



Appeal Decision

Site visit made on 9 January 2023

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/X5210/W/22/3303805

190 Finchley Road, London NW3 6BX

- 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 A Kamali against the decision of the Council of the London Borough of Camden.
 - The application Ref 2022/0318/P, dated 26 January 2022, was refused by notice dated 11 May 2022.
 - The development proposed is change of use of the ground floor from a coin operated laundrette (Sui Generis) to a cafe/retail unit (Class E (b)).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's first reason for refusal states:

The proposed change of use, by reason of the loss of a launderette which provides a specific and essential service and social function, would be detrimental to the character, function, vitality and viability of the Finchley Road town centre, contrary to policies TC2 (Camden's centres and other shopping areas) and TC4 (Town centres uses) of the London Borough of Camden Local Plan 2017.

3. The Council have confirmed that since they refused planning permission for the appeal scheme, they have separately resolved to grant planning permission¹ for the same change of use as that proposed in this case, subject to the completion of a legal agreement. The Council have explained that within that subsequent application, evidence was submitted in respect of a laundrette being in operation at a nearby premises elsewhere within the town centre. The Council have also stated that on the basis that the laundrette has relocated from the appeal premises to the nearby site, as submitted in the appellants evidence, that their objection on the grounds of the harmful effects that the development would have upon the town centre, as articulated in the first reason for refusal, falls away.
4. During my visit I noted the laundrette operating within its relocated premises, close-by to the appeal site, farther along Finchley Road. Given the circumstances which have arisen since the Council made their decision, I no longer need to consider in detail the first reason for refusal.

¹ Planning application reference: 2022/3588/P

Main Issue

5. Having regard to the above, the main issue is whether the development is required to be car-free and, if so, whether this has been secured via a suitable mechanism.

Reasons

6. Policy T2 of the Camden Local Plan, 2017 (LP) requires all new developments to be car-free and that, as a part of this, no new on-street or on-site parking permits, as a result of new development, will be issued. Amongst other matters, Policy CC1 of the LP requires all development to reduce carbon dioxide emissions and minimise the need to travel by car.
7. To deliver a car-free development a mechanism is required to ensure that occupiers of the development would not be eligible to apply for a parking permit within the controlled parking zone operating within the area, unless they were a Blue Badge holder. Whilst I accept that no parking is proposed as a part of the scheme, and that the site is located close to public transport options, without ensuring the parking permit ineligibility, it has not been shown to me that the occupants of the development could not apply for parking permits with the consequential increases in demand for on-street parking that would result. Furthermore, in failing to constitute a car-free development, the proposal would not be minimising the need to travel by car or promote the reduction of carbon dioxide emissions.
8. The Council have submitted that the appropriate mechanism to secure that the development would be car-free would be through the entering into of a planning obligation made under section 106 of the Town and Country Planning Act 1990 (as amended) (the Planning Act), and I have no reason to disagree.
9. The planning obligation would be necessary to make the development acceptable in planning terms, so that it would comply with Policies T2 and CC1 of the LP. The planning obligation would be directly related to the development and would be fairly and reasonably related in scale and kind to the development. Such an obligation would therefore accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out at paragraph 57 of the National Planning Policy Framework.
10. Although the appellant has indicated a willingness to enter into the section 106 legal agreement, I do not have an agreement before me. Without it, there is no mechanism to secure that the development would be car-free nor, in turn, prevent the harmful effects that would be caused by an increase in on-street parking pressure and the failure to reduce carbon dioxide emissions and minimise the need to travel by car. These effects would be contrary to Policies T2 and CC1 of the LP.

Other Matters

11. I acknowledge that the development may not cause any harmful effects upon the living conditions of any nearby occupants, however, this lack of harm would be neutral in the planning balance and would not outweigh the harm I have identified in the main issue.

Conclusion

12. I have no reason to conclude that a planning obligation under section 106 of the Planning Act is not necessary to make the development car-free and, in turn, accord with the development plan, and be acceptable in planning terms. No such section 106 agreement has been completed and, in its absence, the development is in conflict with the development plan. There are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. The appeal is therefore dismissed.

H Jones

INSPECTOR