
Appeal Decision

Site visit made on 7 February 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 01 March 2017

Appeal Ref: APP/Q5300/W/16/3162235

92 Alderman's Hill, Enfield, Southgate N13 4PP

- 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 Aykut Hilmi, Starfish and Coffee House, against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/1526/FUL, dated 12 May 2016, was refused by notice dated 11 July 2016.
 - The development is described on the application form as A3 / A1 use as coffee house to serve limited range of hot foods and also to display and sell local artist's artwork.
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Decision

1. The appeal is allowed and planning permission is granted for A3 / A1 use as coffee house to serve limited range of hot foods and also to display and sell local artist's artwork at 92 Alderman's Hill, Enfield, Southgate N13 4PP in accordance with application Ref 16/1526/FUL, dated 12 May 2016 and subject to the conditions set out below.

Application for costs

2. An application for costs was made by Mr Aykut Hilmi against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

Procedural Matters

3. The appellant has confirmed that the application was amended so that the proposal was limited to the change of use of the premises only and excluded reference to originally proposed external alterations and a seating area. The application, he says, should therefore have been determined by the Council as such. This forms part of the basis for the appellant's costs application. Notwithstanding this, the Council has clearly set out its reasons for refusal which include the proposed side door in the porch and the seating area. I am satisfied that these elements of the scheme have been given due consideration by the Council and third parties. I have therefore dealt with each of the refusal reasons as main issues. For the avoidance of doubt this permission includes the proposed external alterations and seating area shown on the submitted plans.
 4. The use of the building has already been implemented.
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Main Issues

5. The main issues are i) the effect of the proposed use on the character of the shopping centre; ii) the effect of the proposed porch door on the character and appearance of the host building and The Lakes Estate Conservation Area (CA) and iii) the effect of the proposed outdoor seating area on pedestrian safety.

Reasons

Proposed use

6. The proposal seeks to change the use of the ground floor premises from an estate agents to a cafe. Policy DMD 32 of the Enfield Development Management Document 2014 (DMD) states that the development of food and drink uses will only be permitted subject to certain criteria being met. Amongst these criteria is the requirement that the development should not result in the clustering of restaurants, drinking establishments or hot food takeaway uses. Accordingly it states that planning permission will be refused where the development would result in the aforementioned types of business being situated adjacent to one another. As the site is adjacent to an existing cafe premises it would therefore fail to meet this criteria. The Council has therefore refused planning permission on this ground.
7. The site is at the end of a terrace of properties and in wider context, an extensive parade of shops and services that form part of the Palmers Green District Centre. It is situated opposite Broomfield Park, a large expanse of open space including play facilities.
8. From my visit it was evident that there are several food and drink related uses already established within the Centre. However, the shopping parade appeared to be vibrant with many comings and goings, few vacant units evident and a busy Morrisons supermarket in close proximity.
9. In terms of the effect of the development on the use of the shopping parade, it is likely that the proposal would draw in some passing trade from users of the adjacent park in search of refreshment. This in turn would be likely to generate some additional trade elsewhere within the Centre. Therefore on the basis of the information before me and my visit, I am not persuaded that the proposal would result in material harm to the vitality, vibrancy and shopping function of the locality, and may indeed result in a positive effect.
10. Whilst I sympathise with the concerns raised by the owner of the adjacent cafe in terms of the effect of competition for trade and potential loss of business, the effect of one business on another in this way is a private matter which I am unable to have regard to in my deliberations. Accordingly the Council is incorrect to suggest that the purpose of Policy DMD 32 is to safeguard the existing business community in this way.
11. I conclude, despite conflict with the requirements of Policy DMD 32 of the DMD, that given the circumstances of the case, the proposal would not result in harm to the character of the shopping centre.

Character and Appearance

12. It seems to me that the part of the CA in which the appeal site is located is characterised by the age, form and appearance of the terraced parade of shops

in relation to the highway and the open setting of Broomfield Park on the opposite side of Alderman's Hill. The proposed insertion of a new door within the existing porch at the side of the building would be a relatively prominent alteration, viewed from around the junction of Alderman's Hill and Lakeside Road. However this alteration, together with the small ventilation grill proposed, would be relatively minor and accordingly I do not concur with the Council that it would result in harm to the character or appearance of the host building or the CA.

13. The development would not therefore be in conflict with Policies DMD 37, DMD 38 and DMD 44 of the DMD insofar as they seek to promote high quality design and preserve or enhance the character and appearance of conservation areas.

Pedestrian safety

14. The proposed outdoor seating area of concern to the Council would be situated immediately to the side elevation of the building, adjacent to the junction of Alderman's Hill and Lakeside Road. The pavement at this point is relatively wide as it turns the corner between the two streets. Accordingly there would be plenty of room to allow pedestrians and wheelchair users to pass one another unimpeded. This part of the development would not therefore be in conflict with Policies DMD 32 and DMD 47 of the DMD insofar as they seek to provide convenient routes for pedestrians that do not result in an adverse impact on safety.

Conditions

15. I have considered the conditions suggested by the Council. Conditions specifying the plans and requiring details of new openings including materials are needed to safeguard the character and appearance of the area. A condition requiring details of the outdoor seating plan is required in the interests of highway safety.
16. I have amalgamated and made minor alterations to the wording of the suggested conditions for clarification and to ensure they meet the tests for conditions as specified in national planning guidance.

Conclusion

17. For the above reasons, I conclude that the appeal should succeed and planning permission be granted.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 188 01; 188 02; 188 03 B; 188 04 B.
- 2) No external alterations to the building shall be commenced until detailed drawings including sections of proposed new doors and windows and details of construction materials have been submitted to and approved in writing by

the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 3) Prior to the implementation of the external seating area denoted by the reference to 'Licensed Pavement Area' on the approved plan, details of the proposed outdoor seating plan shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided in accordance with the approved details.