



Appeal Decision

Site visit made on 24 May 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2023

Appeal Ref: APP/T5150/W/22/3312169

542 Kingsbury Road, Brent, London NW9 9HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr J Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3043, dated 1 September 2022, was refused by notice dated 31 October 2022.
 - The development proposed is described as a "single storey rear extension [remove the temporary structure and rebuild proper extension]."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's position is that the temporary structure on the rear service yard at the appeal site has been erected recently and does not benefit from planning permission. The appellant has not provided any substantive evidence to the contrary and therefore I have no reason to disagree with the Council's evidence and I have determined the appeal on this basis. If the appellant wishes to ascertain whether this structure would be lawful, they may make an application under Section 191 of the Act.
3. The appellant submitted an amended plan, at the final comments stage indicating that 2 cycle parking spaces could be provided within the appeal site. However, the Council has not had the opportunity to comment on the drawing and would be prejudiced by its acceptance at the final comments stage. The appeal process should not be used to evolve a scheme and it is important that what is considered at appeal is essentially what was considered by the local planning authority. Accordingly, I have not taken the amended plan into account in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the operation of the highway and local parking conditions.

Reasons

5. The appeal site relates to a mid-terrace, ground floor retail unit, with residential accommodation above, centrally located within Kingsbury Town Centre. The retail premises faces Kingsbury Road, which is a busy distributor road and bus route. It has wide pavements and cycle paths, and parking is restricted by double-yellow lines on both sides of the road, except where

- parking bays exist. These parking bays limit parking to a maximum of 2 hours between 08:00 and 18:30, Monday to Saturday. I observed that the surrounding area is heavily congested, with high demand for parking provision.
6. The rear of the appeal site is accessed via a shared access road from Brampton Road. This also provides access to the rear of neighbouring businesses, the residential accommodation above and also to a small private residential development, which has its own private parking area. Brampton Road is a traffic-calmed, mostly one-way, residential street where on-street parking is generally unrestricted. I observed parking demand is high in this location.
 7. The proposed extension would be located to the rear of the appeal site and would replace a temporary building. This would result in the permanent loss of the existing service yard, which would in turn lead to the displacement of the servicing activity and associated parking by the business and residents in the upper floors of the building onto the surrounding streets.
 8. Policy BT3 of the Brent Local Plan 2022 (BLP) seeks to resist the loss of existing servicing where it is required to meet operational needs. The Council states that Appendix 5 of the Local Plan provides further guidance on servicing requirements for retail units such as the appeal site, which indicates that provision should be made for servicing by a transit sized van. I have not been presented with any evidence to demonstrate that the service yard is no longer required to meet the operational needs of the commercial premises.
 9. The appellant has put forward the case that if the extension was built and the service yard was lost, there would still be space retained after the development to meet their servicing needs. However, as the proposed extension would take up the majority of the existing service yard this would mean that any future servicing in this location, would be predominantly located within the shared access road. There is no substantive evidence before me to demonstrate that the width of the rear access is sufficient for vehicles to park within it without causing an obstruction to users of the access.
 10. In addition, it has not been shown that a scheme would provide adequate storage for refuse bins within the site and I noted at my site visit that bin storage for other units is on the access road further restricting the available space for vehicles to manoeuvre. As such, due to its limited width, there are very few opportunities for vehicles to turn around. This would lead to vehicles needing to either reverse out onto Brampton Road or reverse into the access to be able service the appeal property from the rear. The effect of reversing manoeuvres on Brampton Road in an area which is particularly congested, close to the junction with Kingsbury Road and already subject to on-street parking pressures, would be detrimental to highway safety and harmful to the safe operation of Brampton Road.
 11. In respect of Kingsbury Road, if the servicing activity of the premises is relocated to the front of the site, this would impact on the availability of parking for those accessing the facilities in Kingsbury Town Centre. The Council have provided examples of the existing level of demand for parking in this location, illustrated by a photograph of parking occurring on the footway, giving rise to conflict between vehicle, cyclists, and pedestrians. In this particular location, the combination of the wide footpath and adjoining cycle path means that there is a considerable distance between the location of the available parking bays and the front of the appeal site. This would make

servicing the appeal premises from this location less practical, particularly at busy times. As such, this would not represent a suitable or practical alternative to the existing service yard provision which exists to the rear.

12. The evidence from the Council is that the rear service yard would have historically been available to both the retail unit and to residents of the flats above for car and bicycle parking and this is not disputed by the appellant. Therefore, the proposed extension would result in a reduction in parking provision which would be displaced into the surrounding roads. As outlined above, I observed there to be high demand for on-street parking on Brampton Road and parking restrictions are in place on Kingsbury Road. Whilst the provision of parking for residents refers to maximum standards rather than minimum standard, it would nevertheless, result in increased demand for on-street parking in an area already experiencing parking stress, which would be detrimental to local parking provision.
13. The provision of bicycle parking is required by the BLP and London Plan 2021, and in this case, the requirement is for four secure bicycle spaces to be provided. Whilst the appellant has sought to submit details of bicycle parking at the final comments stage, for the reasons set out above, this amended plan has not been accepted. In any case the level of provision shown on that plan is below that required to meet the council's standards. Without adequate cycle parking spaces within the site there is insufficient evidence that the residents of upper floors of the appeal property have been provided with alternatives to the car, adding to my concern about the demand for on street car parking facilities.
14. I observed that a number of premises within the terrace have developed their rear service yards. However, the loss of further servicing provision from the area, would lead to increased demand for alternative provision, which for the reasons I have set out would be harmful to the operation of the highway.
15. Although there is no specific reference to a consultation response from highways, the Council have set out their concerns about the effect of the development on the highway network and their policy basis for refusing permission. I have considered the appeal on this basis.
16. Whilst I acknowledge that the proposed extension would improve the available floorspace for the commercial unit, which may be beneficial to the operation of their business, I have little to suggest that the business is not operating effectively with its current floorspace, and I attach limited weight to this matter.
17. For the above reasons, I conclude that the proposed development would result in the unacceptable loss of an existing service yard, which would cause harm to the safe operation of the highway network and would be detrimental to parking provision in the surrounding area. This would be contrary to Policy BT3 of the BLP, which amongst other things, seeks to resist the loss of servicing, where it is required to meet operational needs.

Conclusion

18. For the reasons given above, the proposed development conflicts with the development plan taken as a whole and there are no material considerations which would outweigh that conflict. Therefore, the appeal is dismissed.

K Lancaster

INSPECTOR