

B/04789/08



Appeal Decision

Hearing held on 15 July 2009

Site visit made on 15 July 2009

by **Malcolm Rivett** BA (Hons) MSc MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
20 August 2009

Appeal Ref: APP/N5090/A/09/2100884

1446 High Road, Whetstone, London, N20 9BS

- 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 Newmark Properties (Whetstone) LLP against the decision of the Council of the London Borough of Barnet.
- The application Ref B/04789/08, dated 12 December 2008, was refused by notice dated 16 March 2009.
- The development proposed is redevelopment of the site to provide 825 sq m of retail floorspace with a 96 bed hotel above.

Decision

1. I allow the appeal, and grant planning permission for redevelopment of the site to provide 825 sq m of retail floorspace with a 96 bed hotel above at 1446 High Road, Whetstone, London, N20 9BS in accordance with the terms of the application, Ref B/04789/08, dated 12 December 2008, and the plans listed in Schedule 1, subject to the conditions listed in Schedule 2.

Main issues

2. The main issues of the appeal are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether or not the proposal makes adequate provision for car parking and the likely effects on highway safety/free flow of traffic; and
 - Whether or not the proposal would give rise to the need for improvements to library services, highway works and travel plan monitoring.

Reasons

Character and Appearance

3. High Road is characterised by a wide variety of forms, ages and styles of, mostly commercial, property. There is not a clearly defined front building line and the heights of the buildings vary considerably, there being a number of tall office blocks punctuating the view along the road.
4. Although the appeal proposal is somewhat taller than the buildings to either side of it, I am satisfied that this would not be out of keeping with the variation in building heights in the area. The development would be positioned a short distance forward of the buildings to either side although not so much so that it would be over-dominant and the wide footway to its front would ensure a sense of spaciousness. The parade of shops to the north of the appeal site lies

at an angle to the proposed development and would, therefore, continue to be visible in the view northwards along the road despite the presence of the development. I agree that the trees lining the road some distance to the south of the site are an attractive feature of the area, although there are currently none on the road in the vicinity of the proposed development. Whilst the proposal does not include them, sufficient footway width would remain for trees to be planted by the Council if it so wished. Although not facing High Road, the hotel entrance would be wide with a landscaped footway fronting it and I do not agree with the Council that it would be mean and uninviting.

5. In my view the materials and architectural detailing of the proposal appropriately reflect the contrasting styles of the neighbouring buildings whilst presenting a modern and attractive elevation to the street. The vertical emphasis of the windows echoes the upper storeys of the parade of shops to the north, whilst the overall simple and uncluttered appearance of the building would ensure that it would not present an incongruous contrast with the large areas of unrelieved brick on the front elevation of the Carpet Right/Marks and Spencer building to the south. The coloured panel false windows at first floor level are not a dominant feature of the front elevation and, subject to the use of an appropriate colour (which can be ensured by condition), I envisage that they would not cause any significant harm to the street scene.
6. In conclusion I consider that, in developing an unattractive vacant site and in "knitting-together" the contrasting styles of the neighbouring buildings, the proposal would enhance the character and appearance of the area. The scheme thus has no conflict with the elements of national policy referred to by the Council or policies GBEnv1, GBEnv2, D1, D2, D3 or D7 of the adopted *London Borough of Barnet Unitary Development Plan* (UDP). These policies indicate that development should be of a high quality which respects local character and appearance and the townscape.

Parking Provision

7. The proposal incorporates 23 off-street parking spaces to be shared by the hotel and retail unit elements of the scheme, which the Council argues would be insufficient, indicating that 48 spaces alone are required for the hotel, taking account of the site's Public Transport Accessibility Level score of 3.
8. *Planning Policy Guidance Note 13: Transport* (PPG13) seeks to minimise parking in connection with new development in order to promote sustainable transport choices and the efficient use of land. It states (at paragraph 49) that the availability of parking has a major influence on the means of transport people choose for their journeys. Paragraph 51 guides that local authorities should not require developers to provide more parking spaces than they themselves wish, other than in exceptional circumstances such as where there would be significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls. Policy 3C.23 and Annex 4 of *The London Plan* effectively echo national policy in this respect.
9. Annex 4 of *The London Plan*, which concerns parking standards, does not set any standards for hotels or for mixed use developments, indicating that for the latter Transport Assessments should be used as the basis for determining the

appropriate level of parking provision. The Council accepts that the 23 parking spaces proposed would satisfactorily accommodate the parking demands of the retail unit element of the proposal, this number exceeding the 21 spaces it states that Annex 4 indicates is the maximum parking provision for a retail use of the size proposed in this location. I consider this to be extremely generous provision for the retail element, bearing in mind the potential for many of its customers to visit other shops in the area and park elsewhere. Consequently, whilst I agree with the Council that the arrival of hotel guests in the mid-late afternoon would be likely to coincide with the peak parking demand arising from the retail unit, I envisage it probable that, even at this time, some parking space would be available for hotel guests/staff. Moreover, I am not persuaded that, given their likely number, deliveries would cause significant problems of obstruction of vehicles wishing to access the car park.

10. I agree with the Council that, in principle, the proposal's location on the A1000 close to the edge of Greater London is an attractive one for people to drive to from other parts of the country, and to use the hotel as a base for visiting central London by public transport. However, I envisage that on booking their accommodation such people would be likely to wish to have a guarantee that they would be relatively easily able to park their car at, or very close to, the hotel. I understand that, on booking at the proposed hotel, guests would be advised of the restricted availability of parking. I am not persuaded that, as set out in the appellant's Transport Assessment, the likely parking demand for the hotel can be accurately calculated by simply reducing the average observed parking levels at a range of similar hotels by a factor which compares the parking provision at the proposal with that at the observed hotels. Nonetheless, I concur with the appellant that the limited parking provision at the hotel would be likely to significantly restrict the number of guests arriving by car, those people for whom a car and convenient parking is essential to their trip being likely to stay at other hotels. Moreover, I consider that additional parking provision at the proposal would be likely to encourage more people to travel there by car, contrary to the objectives of national and local policy.
11. I note that the *SDS Technical Report Twelve (Parking Standards for London for retail, leisure, mixed use developments and other uses)* indicates (at paragraph 5.7) that peripheral hotels on key arterial roads rely on car-borne trade and are likely to require unfettered parking provision. However, given its suburban, edge of town centre location, directly served by frequent bus services and within walking distance of tube and rail stations, I am not persuaded that the proposal would be a "peripheral hotel". The statement that "hotels on key arterial roads outside central locations..... may require relatively unfettered parking provision" is also referred to by the Council. However, I understand that this was contained in a table in an earlier version of *The London Plan* and does not form part of the document as now adopted.
12. I accept it is probable that, even given the restricted on-site parking, some hotel guests would nevertheless arrive by car. However, I note that, despite its statement and photographs indicating that the area is heavily parked, it is not the Council's case, as explained at the Hearing, that such people would be unable to find somewhere to park in the area. In addition to the development's own parking provision (some of which I envisage is generally likely to be free for use by hotel guests even during the day) parking after 19:00 is permitted

on long sections of High Road close to the appeal site. To the north of Friern Mount Drive (a couple of minutes or so's walk away) unrestricted, all day, on-street parking on High Road is available. Additionally, although I understand that a number of the off-street car parks in the area are closed overnight, publicly available, 24 hour, parking is available at the off-street car park at Athenaeum Road, approximately 5 minutes' walk away. Consequently, I am satisfied that even in the unlikely event of a substantial proportion of the hotel's guests arriving by car, all the guests would find a parking space within a few minute's walk of the hotel, without the need to park illegally, across private accesses or inappropriately close to junctions.

13. At the Hearing the Council argued that guests driving around the area in search of a parking space would interrupt the free flow of traffic and compromise road safety. However, given the number of visitors to the shops, offices and other services in the vicinity, currently parking on street in the area, I envisage that minimal additional harm to traffic flow or road safety would be likely to be caused by guests of the hotel looking for a parking space. Concern is also raised about hotel guests parking in the residential streets leading off High Road, causing disturbance and inconvenience to residents and from my visit to the area it is apparent that such parking by shoppers/workers already occurs. However, I consider that the parking location of hotel guests, who are likely to be unfamiliar with the area, could be substantially influenced by the information provided by the hotel at the time of booking. These details, advising of the parking opportunities away from the residential streets (in the context of limited overall parking availability), can be the subject of the proposed Travel Plan for the development and therefore agreed by the Council.
14. I conclude therefore that, bearing in mind national policy in PPG 13, the proposal makes adequate provision for parking and that it would be unlikely to result in any significant harm to highway safety or the free flow of traffic. The scheme thus has no conflict with UDP policies M11, M12 and M14 which indicate that the Council will take into account the safety of road users in considering development proposals, that it will refuse permission for proposals that unacceptably increase the risk to vulnerable road users and that developments should provide parking in accordance with *The London Plan* parking standards. Although not a line of argument pursued by the Council at the Hearing, I agree with the appellant that the application to the appeal proposal of the parking standards for houses and flats set out in UDP policy M14 is inappropriate.

Library Services, Highway Works and Travel Plan Monitoring

15. The Council argues that the development would give rise to the need for improvements to library services in the area and that a contribution towards this is thus necessary. Contrary to the Council's explanation at the Hearing that this relates to the hotel's guests, I note that the adopted *Contributions to Libraries Supplementary Planning Document (June 2008)* indicates that the contributions sought relate to the demands on local library services of the estimated number of employees of the proposal living outside the borough. I am satisfied that such employees would give rise to some limited demands on library services and that, thus, the contribution sought, in the order of £3,800, is necessary and reasonable and meets the tests set out in Circular 05/2005.

16. I agree with the Council that revisions to road markings to provide a dedicated right turn into the proposal are necessary to ensure safety on High Road. Although the funding of this is a private matter between the Council and the appellant, I consider a condition is necessary requiring the provision of the right turn facility prior to the occupation of the development. The Council also states that the proposal may give rise to the need for amendments to waiting/loading restrictions in the area. However, no details have been provided and I have seen nothing to suggest that this is essential to the acceptability of the scheme. Parking generated by the proposal on unrestricted sections of highway would cause no more problems (which appear to be few) than the parking which currently takes place in these locations. The Council states that upgrading of the paving at the informal pedestrian crossing to the front of the appeal site is necessary, although to my mind this is an existing problem and would not be exacerbated to any significant degree by the appeal proposal.
17. Having regard to the guidance in PPG13 I consider that a Travel Plan is necessary for the development (which can be ensured by condition) and I note that a draft one was submitted with the planning application. I recognise that there would be a need for ongoing monitoring of the operation of the plan by the Council and that the resources required to carry this out would be likely to considerably exceed that which could be expected with the normal day to day enforcement of planning permission conditions. Consequently, I consider that a £5000 contribution towards the ongoing costs of monitoring the Travel Plan is necessary and reasonable.
18. A Unilateral Undertaking (dated 18 June 2009), requiring the payment of contributions towards library services, highway works and travel plan monitoring (prior to commencement of the development) was put before the Hearing. However, the undertaking contains a number of inaccuracies including, amongst other things, the date of the planning application and the title numbers of the land forming the site. In view of this I am not persuaded that this undertaking would be enforceable by the Council and I have therefore given it little weight.
19. The appellant has subsequently submitted a further Unilateral Undertaking (dated 20 July 2009) which corrects the inaccuracies, the fundamental provisions of the obligation remaining unchanged. I am satisfied that this undertaking would be enforceable by the Council and would provide for the contributions towards library service improvements and Travel Plan monitoring which I have found to be necessary to the acceptability of the proposal. Despite the clause in this undertaking which seeks to revoke and replace the earlier undertaking, I am of the view that the two undertakings stand side by side. However, for the reasons above, I have attached significant weight in reaching my decision to the undertaking of 20 July 2009, with regard to its obligations concerning contributions to library service improvements and travel plan monitoring, and little weight to its obligations concerning highway works and to the undertaking dated 18 June 2009.
20. Having regard to my findings above and the undertaking of 20 July 2009, I find that the proposal thus has no conflict with UDP policies GMon, IMP2, M10, M11, M12 or M13. These policies indicate that the Council will take into account the safety of road users in considering development proposals, that planning

obligations will be sought to provide for traffic/community measures/improvements, the need for which arise as a direct result of new development and that the policies of the plan will be monitored. The Council also refers to UDP policy M7 although I am not persuaded that this is of relevance to this appeal as it concerns contributions towards improvements to public transport.

Other matters

21. Local residents raise concern about overlooking and loss of privacy although I agree with the Council that, given the proposal's orientation and distance from residential properties, no significant harm in this respect would be caused. Despite the omission of an existing hotel from the need assessment set out in the submitted *PPS6 (Hotel Use) Statement*, I have no reason to disagree with the Council's stance that the principle of a hotel and retail unit on the site is acceptable. I note that the objections to the scheme raised on behalf of the Haringey Gospel Hall Trust have been withdrawn.

Conditions

22. In addition to the standard implementation condition, conditions concerning site/building levels, external materials, refuse/recycling storage and landscaping are necessary to ensure the satisfactory appearance of the development. To protect the living conditions of residents in the area, conditions relating to a construction management plan, noise from plant and external lighting are required. Conditions nos 6,7,14 and 15 are necessary to prevent parking problems arising from the development, to ensure unacceptable air pollution does not result, to ensure that the building has an environmental performance level in line with the guidance in the adopted *Sustainable Design and Construction Supplementary Planning Document* and, having regard to the retail statement submitted with the application, to ensure no harm is caused to the vitality or viability of the adjacent local shopping centre. As indicated above, conditions are also necessary concerning the provision of a dedicated right turn and the implementation of a Travel Plan. In relation to the Travel Plan conditions I have had regard to the guidance in *Good Practice Guide – Delivering Travel Plans through the Planning Process (CLG/DfT, April 2009)*.
23. I have seen no evidence to suggest that the site is contaminated and therefore I consider conditions in relation to this to be unnecessary. The Council's suggested condition no 11 is also not required given that the approved plans clearly identify the points of access to the site and the means of enclosure. A specific condition concerning vehicle wheel washing is not needed as this can be controlled by the construction management plan.

Conclusion

24. For the above reasons I conclude that the appeal should be allowed.

Malcolm Rivett

INSPECTOR

Schedule 1 – Approved Plans

7799 L 001

7799 L 002

7799 L 003

7799 L 010 Rev I

7799 L 011 Rev D

7799 L 012 Rev D

7799 L 013 Rev C

7799 L 014 Rev B

7799 L 015 Rev B

7799 L 020 Rev D

7799 L 030 Rev F

7799 L 031 Rev C

7799 L 033 Rev B

7799 L 034 Rev B

7799 L 035 Rev B

7799 L 036 Rev A

7799 L 040 Rev A

7799 L 041 Rev A

7799 L 042

Schedule 2 - Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the levels of the proposed building/road/footpaths in relation to adjoining land and highway(s), and any other changes proposed in the levels of the site, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building and external hard-surfaced areas hereby permitted have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins (or other refuse storage containers where applicable), together with details of the point(s) of collection, have been submitted to, and approved in writing by, the Local Planning Authority. The facilities shall be provided in accordance with the approved details before the development hereby approved is occupied and shall thereafter be retained.
- 5) No development shall take place until details of a construction management plan have been submitted to, and approved in writing by, the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the approved construction management plan.
- 6) Before the development hereby permitted is occupied, parking spaces shall be provided in accordance with Plan 7799-L-010 rev I and thereafter that area shall not be used for any purpose other than for the parking and turning of vehicles.
- 7) No development shall take place until an air quality assessment report for the proposed biomass boiler (having regard to the air quality predictions and monitoring results of Stage Four of the Local Planning Authority's Review and Assessment and the London Air Quality Network and London Atmospheric Emissions Inventory) has been submitted to, and approved in writing by, the Local Planning Authority. Details of any air pollution mitigation measures shown to be necessary by the report shall be submitted to, and approved in writing by, the Local Planning Authority and shall be implemented in accordance with the approved details before the development hereby approved is occupied.
- 8) The level of noise emitted by the plant hereby approved shall be at least 5dB(A) below the background noise level, as measured from any point 1 metre outside the window of any room of any neighbouring residential property. If the noise emitted by the plant has a distinguishable, discrete continuous note (whine, hiss, screech or hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below

the background noise level, as measured from any point 1 metre outside the window of any room of any neighbouring residential property.

- 9) No development shall take place until details of external lighting have been submitted to, and agreed in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 10) No development shall take place until a scheme of hard and soft landscaping has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be carried out in full before the end of the first planting season following occupation of the development hereby permitted or its completion, whichever is the sooner. Any trees or shrubs (including any replacements), planted as part of the approved landscaping scheme, which are removed, die or become seriously damaged/diseased within five years of the completion of the development shall be replaced with trees or shrubs of similar size and species in the next planting season.
- 11) Before the development hereby permitted is occupied a travel plan, based on the Draft Travel Plan submitted in support of application Ref B/04789/08, and which includes unambiguous modal split targets and a time bound programme of implementation, monitoring and review, shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated.
- 12) Before the development hereby permitted is occupied a Travel Plan Coordinator shall be appointed, to work in connection with the development, and details of his/her name, address, telephone number and email address shall be submitted to the Local Planning Authority.
- 13) The development hereby permitted shall not be occupied until amendments have been made to road markings to create a dedicated right turn "pocket" on High Road in the immediate vicinity of, and to serve, the development.
- 14) The development hereby permitted shall meet the BREEAM standard at the level specified at Section 6.11 of the London Borough of Barnet Sustainable Design and Construction Supplementary Planning Document (June 2007). Before the development is occupied certification that it meets the relevant standard shall be submitted to the Local Planning Authority.
- 15) The retail unit element of the development hereby permitted shall be used only for the sale of retail items within the following range and type of goods:
 - DIY/garden goods
 - Furniture, furnishings and textiles
 - Carpets and floor coverings
 - Camping, boating and caravanning goods and other fitness and outdoor and leisure goods
 - Motor vehicle and cycle goods

- Electrical goods including computers
- Pets and pet supplies
- Bulky goods of any type

Goods falling outside this range shall only be sold where they form an ancillary part of the operation of the retail unit.

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter from DLA Town Planning Ltd withdrawing objection
- 2 Letters notifying interested parties of Hearing
- 3 Appendices A-D of Council's Statement
- 4 Annex 4 of *The London Plan*
- 5 *SDS Technical Report 12*
- 6 Extracts of *The London Plan*
- 7 Extracts of *London Borough of Barnet Unitary Development Plan*
- 8 *Contributions to Libraries Supplementary Planning Document*
- 9 List of Suggested Conditions

DOCUMENTS SUBMITTED AFTER THE HEARING

- A1 Unilateral Undertaking dated 20 July 2009