



Appeal Decision

Site visit made on 19 May 2020

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th JUNE 2020

Appeal Ref: APP/N5090/W/19/3242144

1 Charcot Road, Colindale, London NW9 5HG

- 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 Mrs Meral Cetin against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3858/FUL, dated 6 July 2019, was refused by notice dated 1 November 2019.
 - The development proposed is erection of single storey building to be used as a shisha lounge.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. I have omitted the words “(retrospective application)” from the agreed description of development in the decision notice and have considered the appeal as seeking planning permission for the building, as constructed and shown on the submitted plans, and for its use as a shisha lounge.
3. Policy CS6 of Barnet’s Local Plan¹ was not cited in the reasons for refusal relating to living conditions but is included in the evidence before me and I have had regard to it when considering that issue.

Main Issues

- The effect of the development on the character and appearance of the area.
- The effect of the development on the living conditions of neighbours, with particular regard to noise, enclosure and outlook.
- The effect of the development on the surrounding highway network in respect of car parking capacity.

Reasons

Character and appearance

4. The appeal site is relatively prominent due to its corner location and stands at a point of transition from traditional housing on the northern side of Colindale

¹ Comprising Barnet’s Local Plan (Core Strategy) Development Plan Document and Barnet’s Local Plan (Development Management Policies) Development Plan Document

Avenue to taller modern buildings with commercial and residential occupiers opposite and on Charcot Road. In this context, and particularly in view of the immediately adjacent back garden of the dwelling at 145 Colindale Avenue, a single-storey building may be an appropriate design approach.

5. However, the detailed design and appearance of the building, particularly the extensive use of black colour coated aluminium and smoked glass, are at odds with the surrounding traditional and modern buildings. These characteristics give the building a blank appearance, particularly when the wall and roof openings are closed, such that it lacks visual interest, is unsympathetic to local character and history, and fails to add to the overall quality of the area.
6. I have found that the development fails to respect local context and character and the appearance, scale, mass, height and pattern of surrounding buildings, and fails to provide visual interest, particularly at street level. It therefore conflicts with policies CS5 and DM01 of Barnet's Local Plan² and part 12 of the National Planning Policy Framework (the Framework) and I conclude it is unacceptable in this respect.

Living conditions

7. In order to comply with legislative requirements, large parts of the building's roof and walls must be open when it is in use as a shisha lounge. This significantly limits the scope to implement acoustic control measures and I have noted several references to noise from patrons and music.
8. An environmental noise survey and noise impact assessment report submitted with the application concludes that the use of the building as a shisha lounge causes "noticeable and disruptive" perception of noise, which may require neighbours to keep windows closed most of the time, with potential for sleep disturbance and a diminished quality of life due to the change in the acoustic character of the area. The report notes that this is a significant observed adverse effect, which the Planning Practice Guidance indicates should be avoided. While I accept the appellant's point that increased ambient noise levels may be expected in locations like this, the evidence of their report confirms that noise from the development has a significant and harmful effect.
9. The report recommends mitigation through a noise management plan, which it indicates could include limiting the volume of loudspeakers in the building, controlling unruly behaviour and having a dispersal policy. However, no detail is provided on how these measures might be implemented or what difference they might make. Considering this, the proximity to dwellings, and the need to have significant open sections within the building when it is used as a shisha lounge, the report does not provide sufficient confidence that noise can be adequately mitigated, or that any control measures could be enforced.
10. The building stands adjacent to, and runs the full depth of, the back garden of 145 Colindale Avenue. The submitted drawings indicate that it is 3.3m high at this point, much higher than normally found on a garden boundary. While I agree with the appellant that this may not cause unacceptable loss of light, the resultant sense of enclosure and reduced outlook cannot achieve a high standard of amenity for the occupiers of No 145.

² Comprising the Core Strategy Development Plan Document and the Development Management Policies Development Plan Document

11. While concerns have been expressed about odour from smoke and rubbish, litter, and problems with waste storage, the Council's environmental health officers did not identify unacceptable odour problems and it is unclear from the evidence before me to what extent the litter and waste storage matters can be attributed to the shisha lounge rather than the restaurant and other businesses in the vicinity. Accordingly, I have afforded limited weight to these aspects.
12. For the reasons stated, the building and its use as a shisha lounge do not protect residential gardens or outlook for adjacent occupiers or ensure that the evening economy does not have a harmful effect on residents by reason of unacceptable noise generation. Accordingly, it conflicts with Barnet's Local Plan policies CS5, CS6, DM01 and DM04 and part 12 of the Framework and I conclude that the development is unacceptable in this respect.

The highway network

13. Policies within Barnet's Local Plan and the London Plan expect non-residential development to provide parking in line with maximum standards, although the precise standards, including parking for disabled people, are not included in the evidence before me. No car or cycle parking is provided within the site, although there would appear to be some scope for the latter between the building and Colindale Avenue. However, recently developed food and drink uses in the vicinity do not appear to include visitor parking provision and I have seen that the site is close to Colindale Underground Station and that buses stop opposite on Charcot Road. Accordingly, the absence of parking provision is not, of itself, a reason to dismiss the appeal.
14. Nevertheless, development should be matched to highway capacity and not adversely affect the operation of roads in the area and I have seen reference to illegal parking in the vicinity. The transport response note accompanying the application identified additional parking capacity in the surrounding area on Tuesday and Wednesday evenings, although the time of highest demand, on Friday and Saturday evenings, was not surveyed. Notwithstanding this, the application form indicates that the shisha lounge has been operating since December 2018 and it is therefore reasonable to expect that clear evidence of any significant pressure on the local highway network arising from it would be available by now. The evidence of adverse pressure on the local highway network is therefore inconclusive and I do not find harm in this respect.

Other matters

15. Concern has been expressed about alleged anti-social behaviour by patrons and some residents have stated they feel unsafe or uncomfortable when near the site. While these may be matters of genuine concern, the evidence before me is limited, and does not include details of specific incidents. I have therefore not been able to afford it significant weight.

Conclusion

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

Mark Harbottle

INSPECTOR