



Appeal Decisions

Site visit made on 16 July 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 July 2024

Appeal A Ref: APP/N5090/W/24/3340038

65 Golders Green Road, Golders Green, Barnet, London NW11 8EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms. Sifa Gokaslan against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 22/0718/RCU.
 - The development proposed is extractor fan opening to rear elevation.
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Appeal B Ref: APP/N5090/Y/24/3340037

65 Golders Green Road, Golders Green, London NW11 8EL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Ms. Sifa Gokaslan against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 22/0719/LBC.
 - The works proposed are extractor fan opening to rear elevation.
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Decisions

1. Appeal A: The appeal is dismissed.
2. Appeal B: The appeal is allowed and listed building consent is granted for the extractor fan opening to rear elevation at 65 Golders Green Road, Golders Green, Barnet, London NW11 8EL in accordance with the terms of the application Ref.22/0719/LBC and the plans submitted with it subject to the following condition:
 1. The works hereby permitted shall be carried out in accordance with the site location plan and drawing nos. GG-2501-PEBP (Block Plan), GG-2911-PEEP (proposed ground floor plan and rear elevation).

Application for costs

3. An application for costs was made by Ms Sifa Gokaslan against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matters

4. There are two appeals on this site. They relate to the planning application and listed building consent for the same scheme. To avoid duplication, I have dealt with them together, except where otherwise indicated.

5. I have omitted the word 'retrospective' in the banner heading above as this is not a description of development/works. I noted on my visit that the extractor fan opening, referred to in the description above, has been undertaken and appears to accord with the plans submitted. It is intended to retain this element which has already occurred, and I have dealt with it on that basis. I note, however, that additional filtration equipment is proposed to be installed and this is also the subject of these appeals.
6. I have a statutory duty under sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 189 of the National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

Main Issues

7. The main issues are:

- The effect of the proposal on the living conditions of the occupants of neighbouring residential properties, with particular regard to odour (Appeal A); and
- The effect of the proposal on the special interest and significance of a listed building (Appeal A and B).

Reasons

Living conditions (Appeal A)

8. The appeal property is a 4-storey terraced building within a parade of commercial units in the retail centre of Golders Green. The appeal proposal relates to the commercial unit on the ground floor which is in use as a bakery/cafe. There appear to be many residential properties on the upper floors, including above and to the sides of the appeal premises.
9. The extractor fan opening has been installed through the rear wall of the property, just to the side of an exit door. At this point, the doorway is below ground level and a flight of steps leads up to a rear service road, contained on either side by single storey flat-roofed extensions. The extractor fan opening faces these steps and is positioned just above the height of the door and sits between the rear extensions. Consequently, the extractor fan opening is in a low position on the rear of the building, and this is in close proximity to the access stairs, private terraces and rear-facing windows of the above and adjoining residential properties. This creates a sensitive relationship and I note that concerns have been expressed from nearby residents that cooking smells and odour are being experienced from this premises, albeit that the proposed additional filtration equipment has not yet been installed.
10. The submitted 'Specification for EMAQ/DEFRA Report' (2023) undertaken by ventilation specialists states that the proposed filtration system takes account of the level of discharge from the kitchen, the proximity of receptors, the size of kitchen and the cooking type. It concludes that the premises requires a 'Very

High Level' of odour control to comply with Emission Monitoring and Air Quality (EMAQ) Guidance. The report concludes that the proposed system will not exhaust nuisance odours affecting nearby residents, provided that it is maintained in accordance with a service maintenance contract.

11. However, while I have carefully considered the report, the details do not assure me that sufficient account has been taken of site-specific information to demonstrate to my satisfaction that the proposed system would satisfactorily treat and disperse nuisance odours at this site. The report does not appear to specifically set out in detail the effects of the low discharge point of the fan opening, the containment provided by adjoining structures and the much closer proximity of nearby residential windows and terraces than the 20m which the EMAQ risk assessment guidance regards as a close proximity of receptors. I saw this close relationship on site with several windows and roof terraces within a few metres above the extract fan opening. Indeed, the appellant suggests that the fan opening is within 2m of the closest neighbour. It has not, therefore, been adequately demonstrated that even with the high-level filtration system in place, that the living conditions of the occupants of the residential properties nearby would not be adversely affected. In particular, those occupants may be adversely impacted when enjoying their external spaces or wishing to open the closest windows for ventilation, and the harm could occur on a daily basis.
12. Indeed, I give greater weight to the views of the Council's Environmental Health Officers, who state that in their experience, given the circumstances of the site and the type of cooking, in the absence of a tall flue, the odour dispersion would be poor, and the proposal would have an unacceptable impact on the amenities of nearby properties.
13. As it stands, I consider that there is insufficient information before me to demonstrate that the proposed equipment would be sufficient to achieve the levels of odour mitigation that would be necessary to avoid a detrimental impact on the living conditions of nearby residents. I have considered whether conditions could be utilised to secure mitigation measures, and I note the ones suggested, without prejudice by the Council, as part of the appeal. These specify a fairly considerable level of subsequent detail, and I have concerns whether this could be achievable given the circumstances I have outlined above. Given the need for more certainty at this stage, it would not be appropriate or reasonable to defer such a significant issue to a later stage.
14. I therefore conclude that it is appropriate to take a precautionary approach and in the absence of sufficient information to demonstrate otherwise, there is potential for unacceptably harmful effects to the living conditions of the occupants of neighbouring residential properties with particular regard to odour. As such, the scheme would fail to comply with Policy DM04 of Barnet's Local Plan Development Management Policies (2012) and its Supplementary Planning Document: Sustainable Design and Construction (2016) which together seek to ensure that development does not contribute to poor air quality. The Framework also requires good design and the creation of better places to live and work.

Listed building (Appeal A and B)

15. The appeal property forms part of a range of buildings which is a Grade II listed building (Ref.1061366, known as The Promenade). The list description

mentions that it is a notable parade of shops with flats above by a named architect which forms a key part of the heart of Golders Green. It describes in some detail the arrangement and architectural detailing of the front elevation. In relation to the appeal before me, the building's special interest and significance derives from its age, plan form, function, historic fabric and its architecture. Whilst not mentioned in the list description, the rear elevation is more utilitarian in appearance with a profusion of rear additions, access points and typically more restrained detailing. Despite a lack of grandeur, the rear elevation and service yards contribute to the building's special interest and significance.

16. Although the Council has refused the listed building consent application, they have raised no objection regarding the impact of the proposal on the building's historic or architectural significance. They consider that historical and extensive internal alterations have already occurred, and the external exhaust has a minimal appearance. Having viewed the extractor fan and opening as installed, I have no reason to disagree. The location is discrete, situated below a grille enclosure securing the rear door, and is largely unnoticed from both near and more distant vantage points. No further changes, including any form of high external exhaust stack, are proposed to the external outlet. Internally, the new apparatus would be viewed in conjunction with a modern catering kitchen and café interior. It follows, therefore, that the extractor fan opening and the further proposed filtration equipment subject to this appeal would cause no harm to the special interest or significance of the listed building.
17. The proposal would have no harmful effect on the special interest and significance of the listed building. It would comply with Policy CS5 of Barnet's Local Plan Core Strategy (2012) and the Framework which seek to ensure that proposals preserve the significance of listed buildings.
18. It would not be appropriate to grant planning permission because of the odour concerns that I have found above. However, this is not a matter in terms of the issues to be considered with the listed building consent appeal and I see no reason why the Listed Building consent appeal should not succeed.
19. With regard to this listed building consent, I have considered the conditions put forward by the Council. It is not necessary for me to attach a timing condition as the works have already commenced. However, a condition requiring the development to be carried out in accordance with the approved drawings is necessary to provide certainty.

Other Matters

20. The Council indicates that the site is within the Golders Green Conservation Area (CA). Whilst the Council makes little reference in the appeal documentation to the effect of the development on the character and appearance of the CA, I must comply with my statutory duty under the Act as stated above. From the evidence before me and my observations at the site visit, I consider that the significance of the CA is mainly drawn from the busy commercial centre with its large and architecturally rich and distinctive parades of shops and other uses with mainly flats above. As the proposal relates to the installation of an extractor fan at the rear of one of those buildings, with limited public views, I have no evidence to suggest that any harm would be caused to the wider character or appearance of the CA. It is therefore not necessary for me to consider this further.

Conclusion

21. Appeal A: For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that this appeal should be dismissed.
22. Appeal B: The appeal is allowed.

G Bayliss

INSPECTOR