



Appeal Decision

Site visit made on 5 December 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/T5150/W/23/3316336

35 High Road, Brent, London NW10 2TE

- 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 Dennis Farrell (O'Farrells Traditional Family Butchers) against the decision of The Council of the London Borough of Brent.
 - The application Ref 22/3404, dated 3 October 2022, was refused by notice dated 1 December 2022.
 - The development proposed is the retention and repositioning of existing air con units.
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Decision

1. The appeal is allowed and planning permission is granted for the retention and repositioning of existing air con units at 35 High Street, Brent, London NW10 2TE in accordance with the terms of the application, Ref 22/3404, dated 3 October 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: O PA 02 Rev C (Location Plan and Site Plan) and O PA 01 Rev C (Existing Floor Plans and Elevations).

Preliminary Matters

2. I observed on my site visit that the development has been completed in accordance with the revised plans that the appellant has submitted as part of their appeal statement. The revised plans only differ from the original plans by relocating one of the air conditioning units to the left side of the rear elevation. I am satisfied that this does not fundamentally change the application or cause unlawful procedural unfairness to anyone involved. As such, I have therefore determined the appeal on the basis that retrospective permission is sought for the development which has already been implemented.

Main Issues

3. The main issues are: (i) whether the proposed development would preserve or enhance the character or appearance of the Willesden Green Conservation Area; and (ii) the effect of the proposed development on the living conditions of occupiers of neighbouring properties, with regards to noise.

Reasons

Conservation Area

4. The appeal site is located within the Willesden Green Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this instance, the area is predominantly characterised by two and three storey properties of varying styles, often with retail or food premises on the ground floor and residential accommodation above. When considered as a whole, the general appearance of the buildings, and their use, contributes to the significance of the area as a historic town centre.
5. The appeal site is to the rear of No. 35 High Street, facing an alleyway known as Ellis Close, and a modern supermarket building and car park. The rear of No. 35, and the neighbouring properties either side, have been significantly modified over the years with various additions to the built form, including outriggers and loft conversions. There is also a proliferation of modern features such as satellite dishes, aerials and air conditioning units, although the Council has noted that some of these units have not received planning permission. While the original historic character of the buildings, including No. 35, can still be appreciated from this viewpoint to some extent, the appeal site and its immediate surrounds do little to contribute positively to the significance of the Conservation Area overall.
6. This appeal seeks to retain four existing air conditioning units on the rear of No. 35. Two of the units are situated behind a wall and can only be glimpsed from public vantage points. Two further units have been installed on a rear facing wall, above an access door. These two units are visible from the alleyway, and in combination, they do inevitably add visual clutter to the area to some degree. However, this is limited to a significant extent by their relatively modest size and the fact that the units do not extend above the existing building line. As such, they are not overly prominent or eye-catching. In addition, the presence of other modern paraphernalia on neighbouring buildings also means that the units at No. 35 do not stand out as being particularly unusual or out of place. Taking all of this into account, I do not find that the development has resulted in harm.
7. I am aware that a previous application for a similar proposal was previously dismissed at appeal¹. However, in that instance, the Inspector's key concern was with regard to a proposal to locate one air conditioning unit on the roof of the rear extension which would have been far more prominent and would have led to visual harm. This concern has been successfully addressed by the modified scheme that is before me.
8. I am therefore satisfied that the development preserves the character and appearance of the Conservation Area, and its significance would not be harmed, thus satisfying the requirements of the Act. It therefore conforms with Policies D3 and HC1 of the London Plan, as well as Policies DMP1 and BHC1 of the Brent Local Plan, February 2022 (LP). Taken together, the relevant aspects of these policies seek to ensure that new development preserves character and appearance, including that of designated heritage assets. The development also

¹ Appeal Decision APP/T5150/W/22/3290995

conforms with the Willesden Green Conservation Area Character Appraisal (2006) which has similar aims.

Living Conditions

9. The appeal site occupies the ground floor of No. 35, with residential accommodation on the floors above. There is also residential accommodation within the upper floors of the neighbouring properties. As such, there are rear facing windows within reasonably close proximity to the air conditioning units.
10. The Council refused the application, partly on the basis of inadequate information relating to noise. This was also a further concern for the Inspector in the previous appeal. In order to address this issue, the appellant has submitted a noise assessment (NA) which was prepared by Airtight and Noisecheck Limited in January 2023.
11. The NA appears to be based on a robust methodology, and as such, I have no reason to disagree with its conclusions. In this instance, the NA states that the noise emanating from the units would not be perceived by the nearby residents, particularly given existing background noise, including at night time. This is partly as a result of the screening provided by the building façade. As such, the NA concludes that no mitigation is required to make the development acceptable. I also note that no objections have been received from third parties as part of this appeal.
12. As such, I am satisfied that the development does not harm the living conditions of the occupiers of neighbouring dwellings, with regards to noise. It therefore conforms with Policies D13 and D14 of the London Plan as well as LP Policy DMP1. Taken together, the relevant aspects of these policies seek to preserve living conditions.

Conditions

13. I have imposed standard conditions to identify the relevant timescales and plans in the interests of certainty. The Council has suggested a further condition to require the submission and approval of a noise assessment. However, in this instance, I have found that the additional evidence submitted by the appellant is adequate. As such, imposing that condition is not necessary.

Conclusion

14. The proposed development is in accordance with the development plan when considered as a whole. Having had regard to all matters raised, I conclude that the appeal should be allowed.

C Butcher

INSPECTOR