

## Appeal Decision

Site visit made on 10 June 2016

**by Jonathon Parsons MSc BSc (HONS) DipTP Cert (Urb) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 June 2016**

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**Appeal Ref: APP/N5090/W/16/3144211**

### **9 Edgwarebury Lane, Edgware, Barnet HA8 8LH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Doron Sharafian against the decision of the Council of the London Borough of Barnet.
  - The application Ref 15/05999/FUL, dated 25 September 2015, was refused by notice dated 18 November 2015.
  - The development is the change of use of the existing unit to an A3 restaurant.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matter**

2. The change of use of the property has already taken place and consequently the scheme has been considered as retrospective on this basis.

### **Main Issue**

3. The effect of the scheme on the vitality and viability of Edgware Town Centre.

### **Reasons**

4. The cafe unit is situated within a parade with various commercial uses at the ground floor. Under the Barnet Unitary Development Plan Proposals Map, it is within designated Secondary Retail Frontage of Edgware Town Centre.
  5. Policy DM11 of the Barnet's Local Plan Development Management Policies (DMP) 2012 states that a development proposal that reduces the combined proportion of Class A1 retail uses at ground floor (including retail) in the secondary frontage below 65% will not be permitted and the proposal should not create an over-concentration of similar uses detracting from the retail function of the town centre. The policy also states that a change of use from a retail use (Class A1) will be resisted unless it can be demonstrated that there is no viable demand for the continued Class A1 use, and that when it has been demonstrated that the site has been marketed effectively, acceptable alternatives will include Class A3 uses.
  6. The Council has indicated that the combined proportion of Class A1 uses (including vacant) at ground floor within the secondary frontage area of this
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Town Centre is approximately 61.7% which would indicate that the existing number of Class A1 units does not meet the minimum level required under DMP Policy DM11. The loss of the retail unit as result of the change of use would have worsened the percentage of retail units within the secondary frontage.

7. It has been stated that the percentage of non-retail uses should be judged in relation to the parade to which the appeal unit is situated within. However, Policy DM11 makes no such distinction and the policy wording refers to percentage as part of the secondary frontage. In terms of viability, the previous travel agent use was unviable due to increased competition from on-line services. Nevertheless, although custom was dwindling for the former travel agent use, this does not mean marketing for other types of Class A1 use would not be fruitful through a property agent. Therefore, as no marketing has taken place, there is a conflict with Policy DM11 for these reasons.
8. Policy DM12 of the DMP protects all retail uses in the existing local centres, parades and isolated shops unless four criteria can be met. Under these criteria, it has been argued that there will be no significant reduction of shopping facilities, alternative shopping facilities similarly accessible by walking, cycling or public are available and that the use is within Class A3. However, all criteria must be met and under the fourth criterion, it has not been proven that there is no demand for Class A1 use and no marketing has taken place for all reasons previously indicated. Therefore, the scheme conflicts with Policy DM12.
9. Policy CS6 of the Barnet's Local Plan Core Strategy 2012 promotes the successful and vibrant centres to serve the needs of residents, workers and visitors and ensure that new development is of an appropriate scale and character for the centre in which it is located. The policy also requires food, drink and entertainment to be part of a healthy evening economy. Policy 4.8 of the London Plan 2011 (Alterations 2013, 2015 & 2016) supports a successful, competitive and diverse retail sector which promotes sustainable access to goods and services.
10. In this regard, the restaurant provides a new restaurant use, particularly meeting the demands of a sizeable Jewish community in that it serves kosher food contributing to the viability and vibrancy of the area, including its local economy. For these reasons, it is argued that these development plan policies support the scheme. However, there is a conflict with Policies DM11 and DM12 of the DMP which consider the impact of loss of retail uses on the viability and vibrancy of the shopping area. By virtue of this and these policies specific relevance, I attach substantial weight to the proposal's conflict with these policies. For this reason, looking at the scheme in the round, the change of use is contrary to the development plan.
11. The proposal has resulted in an active and attractive frontage to the premises and I have no reason to doubt that the use contributes to the longevity of the area in attracting customers and revitalising the parade. However, I am not persuaded that this could not occur with a new Class A1 retail use in the absence of any evidence to the contrary. For these reasons, there are no other material considerations to outweigh the development plan conflict identified.

**Conclusion**

12. For the reasons given and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jonathon Parsons*

INSPECTOR