



Appeal Decision

Site visit made on 24 May 2023

by O S Woodward BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/T5150/W/22/3292035

**Millennium Business Centre, 3 Humber Trading Estate, Humber Road,
London NW2 6DW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Property Service Investments Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/2974, dated 7 September 2020, was refused by notice dated 21 October 2021.
 - The development proposed is a new warehouse building located to the rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is for outline planning permission with landscaping reserved. Access, appearance, layout and scale are applied for in full.
3. I have adopted the site address from the appeal form because this most accurately describes the appeal site location.
4. The Council adopted the Brent Local Plan 2019-2041 (the BLP) in February 2022. The Core Strategy 2010 and Development Management Policies Plan 2016 have both been revoked. This is a change to the Development Plan from that at the time of the determination of the planning application the subject of this appeal. The new Development Plan was adopted before the deadline for the submission of the Statements of Case for the appeal. Therefore, the main parties had the opportunity to respond to the up-to-date policies and neither party has been prejudiced. As required by established planning law and practice, my Decision is based on the up-to-date policies and Development Plan.
5. The third reason for refusal is in relation to the effect of the proposal on energy and sustainability measures and job and training opportunities for local residents in the absence of a completed s106 Planning Obligation. The final s106 Planning Obligation, dated 28 April 2023, (the s106) responds to these concerns. The s106 secures:
 - the production and submission of an Energy Assessment, and review if necessary, detailing how the proposal would achieve a 100% reduction of carbon emissions with a minimum 35% achieved through on-site measures;

- a carbon off-set contribution to securing carbon reduction elsewhere in the Borough to bridge the gap between on-site carbon mitigation and the 100% target;
 - the production and submission of an Employment and Skills Plan to detail the creation of one construction or apprenticeship role for a local person per 1,000 sq m (GEA) of proposed employment floorspace;
 - that a minimum of 30% of jobs during the operational phase of the proposal are filled by local people;
 - a fee to cover the Council's costs in preparing and completing the s106; and,
 - a monitoring fee.
6. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 57 of the National Planning Policy Framework (the Framework). I have therefore taken them into account. This reason for refusal is not therefore a main issue for the appeal.

Main Issues

7. The main issues are:
- the effect of the proposal on fire safety; and,
 - the effect of the proposal on highway safety, access and servicing.

Reasons

Fire Safety

8. Policy D12 of the London Plan 2021 (the LP) requires, amongst other criteria, a Fire Statement to be submitted with all major development proposals. Major development proposals are as defined by The Town and Country Planning (Development Management Procedure) (England) Order 2015 and includes proposals of 1,000 sq m or greater. The proposal is for 2,390 sq m of floorspace and is therefore a major development proposal and is captured by this part of Policy D12.
9. The appellant has submitted a Fire Statement (FS). The policy sets out a series of details that should be included in the FS. The first is that the FS must be produced by a suitably qualified assessor. The FS supporting the appeal was produced by a design and architectural practice and was not, therefore, produced by such an assessor.
10. The FS provides high level details of the proposed construction methods and materials that are likely to be used including confirmation that certain fire resistance and surface spread of flame standards would be met. Full details are not provided but this is not possible because the proposal is in outline. There is no reason to believe that suitable construction methods and materials would not be used at the detailed design stage and this could be controlled by condition.
11. Two indicative fire exit points and three fire assembly points are detailed in the FS. These logically exit onto existing areas of open space to the north-east and south east facades of the proposed building. No information on stair cores or escape strategies for either able bodied or disabled persons is provided. However, this is because the proposal is in outline. There is no reason to

- believe that suitable access routes and stair cores could not be incorporated into the final, detailed design. This could be controlled by condition.
12. A Fire Safety Management Plan has not been submitted but there is no reason to believe that a suitable plan could not be drawn up and this could follow as part of the detailed design and could be secured by condition.
 13. There would be access to the southern end of the proposed building from the site access from Humber Road, as detailed in the FS. However, a significant part of the proposed building would be attached to the existing warehouse and would be difficult to access from this location. No information has been provided of how the fire service could appropriately access the northern part of the proposed building and effectively fight a fire. Access from Horseshoe Close has been mentioned but no details are provided as to whether or not this would be suitable for the fire service.
 14. This information could be provided, at least in part, at outline stage, because the footprint and location of the proposed building is known. It cannot be conditioned because it is not clear, without further evidence, if an acceptable solution could be achieved at the detailed design stage, within the constraints of the proposed footprint and design of the building. For the same reason, I cannot rely on future compliance with building regulations with regard to fire safety, because it might not be possible to achieve compliance within the constraints of the proposal at outline stage.
 15. It has not, therefore, been adequately demonstrated that fire safety and the safety of all building users has been appropriately considered and the proposal fails to comply with Policy D12 of the LP.

Highway Safety

Car Parking

16. The existing site provides off-street car parking for approximately 40 cars. This is in a mixture of un-marked and marked spaces within the service yards to the front and side of the existing building. There is little apparent management of the spaces and they are used in a haphazard manner. It is proposed to formalise the existing car parking arrangement within the service yards and to create several new spaces at ground floor within the proposed building. This would also provide dedicated spaces for disabled persons. The detail of this could be controlled by condition and/or through reserved matters submissions.
17. The London Plan standard for off-street car parking for use class B8 floorspace¹ is to have regard to the office parking standard, which is one space per 100 sq m GIA in outer London, where the appeal site is located, but adjusted to take account of the significantly lower employment density. Paragraph 10.6.18 in the reasoned justification to Policy T6.2 states that the different employment densities should be based on the Density Guide 3rd Edition November 2015, by the Homes & Communities Agency (the DG). The DG finds office employment density to vary between 8 and 13 sq m per employee, whereas use class B8 density ranges between 70 and 95 sq m per employee. This suggests approximately seven to eight times lower density in use class B8 compared to office and an associated reduction in car parking standards.

¹ See Policy T6.2 and Table 10.4

18. The total proposed floorspace, both existing and proposed, would be 1,900 sq m office and 2,800 sq m storage. This equates to a parking standard of 19 spaces for the office floorspace and approximately four spaces for the storage floorspace ie approximately 24 spaces in total. 45 off-street car parking spaces are proposed. However, this must be considered in the context of the existing off-street car parking for approximately 40 cars. I have been provided with conflicting evidence regarding spare capacity on the appeal site at present. However, even if there is spare capacity this could change if a new occupier with a greater number of car users were to occupy the existing building, and this would be outside of planning control.
19. The surrounding streets are relatively heavily parked and there is limited capacity to safely accommodate more on-street car parking. Because of the mixture of residential and industrial uses in the area the potential for harm arising to highway safety from additional on-street car parking is relatively high.
20. Policy T6.2 of the LP explicitly highlights that car parking must be considered on a case by case basis. For the appeal proposal, the context is that there would be improvements to the existing situation through the formalisation of the car parking layout and an increase in car parking spaces. The proposed level of car parking would therefore likely ensure that there would be no material increase in on-street car parking on surrounding streets. Therefore, the proposed car parking would both likely result in an acceptable increase in traffic movements and would not materially harm highway safety.

Servicing

21. Existing site access is via an approximately 10m wide dropped kerb through a sliding gate from Humber Road. This provides access to the existing storage warehouse and is suitably sized and located to accommodate large delivery vehicles. There are existing on-street car parking restrictions either side of the access to prevent obstruction or unacceptable impairment to sightlines. This arrangement would remain as existing and the proposed limited intensification of the use of this access would therefore likely remain acceptable in operational and highways safety terms.
22. The existing building has two full-sized loading bays, one to the front and one to the rear. The existing loading bays would be retained. No new loading bays are proposed. However, the proposal is for a warehouse adjacent to the existing rear loading bay. Full details of internal access arrangements have not been provided. It has not therefore been demonstrated that an acceptable internal layout and servicing strategy could be achieved, including goods lifts as appropriate. This level of design detail cannot be subject to control by condition because 'layout' has been applied for in full.
23. Swept path analysis has been provided detailing a 16.5m rigid vehicle accessing the rear loading bay²². This manoeuvre would conflict with six of the proposed car parking bays. No swept path analysis has been provided for access to the front loading bay. Although there would be no physical changes to access to this existing bay, the proposed three parking spaces for the disabled could potentially prevent access to the loading bay by rigid delivery vehicles. It has therefore not been demonstrated that the proposal could safely

²² Drawing Ref SA 05 003 Rev A01

accommodate deliveries to either the front or the rear loading bay without conflicting with car parking. It is therefore possible that servicing and deliveries to the proposal would need to wait on the highway or undertake unsafe manoeuvres within the appeal site.

24. A Car Park Management Plan or Travel Plan or similar could be required by condition. However, without further information it is not possible to ascertain whether or not the potential conflict between the proposed car parking and deliveries or servicing could be satisfactorily resolved, even with careful management or re-location of the parking bays. It has therefore not been demonstrated that such a condition could make the proposed development acceptable. In addition, it would not be appropriate to attach a condition restricting use of the appeal site to not include large vehicles because this would unfairly fetter the future use of a warehouse if it were to be occupied by a different business.

Pedestrian and Cyclist Access

25. Limited information has been provided regarding pedestrian access. However, the proposed building would link to the existing building. There is no reason to believe that a suitable internal arrangement utilising the existing access could not be achieved. Even if some pedestrian access is required directly to the proposed building from the access road/service yards then this could be safely accommodated because of the relatively large amount of open space and the slow speeds that vehicles would be travelling in these locations due to their constrained nature. Similarly, the detail of a safe cyclist route to the proposed cycle parking within the ground floor of the proposed building could be achieved at detailed design stage. The detail of how these measures could be achieved and then managed could be controlled by condition, for example requiring a Delivery and Servicing Management Plan, a Travel Plan, or similar.

Overall

26. Although adequate levels of car parking have been proposed it has not been demonstrated that the parking could co-exist with adequate access to both loading bays for deliveries and servicing. It has also not been demonstrated that an acceptable internal layout could be provided with regard to servicing and goods lifts. Consequently, it has not been demonstrated that the proposal would not lead to unacceptably adverse effects on highway safety and also to vehicular and pedestrian safety within the site.
27. The proposal therefore fails to comply with Policy BT2 of the BLP which requires parking provision to not have negative impacts on the highway or other forms of movement, and Policy BT3 of the BLP which requires the provision of servicing facilities for use class B8 buildings greater than 1,000 sqm, as is proposed, for full-sized 16.5m delivery vehicles. It also fails to comply with Policy T6 of the LP which requires adequate provision for servicing, and Policy T7 of the LP which requires adequate space for safe servicing. The proposal would, however, comply with Policy BT1 of the BLP, which does not relate to servicing and access.

Other Matters

28. Several letters of objection have been submitted by interested parties. They raise various concerns in addition to those addressed above, in particular

inconsistencies in the application material, the existing occupant has no intention of leaving the site, and Low Traffic Neighbourhoods (LTNs) have increased traffic on Humber Road and this is not accounted for in the Transport Assessment. I have not identified any inconsistencies in the supporting information that I could not reconcile. Any planning permission would run with the land and the intentions of the existing occupant to vacate the site is not therefore a material consideration. It is possible that nearby LTNs could have materially altered the traffic flow and highways safety profile on the roads surrounding and accessing the appeal site. If the proposal had otherwise been acceptable, then I would have required further information to be submitted in this regard.

Conclusion

29. For the reasons above, the appeal is dismissed.

O S Woodward
INSPECTOR