

LOCATION: Marks & Spencer Plc, 820-832 Finchley Road, London, NW11 6XL

REFERENCE: F/01188/12

Received: 23 March 2012

Accepted: 30 March 2012

WARD(S): Garden Suburb

Expiry: 25 May 2012

Final Revisions:

APPLICANT: Marks and Spencer PLC

PROPOSAL: Installation of 1 no. external condensing unit and associated acoustic louvre to side elevation.

RECOMMENDATION: Approve Subject to Conditions

- 1 This development must be begun within three years from the date of this permission.
Reason:
To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Temple Fortune - Photosheet; Email from Henry Courtier dated 9 May 2012 at 15:27; Dwg No. 130T.
Reason:
For the avoidance of doubt and in the interests of proper planning.
- 3 The approved external condensing unit and associated acoustic louvre shall only be operated on the premises during the store opening hours.
Reason:
To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties.
- 4 The level of noise emitted from the plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.
If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.
Reason:
To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties.
- 5 Before development commences, a report should be carried out by a competent acoustic consultant and submitted to the Local Planning Authority for approval, that assesses the likely noise impacts from the development of the ventilation/extraction plant. The report shall also clearly outline mitigation measures for the development to reduce these noise impacts to acceptable levels.
It should include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the contents and recommendations. The approved measures shall be implemented in their entirety before (any of the units are occupied / the use commences).

Reason:
To ensure that the amenities of neighbouring premises are protected from noise from the development.

INFORMATIVE(S):

1 The reasons for this grant of planning permission or other planning related decision are as follows: -

i) The proposed development accords with strategic planning guidance and policies as set out in The Mayor's London Plan: July 2011 and the Adopted Barnet Unitary Development Plan (2006).

In particular the following policies are relevant:

Adopted Barnet Unitary Development Plan (2006):

GSD, GBEnv1, GBEnv2, GBEnv4, D1, D2, D6, HC1, HC5, ENV12.

Local Development Framework:

Core Strategy (Examination in Public version) 2012 – CS NPPF, CS1, CS5.

Development Management Policies (Examination in Public version) 2012 – DM01, DM02, DM04, DM06.

ii) The proposal is acceptable for the following reason(s): -

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, this proposal hasn't detrimentally impact on the qualities of the building and protect the character of this part of the Hampstead Garden Suburb Conservation Area. The alterations are such that, as conditioned, they would preserve the amenities of the occupiers of the neighbouring properties and the character and appearance of the individual property, the setting of the adjacent Listed Building, and on the preservation of the Hampstead Garden Suburb Conservation Area. This application is considered to comply with National, London Plan, and Council Policies and Guidelines.

2 You are advised to engage a qualified acoustic consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory internal noise levels in this location. In addition to the noise control measures and details, the scheme needs to clearly set out the target noise levels for the habitable rooms, including for bedrooms at night, and the levels that the sound insulation scheme would achieve.

The details of acoustic consultants can be obtained from the following contacts:

a) Institute of Acoustics and b) Association of Noise Consultants.

The assessment and report on the noise impacts of a development should use methods of measurement, calculation, prediction and assessment of noise levels and impacts that comply with the following standards, where appropriate: 1) Department of Environment: PPG 24 (1994) Planning Policy Guidance - Planning and noise; 2) BS 7445 (1991) Pts 1, 2 & 3 (ISO 1996 pts 1-3) - Description and measurement of environmental noise; 3) BS 4142:1997 - Method of rating industrial noise affecting mixed residential and industrial areas; 4) BS 8223: 1999 - Sound insulation and noise reduction for buildings: code of practice; 5) Department of transport: Calculation of road traffic noise (1988); 6) Department of transport: Calculation of railway noise (1995); 7) Department of transport : Railway Noise and insulation of dwellings.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework:

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The 'National Planning Policy Framework' (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The London Plan is recognised in the NPPF as part of the development plan.

The NPPF states that "good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

NPPF retains presumption in favour of sustainable development. This applies unless any adverse impacts of a development would "significantly and demonstrably" outweigh the benefits.

The Mayor's London Plan July 2011:

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The Mayor for London has introduced a Community Infrastructure Levy. This applied from 1 April 2012 to most developments in London where the application is determined by the Local Planning Authority.

Within Barnet the levy will be charged at a rate of £35 per square metre of net additional floorspace.

Relevant Unitary Development Plan Policies:

The statutory plan for the Borough is the Barnet UDP. This was adopted on 18 May 2006, replacing the original UDP adopted in 1991.

On 13 May 2009 the Secretary of State for Communities and Local Government issued a Direction "saving" 183 of the 234 policies within the UDP.

Relevant policies: GSD, GBEnv1, GBEnv2, GBEnv4, D1, D2, D6, HC1, HC5, ENV12.

In June 2005 the Council published its "Three Strands Approach", setting out a vision and direction for future development, regeneration and planning within the Borough. The approach, which is based around the three strands of Protection, Enhancement and Growth, will protect Barnet's high quality suburbs and deliver new housing and successful sustainable communities whilst protecting employment opportunities. The second strand of the approach, "Enhancement", provides strong planning policy protection for preserving the character and openness of lower density suburbs and conservation areas. The Three Strands Approach will form the "spatial vision" that will underpin the Local Development Framework.

The Council has also adopted (June 2007), following public consultation, an SPD "Sustainable Design and Construction". The SPD provides detailed guidance that supplements policies in the UDP, and sets out how sustainable development will be delivered in Barnet. Part 4 recognises that noise can be a significant nuisance, and can undermine quality of life. In order to meet standards for internal noise appropriate levels of insulation will be required. Paragraph 4.16 indicates that the Council requires the acoustic performance of party walls and floors between dwellings to be designed to exceed the minimum requirements set out in Part E of the Building Regulations. Part 6 of the SPD relates to generic environmental requirements to ensure that new development within Barnet meets sufficiently high environmental and design standards.

The Council Guide 'Hampstead Garden Suburb Conservation Area Design Guidance' as part of the Hampstead Garden Suburb Character Appraisals was approved by the Planning and Environment Committee (The Local Planning Authority) in October 2010. This leaflet in the form of a supplementary planning guidance (SPG) sets out information for applicants on repairs, alterations and extensions to properties and works to trees and gardens. It has been produced jointly by the Hampstead Garden Suburb Trust and Barnet Council. This leaflet was the subject of separate public consultation.

Core Strategy (Examination in Public version) 2012:

Barnet's emerging Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Until the Local Plan is complete, 183 policies within the adopted Unitary Development Plan (UDP) remain. The replacement of these 183 policies is set out in both the Core Strategy and Development Management Policies DPD.

The Core Strategy sets the vision, core objectives and strategic policies for Barnet. Barnet's Local Plan is at an advanced stage following submission in August / September 2011. The National Planning Policy Framework (NPPF) (para 216) sets out the weight that can be given to emerging policies as a material consideration in the determination of planning applications.

Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS6.

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

Barnet's Local Plan is at an advanced stage following submission in August / September 2011. Therefore weight can be given to it as a material consideration in the determination of planning applications.

Relevant Development Management Policies: DM01, DM02, DM04, DM06.

Relevant Planning History:

Site Address: Marks & Spencer 820-832 Finchley Road Golders Green London NW116XL
Application Number: C00317AN/06
Application Type: Advertisement
Decision: Approve with conditions
Decision Date: 13/11/2006
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Various internally illuminated fascia signs, building fascias and car park signs.**
Case Officer: Claire Thorley

Consultations and Views Expressed:

Neighbours Consulted: 50 Replies: 3
Neighbours Wishing To Speak 3

The objections raised may be summarised as follows:

1. Continued noise, vibration and disturbance from the use of the site;
2. The applicant has already carried out the work, disregarding the planning process;
3. Harmful to the setting of the adjacent Listed Building;

Internal /Other Consultations:

Hampstead Garden Suburb, Conservation Area Advisory Committee
No objection

Environmental Health
No objection

Date of Site Notice: 12 April 2012

2. PLANNING APPRAISAL

Site Description and Surroundings:

820-832 Finchley Road is the Marks and Spencer store in Temple Fortune which occupies a prominent location within this commercial area with a car park to the rear. The site falls within the Hampstead Garden Suburb Conservation Area although outside of the Area of Special Advertisement Control.

Proposal:

The applicant applied for the installation of an external condensing unit and associated acoustic louvre to side elevation. However, during the determination of the application the applicant carried out the works.

Planning Considerations:

The main issue in this case is whether or not the alterations would be visually obtrusive forms of development which would detract from the character and appearance of the street scene and this part of the borough and have an adverse and visually obtrusive impact upon the amenity of the occupiers of the neighbouring property.

Living conditions of existing/future neighbouring residents:

One of the Council's key objectives is to improve the quality of life for people living in the Borough and therefore development that results in unacceptable harm to neighbours' amenity is unlikely to be supported. Good neighbourliness is a yardstick against which proposals can be measured.

Policy ENV12 says that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive developments will not normally be permitted. Proposals to locate noise sensitive development in areas with existing high levels of noise will not normally be permitted.

The applicant/agent has advised the Local Planning Authority in an email dated 9 May 2012 at 15:27 about the system "*.... would also like to draw your attention to the manufacturer's specification for the condensing unit which states that the unit will generate a maximum noise level of 55 dBA when heating, 53 dBA when cooling. The units shall only be in use during the store opening hours, in particular, when the ovens for the deli are in operation.*"

A condition has been attached to this application to demonstrate this.

Character and appearance

The supplementary planning guidance for the Suburb is the Hampstead Garden Suburb Design Guidance which has been the subject of public consultation and Local Planning Authority approval. The guidance says:-

Hampstead Garden Suburb is one of the best examples of town planning and domestic architecture on a large neighbourhood or community scale which Britain has produced in the last century. The value of the Suburb has been recognised by its inclusion in the Greater London Development Plan, and subsequently in the Unitary Development Plan, as an "Area of Special Character of Metropolitan Importance". The Secretary of State for the Environment endorsed the importance of the Suburb by approving an Article 4 Direction covering the whole area. The Borough of Barnet designated the Suburb as a Conservation Area in 1968 and continues to bring forward measures which seek to preserve or enhance the character or appearance

of the Conservation Area.

The ethos of the original founder was maintained in that the whole area was designed as a complete composition. The Garden City concept was in this matter continued and the architects endeavoured to fulfil the criteria of using the best of architectural design and materials of that time. This point is emphasised by the various style of building, both houses and flats, in this part of the Suburb which is a 'who's who' of the best architects of the period and consequently, a history of domestic architecture of the period of 1900 – 1939.

The external condensing unit and associated acoustic louvre to side elevation within the side elevation fronting Temple Fortune House are considered to result in subordinate additions to the application site, is not considered to impact upon the setting of the adjacent Listed Building, nor on the preservation of the Hampstead Garden Suburb Conservation Area.

The proposed overall is considered to comply with the relevant aspects of policies GBEEnv1, GBEEnv2, GBEEnv4, D1, D2, HC1 and HC5 which seek to ensure that proposals are of high quality design, respect the scale of surrounding buildings and preserving the character and appearance of the area.

3. COMMENTS ON GROUNDS OF OBJECTIONS

These points have been addressed in the main body of the report.

4. EQUALITIES AND DIVERSITY ISSUES

The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, this proposal hasn't detrimentally impact on the qualities of the building and protect the character of this part of the Hampstead Garden Suburb Conservation Area. The alterations are such that, as conditioned, they would preserve the amenities of the occupiers of the neighbouring properties and the character and appearance of the individual property, the setting of the adjacent Listed Building, and on the preservation of the Hampstead Garden Suburb Conservation Area. This application is considered to comply with National, London Plan, and Council Policies and Guidelines and is therefore recommended for **APPROVAL**.

SITE LOCATION PLAN:
London, NW11 6XL

Marks & Spencer Plc, 820-832 Finchley Road,

REFERENCE:

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