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# Appeal Decision

Site visit made on 25 October 2016

**by Caroline Mulloy BSc (Hons) DipTP MRTPI**

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

**Decision date: 4<sup>th</sup> November 2016**

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**Appeal Ref: APP/Q5300/W/16/3156516**

**348 Baker Street, Enfield EN1 3LQ**

- 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 S Kumar against the decision of the Council of the London Borough of Enfield.
  - The application Ref 15/05814/FUL, dated 17 December 2015, was refused by notice dated 1 April 2016.
  - The development proposed is conversion of ground floor shop into one bedroom flat unit.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this case are:
  - The effect of the proposed change of use on the vitality of the local centre;
  - Whether the proposal makes adequate provision for any additional need for infrastructure arising from the development; and
  - Whether the proposal makes adequate provision for refuse and recycling storage or cycle parking facilities.

## Reasons

### *Vitality of the local centre*

3. The appeal site is situated on the western side of Baker Street between Rosemary Avenue and Primrose Avenue and is occupied by a two storey terrace with a ground floor shop front and residential flat above. It is located within the northern part of the Baker Street Large Local Centre (the Centre) where properties feature a mix of commercial and residential uses at ground floor level with predominantly residential uses above.
  4. Policy CP13 of the Enfield Plan Core Strategy (CS) 2010-2025 (2010) seeks to promote economic prosperity and Policy CP17 states that Enfield's Local Centres will continue to be supported in providing core local shopping facilities and services. Policy DMD 28 of the Development Management Document (DMD) (2014) states that proposals involving a change of use from A class, leisure or community uses within local centres will be refused unless the proposed use provides a service which is compatible with and appropriate to the local centre. A
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change of use will only be permitted if a number of criteria are met including that the role and function of the centre remains predominately retail. The proportion of A1 shop units must be no less than 50% of the total number of commercial units within defined centres and there must be no less than 50% of A1 uses within an one parade.

5. There is no evidence before me in relation to the proportion of uses within the Centre as a whole. However, the block upon which the appeal unit is situated is comprised of 6 units in total, 2 of which are in A1 retail use and consequently the percentage of A1 retail uses on the block is already below 50%. The appeal proposal would result in a further loss of A1 retail and reduce the percentage of A1 retail use on the block. Consequently it would be contrary to criterion a of Policy DMD 28.
6. The Centre stretches out along Baker Street with intermittent residential uses. The northern part of the centre is clustered around the junction of Baker Street and Lancaster Road. The property is flanked by a ground floor A2 (financial and professional services) use to the north and an A1 retail use to the south and so it would not technically result in a break in the continuity of the retail frontage, however, it would result in a break in the continuity of the commercial frontage. Furthermore, it is intended to remove the existing shop front and replace it with a significantly smaller domestic window resulting in the loss of active frontage and would thus be contrary to criterion e of Policy DMD 28.
7. The policy does allow for the change of use of a shop unit which has been vacant for 12 months and where robust evidence has been submitted to demonstrate that all efforts have been made to market the unit over that period, in accordance with the details set out in Appendix 13 of the DMD. The application form indicates that the appeal unit was in use and this was the basis upon which the application was determined. However, the appeal property was vacant at the time of my site visit.
8. The appellant contends that the owner has been unable to find a tenant to continue the retail use; however, there is no evidence before me which demonstrates this. I am, therefore, unable to conclude that the proposal meets the requirements of Policy DMD 28 in this respect.
9. The appellant considers that there is no demand for retail on this terrace and attention is drawn to shop units on the same terrace which have been converted to residential. However, no details have been provided of those cases which limit the weight which I can attach to them in my Decision.
10. Furthermore, there is no evidence before me that there is no demand for retail, A2 or other town centre uses in this location. Moreover, there is no cogent evidence before me that the appeal unit would not be viable for A1 retail or other appropriate town centre use or that such a use would not be forthcoming in the future. Whilst the appeal property is at the northern end of the Centre, the presence of an A1 retail use to the south and an A2 use to the north would indicate that the location is not unattractive to potential retail or other appropriate town centre uses which would retain an active frontage.
11. Consequently, I consider the loss of the A1 retail unit and loss of active frontage would harm the retail function and vitality of the Centre. The proposal would, therefore, conflict with Policies CP13 and CP17 of the CS and Policy DMD 28 of the DMD.

### *Infrastructure Provision*

12. Policy CP3 of the CS sets out a borough-wide target of 40% affordable housing units in new development. Some form of contribution will be required on all new housing sites. Developments of less than 10 dwellings will be assessed in order to determine the level of financial contribution required towards affordable housing off-site. For developments of less than ten dwellings, the Council will seek to achieve a financial contribution to deliver off-site affordable housing based on a borough-wide target of 20% affordable housing. This requirement is also reflected in Policy DMD 2 of the DMD and the Section 106 Supplementary Planning Document (Section 106 SPD) (2011).
13. The proposal would not be able to provide affordable housing provision on-site and consequently under the terms of the Policy CS3 a financial contribution towards affordable housing off-site is required. On the evidence before me and in the context of the above, it appears that the need for the contribution sought arises from the development and satisfies the 3 tests in Regulation 122 (2) of the Community Infrastructure Levy (CIL) Regulations 2010.
14. The appellant has provided an Affordable Housing Statement which indicated that the proposal would generate an affordable housing contribution of £15,375.60. However, whilst the appellant has indicated that they are willing to pay a financial contribution there is no mechanism before me in order to secure such a contribution.
15. Consequently, the proposal would fail to secure appropriate contributions towards affordable housing and so would be in conflict with Policy CP3 of the CS, Policy DMD 2 of the DMD and the Section 106 SPD.

### *Provision for refuse and recycling storage or cycle parking facilities.*

16. The Council are concerned that no details are provided of refuse facilities or cycle parking to serve the proposal. Attention is drawn to the proposed rear yard amenity space which could provide for bin storage and cycle parking. On this basis I am satisfied that this matter could have been addressed by way of a condition(s) requiring details of refuse and recycling storage and cycle parking facilities to be submitted had I decided to allow the appeal.
17. Consequently, I conclude that subject to such a condition(s), the proposal would not be contrary to Table 6.3 of the London Plan (2015) which sets out cycle parking minimum standards. Furthermore, the proposal would not conflict with Policy CP25 of the CS which seeks to provide safe, convenient and accessible routes for pedestrians, cyclists and other non-motorised modes. Furthermore, no conflict arises with Policy DMD 45 of the DMD which requires new development to make provision for cyclists in accordance with the standards set out in the London. Finally, no conflict would arise with Policy DMD47 of the DMD requires new development to make provision for cyclists.

### **Conclusion**

18. The proposal would have social benefits by way of a contribution, albeit limited, to housing supply. However, I consider that this benefit would be outweighed by the significant harm which I have identified.

*Caroline Mulloy*

Inspector