



Appeal Decision

Site visit made on 18 February 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/T5150/W/24/3354583

Land rear of 58-60 Ealing Road, Wembley HA0 4TQ

- 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 Mr J Virdi against the decision of the Council of the London Borough of Brent.
- The application Ref is 24/1701.
- The development proposed is a container storage facility accommodating 17no x 6m units to the rear for use by local small businesses.

Decision

1. The appeal is allowed, and planning permission is granted for a container storage facility accommodating 17no x 6m units to the rear for use by local small businesses at Land rear of 58-60 Ealing Road, Wembley HA0 4TQ in accordance with the terms of the application, Ref 24/1701, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos EX-EA-CO-01, PR-EA-CO2-01, PR-EA-CO2-02, PR-EA-CO2-05, PR-EA-CO2-06.
 - 3) The development hereby permitted shall be carried out in accordance with the details provided in the Peter Pendleton Associates Ltd Servicing and Noise Management Plan, dated October 2024, and shall thereafter be managed and maintained in accordance with the same document for the lifetime of the development.
 - 4) The development hereby permitted shall be carried out in accordance with the details provided in the GeoSmart Flood Risk Assessment dated 2024-05-21, report reference 82042R2 and the GeoSmart Sustainable Drainage Assessment dated 2024-05-23, report reference 82042R1, and shall thereafter be managed and maintained for the lifetime of the development.

Preliminary Matters

2. The Government has recently published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

3. As part of the appeal, the appellant has submitted a revised Flood Risk Assessment¹ (the revised FRA), a Sustainable Drainage Assessment², a Flood Risk Assessment Submissions Checklist, and a Servicing and Noise Management Plan³. Although these documents are new information from what was considered by the Council none of the documents result in a substantial or fundamental change to the application. Moreover, as the documents were all submitted with the appeal the Council has had an opportunity to comment on them. As such, neither main party would be unfairly prejudiced and I, therefore, have considered the submitted information in determining this appeal.

Main Issues

4. The main issues are:
- whether the development would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding; and
 - the effect of the proposed development on the living conditions of the neighbouring residential properties, with particular regard to nuisance and noise.

Reasons

Flood risk

5. The appeal site comprises a hard surfaced area to the rear of the commercial properties on Ealing Road. The site is identified in the West London Strategic Flood Risk Assessment as being within flood zone 3a for surface water flooding and as being at high risk.
6. The revised FRA confirms that the site is within flood zone 3a. This is updated from the information provided at the planning application stage which suggested that the site was in flood zone 1 and at low risk of flooding. The revised FRA considers the more detailed local information referred to by the Council rather than relying on the Environment Agency mapping system.
7. The Framework advises that the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The appeal site is at risk of surface water flooding. However, paragraph 176 of the Framework advises that some minor developments and change of use should not be subject to the sequential test. Footnote 62 of the Framework sets out the forms of minor development and this includes small non-residential extensions with a footprint of less than 250m² and changes of use. Although the appeal proposal is not an extension to an existing building the containers would have a total footprint of less than 250m². Moreover, the proposal is for the use for siting of storage containers, rather than built development. The list at footnote 62 is not a closed list and the proposal would be similar to two of the exceptions listed.
8. The Planning Practice Guidance (PPG) advises that the aim of the sequential approach is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The PPG confirms that the

¹ GeoSmart Flood Risk Assessment dated 2024-05-21, report reference 82042R2

² GeoSmart Sustainable Drainage Assessment dated 2024-05-23, report reference 82042R1

³ Peter Pendleton & Associates Servicing and Noise Management Plan dated October 2024

sequential test should be applied to major and non-major development with three exceptions, including that the application is for a development type that is exempt from the sequential test, as specified in footnote 62 of the Framework. . For the above reasons, I find that the application meets this exception, and the development does not need a sequential test.

9. Nevertheless, paragraph 176 of the Framework continues to require a site-specific flood risk assessment as the site is at risk of surface water flooding. In this case an FRA has been provided.
10. The revised FRA advises predicted flood depths of up to 0.9m in the 1 in 100 year plus climate change event. The finished floor level of the containers would be 0.2m above ground level and internal features should be raised a further 0.3m. Although this would mean that the contents would be at risk of flooding in a 0.9m event the revised FRA also recommends water sealing the containers so as to prevent any water entering them. Moreover, the contents would be business storage and there is no risk to life from flooding.
11. The revised FRA provides sufficient information to demonstrate how flood risk would be managed now and, in the future, taking account of climate change and complies with the requirements of Policy BSU13 of the Brent Local Plan 2019-2041 (the LP) and also provides the West London SFRA checklist. It also demonstrates that, for the proposed use, the development would be sufficiently resistant and resilient to all sources of flooding, including surface water flooding, and I have no compelling evidence to the contrary.
12. I saw that the existing hard surfaced area already has drainage channels provided and the submitted Sustainable Drainage Assessment recommends the provision of rainwater harvesting butts located at each end of the group of containers, permeable paving, and the use of an existing attenuation tank to reduce the surface water run-off from the appeal site. The Sustainable Drainage Assessment provides details of sustainable drainage measures, as required by Policy BSU14 of the LP, and details the proposed measures to reduce surface water run-off. I have no evidence that the appellant's surface water drainage reduction measures would not reduce the potential for flooding both on the site and elsewhere, as required by Policy BSU13 of the LP.
13. For the above reasons, the development would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would, therefore, comply with the requirements of Policies BSU13 and BSU14 of the LP.

Management arrangements

14. The appeal site lies behind the units on Ealing Road which are commercial on the ground floor and residential above. There are terrace houses on Swinderby Road which back onto the appeal site with rear gardens separated from the site by close boarded fences. Either side of the appeal site is the car park to the business on Ealing Road and a vacant parcel of land.
15. The Servicing and Noise Management Plan (the SNMP) submitted with the appeal sets out that the proposal is intended to serve as storage facilities for the businesses in the area. The SNMP confirms that prospective tenants of the

storage units would need to demonstrate that they operate a small business in the area and contracts would be reviewed and renewed annually.

16. The SNMP also advises that the contracts with the tenants would limit the vehicle size permitted to access the site, that there would not be any storage of hazardous or flammable substances and no external storage outside of the containers.
17. The opening hours of the site would be limited to 08:00 to 19:00 Monday to Saturday, 10:00-16:00 on Sunday with no opening on Bank Holidays. Tenants would be required to book a slot to access the site to ensure that there is only one tenant on site at any one time, so as to limit vehicle movements. Although tenants would have access to the site through a key fob to unlock the gates any access outside of a booked slot would be contrary to the contract and the appellant has confirmed that this would result in the loss of the contract. Any access of the site outside of the opening hours would be limited to refuse collection and security.
18. CCTV and noise monitoring is proposed within the SNMP to enable the appellant to monitor and manage the access to the site, site security and to ensure that noise would not be unacceptably harmful to the area.
19. Although the SNMP does not detail the potential effect on the living conditions of neighbouring residential properties or how many businesses are likely to use the facility, it does demonstrate how the units would operate in conjunction with existing retail/business premises in the vicinity, through the requirements of the contract. It also details the operating hours and the general management and monitoring of use and noise which are sufficient to understand that the development would have limited adverse effects on the living conditions of the neighbouring properties.
20. Subject to the operation of the site complying with the SNMP the ongoing use of the site for storage containers would not be likely to have an unreasonable adverse effect on the living conditions of the neighbouring residential properties, with particular regard to nuisance and noise. It would, therefore, comply with the requirements of Policy DMP1 of the LP which supports development that is, amongst other matters, not unacceptably increasing, and where possible reducing, exposure to noise and general disturbance.

Other Matters

21. The Council, within the officer report, refer to the appeal proposal being a temporary use. However, the Council have not recommended a temporary condition. Moreover, the application was not proposed as a temporary use. Although the appeal site would be one where a range of alternative uses could be developed which would support the town centre, the appeal before me would not prevent redevelopment of the site coming forward in the future. Having regard to the advice in the Planning Practice Guidance, there is no justification for the appeal proposal to be restricted to a temporary period.

Conditions

22. The Council has provided a list of conditions that it considers would be appropriate and the appellant has commented on this. I have considered these in light of the Framework and the Planning Practice Guidance.

23. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
24. I have not included the requested condition requiring the submission of a Delivery and Servicing Management Plan as these details have been provided by the appellant within the SNMP. Consequently, I have imposed a condition to require the development to be carried out in accordance with the SNMP to ensure that the development is satisfactory in regard to highway safety and the living conditions of neighbouring residential properties.
25. In the interests of ensuring that the development of the site would not increase flood risk either within the site or elsewhere I have also included a condition to require the development to be carried out in accordance with the revised FRA and Sustainable Drainage Assessment.

Conclusion

26. For the reasons given above the appeal should be allowed subject to the listed conditions.

K Townsend

INSPECTOR