



Appeal Decision

Site visit made on 7 July 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2025

Appeal Ref: APP/N5090/W/25/3360135

73-77 Brent Street, London NW4 2EA

- 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 Create REIT Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/2280/FUL.
 - The development proposed is a single storey rear extension at second floor to create an additional office floorspace (Use Class E(g)).
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at second floor to create an additional office floorspace (Use Class E(g)) at 73-77 Brent Street, London NW4 2EA in accordance with the terms of the application, Ref 24/2280/FUL, subject to the conditions in the attached Schedule.

Preliminary Matters

2. On 4 March 2025, the Council adopted the Barnet Local Plan 2021-2036 (LP), which supersedes Barnet's Local Plan Core Strategy 2012 and Barnet's Local Plan Development Management Policies 2012 and now forms part of the statutory development plan. Policies CS5, DM01, DM02 and DM04, as referred to on the decision notice, are therefore no longer relevant. Policies CDH01, CDH02, CDH04, CDH07, ECC02, GSS01 and HOU3 of the LP are, however, relevant and the appellant has had an opportunity to comment on these.
3. As part of the appeal, the appellant has submitted amended elevation, roof and long section plans and a Noise Impact Assessment Technical Report¹. The amended plans propose a revised roof layout of the part of the roof closest to the second floor balconies through the removal of the pitched roof element and an increase in the height of the green wall feature.
4. I have given due consideration to guidance in the 'Procedural Guide: Planning Appeals - England' 2025², and the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the 'Wheatcroft Principles' referred to in the guidance, and addressed the matter of amended plans being submitted with an appeal, in deciding whether to accept the revised plans and NIA.

¹ Date 14 January 2025, prepared by Sound Solution Consultants

² Section 16 of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

5. I consider the proposal before me (should the amended plans and NIA be included), is essentially the same as the scheme that was considered by the Council and therefore that the appeal process is not being used to evolve the scheme. Furthermore, the Council has had the opportunity to comment on this information. As such I am satisfied that the revisions do not alter the proposed development to an extent that anyone involved in the appeal would be prejudiced or impacted should I accept the amended plans and NIA. The appellant has requested that the amended plans replace those previously submitted and I have proceeded with the appeal on this basis.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of occupants of neighbouring properties, with regard to outlook and noise and disturbance.

Reasons

7. The appeal site comprises a part five-storey, part two-storey building fronting Brent Street. The five-storey element fronting Brent Street includes residential properties in the upper floors. To the rear of the five-storey element are balconies serving flats including, at second floor level, the balconies serving Flat 1 and Flat 3. The balconies currently have a largely unobstructed outlook above the existing two-storey element to the rear of the five-storey part of the building. To the rear of the site, beyond Cowley Place, is Fosters Estate, which includes blocks of flats and a terrace of three two-storey dwellings, currently known as C1 block, which has a partial outlook towards the rear two-storey element at the site.
8. The proposal is for an additional storey above the existing two-storey element to the rear of the site. The additional storey would extend across the width of the building to the rear of the second floor balconies serving Flat 1 and Flat 3 and enclose the space to the rear of the flats. Although close to the balconies, the modest scale and low pitch roof form of the amended proposal would limit the visual dominance of the addition. The low height of the part of the extension closest to the balconies would ensure safeguard the outlook for occupants of Flat 1 and Flat 3 and would not appear overbearing.
9. The proposal would include a green wall to the elevation fronting the balconies. While uncommon, the green wall finish would soften the outlook from the balconies to the front of the side. Moreover, the attractive green wall would limit the visual effect of the additional storey in conjunction with the modest height of the elevation facing the balconies.
10. The proposed additional storey would be highly visible from the terrace of dwellings at C1 block, particularly from the dwelling closest to the building of Nos 45-55 Fosters Estate. Nevertheless, the increase in height would be limited and, due to the orientation of the dwellings and the position on elevated land, the proposal would not appear harmfully overbearing to future occupants of the dwellings. Moreover, the offset position of the dwellings relative to the site would restrict the visual prominence of the development from the neighbouring properties at C1 block.
11. The development includes the installation of plant and machinery to the rear part of the roof of the proposed extension. The equipment is stated to be the same as

that installed on the roof of the existing two-storey element and the revised NIA demonstrates that this would not lead to a harmful level of noise and disturbance. To safeguard the living conditions of occupants of neighbouring properties, a condition could be included requiring the installation of equipment to be carried out in accordance with the recommendations of the NIA, if the appeal were to be allowed.

12. I conclude that the proposal would not harm the living conditions of the occupants of neighbouring properties, with regard to outlook and noise and disturbance. The development therefore accords with Policies CDH01, CDH07 and ECC02 of the LP, which collectively require proposals to provide a good standard of amenity that is consistent with other policies in the Plan and will allow for acceptable levels of outlook for adjoining and potential occupants and nearby users impacted by the development and provide adequate amenity space that is fit for purpose and access for both existing and future occupiers with minimal visual impact and with particular regard to avoiding unusable space, and that proposals to locate noise sensitive development in areas with existing high levels of noise will not be permitted without satisfactory measures to mitigate noise impacts through design, layout, and insulation. The development also accords with Policy D3 of the London Plan The Spatial Development Strategy for Greater London 2021, which requires that development proposals deliver appropriate outlook and help prevent or mitigate the impacts of noise.
13. The Council has referred to Policies CDH02, CDH04 and HOU3 of the LP. These policies relate to sustainable and inclusive design, tall buildings (8 storeys and above or 26 metres and above ground level) and residential conversions and re-development of larger homes respectively and do not relate directly to the considerations within this issue.

Other Matter

14. Concerns have been raised in respect of the construction process for the existing building. However, the concerns relate to potential non-compliance with a Construction Management Plan associated with an earlier proposal. Consequently, this is not a matter before me and is not directly relevant to my consideration of this appeal.

Conditions

15. Suggested planning conditions have been provided by the Council. I have considered the conditions having regard to the National Planning Policy Framework (the Framework) and advice contained in the Planning Practice Guidance. I have adjusted the wording of some conditions to improve precision.
16. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. I have not included the Council's suggested condition in respect of the external materials to be used as these details are provided on the approved plans.
17. The appellant has referred to a previous planning permission³ at the site, which included the submission of details relating to construction management and waste

³ 22/2010/S73

storage. While these details may previously have been approved, the precise details are not before me, and therefore a condition referring to these documents would not meet the tests set out in paragraph 57 of the Framework.

18. A condition is therefore included requiring the submission of a Demolition and Construction Management and Logistics Plan (DCMLP), as well as conditions relating to construction hours. These are required to safeguard the living conditions of occupants of neighbouring dwellings and in respect of highway safety. As the DCMLP would affect the early stages of the development, it is necessary to discharge this condition prior to commencement. I have not included the Council's suggested condition in respect of the wheel washing as this is included within the requirements for the DCMLP.
19. Conditions are included for the development to be carried out in accordance with the NIA and that noise levels are limited. This is in the interests of safeguarding the living condition of occupants of neighbouring properties.
20. To prevent overlooking, a condition is included requiring the window facing No 79 Brent Street to be fitted with a non-opening and obscurely glazed window. To promote sustainable modes of transport, a condition is included requiring the provision of cycle parking.
21. A condition is also included to retain the proposal under Class E(g) office use, in order to provide and retain office floorspace in accordance with Policy GSS01 of the LP.

Conclusion

22. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the dated of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: P-201 C, P-203 H, P-205 E, P-206 J, 2406-LAT-XX-RF-M2-A-P207-S4-P01, 2406-LAT-XX-EE-M2-A-P210-S4-P01, 2406-LAT-XX-S1-M2-A-P210-S4-P01.
- 3) Prior to commencement of the development hereby permitted, a 'Demolition and Construction Management and Logistics Plan' shall be submitted to and approved in writing by the local planning authority. The Demolition and Construction Management and Logistics Plan submitted shall include the following:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractors compound and car parking arrangements;
 - ix. details of interim car parking management arrangements for the duration of construction; and
 - x. details of a community liaison contact for the duration of all works associated with the development.

The development shall thereafter be implemented in accordance with the measures detailed within the statement.

- 4) The development hereby permitted shall be carried out in accordance with the details and recommendations within the Noise Impact Assessment dated 14 January 2025 prepared by Sound Solution Consultants and shall be retained thereafter.
- 5) The level of noise emitted from the air conditioning plant shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window at the nearest noise sensitive receptor. The measurement and assessment shall be carried out in accordance with the methodology contained within BS 4142:2014.

- 6) Demolition or construction work shall take place only between 0800 and 1800 on Mondays to Fridays and between 0800 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) The development hereby permitted shall not be occupied until the window in the side elevation facing the rear of No 79 Brent Street has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscure glazing shall be retained thereafter.
- 8) Prior to first use of the development hereby permitted, details of the storage for the additional waste requirements together with a satisfactory point of collection shall be submitted to and approved in writing by the local planning authority. The storage facilities shall be retained thereafter.
- 9) Prior to the first use of the development hereby permitted, cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and the spaces shall be retained thereafter.

End of Schedule