
Appeal Decision

Site visit made on 29 November 2016

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 14 December 2016

Appeal Ref: APP/N5090/C/16/3154766

Queens Head, 248 Regents Park Road, London, N3 3HN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr P Patel, ZKZ Properties Ltd, against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice, numbered ENF/01562/16, was issued on 15 June 2016.
- The breach of planning control as alleged in the notice is without planning permission the use of the ground floor of the property as an office.
- The requirements of the notice are
 1. Cease the use of the ground floor of the property as an office (Use Class B1).
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Decision.

The appeal on ground (a) and the deemed planning application

1. In an appeal on ground (a) the Appellant is saying that planning permission should be granted for what is alleged in the notice and the deemed planning application is in the same terms.
2. The Appellant has referred to a number of development plan policies and submitted that the change of use does not conflict with them, however, the only issue raised by the Council in its reasons for issuing the notice relates to the appropriateness of the change of use in this location and I therefore consider that the main issue is whether the change of use to office use is appropriate in this location.
3. The appeal site is located on the north east corner of a cross road at the junction of Regents Park Road (A598) and East End Road (A504). Both roads are London Distributor Roads with links to the A1, A5 and the North Circular. The appeal site is broadly triangular in shape and occupies the site of a building originally constructed as a public house. It has a basement, ground floor and two upper floors which are set back and which are in residential use.
4. At the time of my visit the ground floor was occupied by what appeared to be at least four different companies/operations¹, each having one or two rooms,

¹ Noted as 'at least 3 different companies' in the Appellant's final comments

with shared facilities including a meeting room, a kitchen and other staff facilities. The interior finishing and offices were of a high standard. Although work appeared to have come to a stop, a large part of the ground floor appeared to be in the process of being converted into office use.

5. I noted that the extensive basement was also partly in office use because it is being used for, among other things, the storage of business records. This is also mentioned in the Appellant's statement. However, the notice only refers to the ground floor and I will determine the appeal on this basis.
6. The delegated report advises that the public house had been vacant for some five years prior to the current use. Policy DM 11 of the Adopted Barnet Development Management Policies DPD advises that, among other things, 'proposals for significant new retail and other appropriate town centre uses, which includes office use, will be strongly resisted unless they can meet the sequential approach and tests set out in the National Planning Policy Framework (the Framework). Edge of centre proposals will not normally be appropriate and therefore should demonstrate why they are not locating in a town centre site'. Policy DM 14 is in different terms and says that all proposals for new office space should follow a sequential approach which considers town centre sites before edge of centre sites'. The appeal site is not located in a town centre and it is not disputed that the Appellant did not undertake any sequential test until after the notice was issued and the appeal had been made.
7. The sequential site assessment undertaken by the Appellant identified 38 potential sites within the Finchley Church End Town Centre which had a sequentially preferable location than that of the appeal site. However, 18 sites were not available; 10 were not available or suitable; 9 were available but not suitable; and one was suitable but not available². I note that the assessment included several sites where there was 'no evidence to suggest vacancies' and that several sites had the benefit of a prior approval to convert from an office (B1 use) to a residential (C3 use) or a planning permission to do so, but this does not necessarily mean that the prior approval or planning permission will be implemented.
8. In addition the assessment was on the basis of the Appellant requiring 450 – 600 sq m because he 'has relocated the administrative element of its business'³. I have not been provided with any information about the Appellant's business and, from what I saw, the ground floor is occupied by at least four separate entities and I have no information about, such things as the terms of their tenure, their needs, the actual space they occupy and whether their separate needs could be met elsewhere. In this respect I note that the suitability of several of the 'available but not suitable' properties was on the basis that they were of insufficient size for the Appellant's operational requirements.
9. The Appellant maintains that the appeal site is about 600m from Finchley Central Underground Station and less than 300m from Finchley Church End Town Centre and 'edge of centre' for the purposes of the Framework includes locations for office development within 300m of a town centre boundary and within 500m of a public transport interchange. An edge of centre site for the purposes of the Development Management Plan is 150m from the town centre

² Appendix 5 to the Appellant's Appeal Statement

³ Para 1.11 of the Sequential Site Assessment

boundary⁴. Whilst I acknowledge the difference in the distances I note that the appeal site is an edge of centre site for the purposes of the Framework.

10. Paragraph 24 of the Framework advises that when considering edge of centre and out of centre proposals for office uses preference should be given to accessible sites that are well connected to the town centre. The appeal site has a PTAL of 4⁵ and is therefore accessible.
11. Although the sequential assessment has some defects and lacks detail about the availability of some sites, it has addressed the question posed in Policy DM11 of why the Appellant has not located the office use in the town centre. So far as Policy DM14 is concerned the assessment has considered town centre sites but, for various reasons, has rejected them.
12. On balance, taking the conclusions of the sequential assessment into account, I consider that any harm occasioned by the office use being located outside a town centre is outweighed by what I saw on my visit; by its edge of centre location; and by the accessibility of the site both generally and with regard to the Finchley Church End Town Centre. I therefore conclude that the change of use to office use is appropriate in this location and that the change of use accords with the development plan policies and Framework to which I have been referred.
13. The Council has not provided a list of any suggested conditions and therefore none will be imposed.

Conclusions

14. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Decision

15. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the ground floor at Queens Head, 248 Regents Park Road, London, N3 3HN, as shown on the plan attached to the notice, as an office (Use Class B1).

Gloria McFarlane

Inspector

⁴ Paragraph 12.6.1

⁵ Public Transport Accessibility Level - Paragraph 2.9 of the Appellant's Appeal Statement