally beyond the extent of the closest flat to the rear of No 209, it would all but obscure it from Willesden Lane and present a substantial extent of blank brickwork to its windows both directly opposite them and at oblique angles. This would make the existing situation notably worse and add to the already oppressive and enclosing experience for occupiers of the unit.
10. Given the overall density of the immediate area around Waterloo Passage and the existing situation in regard to available light into the windows concerned, I do not feel that the reduction thereinto arising out of the proposals would be so much worse that it, alone, would justify dismissal of the appeal. This would not however satisfactorily address my concerns in regard to noise, odour and outlook.
11. I am aware that the appellant sought pre application advice from the Council and they confirmed that the extension would be acceptable. I can also see that the appellant has sought to address guidance in the Council's Residential Extensions and Alterations 'SPD2' (2018) in regard to the extent of walls and their relative angle to close windows. Such compliance would not however make the development automatically acceptable nor ensure there would be no harm as each specific circumstance is different. This is also guidance and not development plan policy. Moreover, the Council give pre application advice without prejudice to the outcome of a planning application or, in this case, an appeal thereon. Should the appellant be aggrieved at the manner in which the

Council considered and determined the planning application, they should take it up directly with them.

Conclusion

12. For the above reasons, the appeal scheme would conflict with Policy BMP1 of the Brent Local Plan 2019-2041 (2022) which seeks, amongst other things, that development will be acceptable provided it provides high levels of internal and external amenity. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should thus be dismissed.

John Morrison

INSPECTOR