



Appeal Decision

Site visit made on 3 December 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 January 2025

Appeal Ref: APP/T5150/C/23/3314895

Rear of 71 High Road, London NW10 2SU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Sakhi Ataei of Azlon against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 9 December 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a car repair/MOT centre/tyre fitting service.
 - The requirements of the notice are:
STEP 1 Completely and permanently cease the use of the land to the rear of 71 High Road as a car repair/MOT/tyre fitting service.
STEP 2 Remove all vehicles, tyres, equipment, tools, scrap, and waste materials that are associated with the unauthorised change of use from the land/premises.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a) the deemed planning application

2. The main issues are the effect of the development on the living conditions of the occupiers of surrounding residential properties with particular regard to noise and disturbance and, whether the use preserves or enhances the character or appearance of the Willesden Green Conservation Area (WGCA).
3. The appeal site is located to the rear of 71 High Road within Willesden Town Centre in the Willesden Green Conservation Area (WGCA), the significance of which is derived from its character as shopping parades forming a linear centre over one mile in length. Whilst the WGCA includes various uses, these typically include retail uses, cafes, and restaurants at street level with offices and residential spaces above.
4. The site is set back from the high street and although it had been vacant for some time, was used as a builders merchants which, as the Council stated, would be retail in nature. In my view, given its appearance and location behind the shopping parade, the site and former use would have made a neutral contribution to the significance of the WGCA.

5. The site includes two areas within buildings at ground floor level, with a further area under a canopy type structure, all surrounding a modest forecourt. At the time of my visit there were several cars at the site, both within the buildings and on the forecourt. Whilst the appellant stated that the garage where work is undertaken is located at the back and corner of the building, I saw cars being worked on on the forecourt, in the open, and there were also two cars outside of the site which appeared to be being attended to on the road.
6. I heard noise from the use of equipment within the site, however there were building works ongoing on the opposite side of the road and a reasonable amount of noise emanating from those, along with general noise from road traffic. Accordingly, based on my observations, it is not possible to conclude that the levels of noise generated throughout the daytime are materially harmful.
7. However, other than stating that they do not undertake any MOT services, nor undertake any work which creates fumes and noise, little detail has been provided about how the business operates including the days or hours of operation. Comments from a third party suggest that the business operates at the weekend early in the morning until late at night, with loud drilling, sawing and metal bashing noise heard above the noise of the road.
8. The Council also stated that they have received complaints from residents concerning unacceptable levels of noise generated outside normal operating hours at weekends.
9. Given that there are residential properties near the site and background noise levels are likely to be lower in the evening and at weekends, the use causes material harm to the living conditions of residents as a result of noise and disturbance. Moreover, whilst set back from the main shopping parade, garages are not a typical town centre use, and the use therefore detracts from and does not preserve the character of the WGCA.
10. In support the appellant referred to other similar businesses in the area however, few details were provided. According to the Council, one is in an established industrial area outside of the WGCA and another located directly adjacent to an established industrial area. These are not therefore directly comparable to the appeal development. The other business referred to, the Council have no record of and in the absence of details is not comparable.
11. Given the scale of the appeal development within the context of the WGCA as a whole, I consider the harm to be less than substantial. Nevertheless, I am mindful that in the National Planning Policy Framework (the Framework) paragraph 212 says great weight should be given to the conservation of a designated heritage asset and any harm to such assets should require clear and convincing justification. Paragraph 215 states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits.
12. Whilst the development provides a service to the public, I have no substantive evidence about demand for that business or need for its current location, so this is a matter of little weight. Consequently, the public benefits do not outweigh the great weight that I am required to attach to the heritage asset's conservation.

13. Accordingly, the development is contrary to policies DMP1 and BHC1 of the Local Plan¹ which together require that development sustains or enhances the significance of heritage assets and is of a location and use which complements the locality and which does not unacceptably increase noise and general disturbance. In addition, it conflicts with the Framework which requires a high standard of amenity for existing and future users, and which seeks to conserve and enhance the historic environment.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR

¹ London Borough of Brent Brent Local Plan 2019-2041 Adopted February 2022