
Appeal Decisions

Site visit made on 24 April 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 23 May 2017

Appeal A Ref: APP/N5090/W/17/3168434

Dug Out Cafe, St Albans Lane, Golders Green, London NW11 7QE.

- 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 Mrs Ragi Pindoria Patel against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/2033/FUL, dated 30 March 2016, was refused by notice dated 16 September 2016.
 - The development proposed is the "change of use of the rear ground and basement of 36 North End Road (with access to St. Albans Lane), London NW11 7QE from café (A3) use to a live/ work unit (C3/B1(a)), plus the addition of a rear, two level extension".
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Appeal B Ref: APP/N5090/W/17/3168453

Dug Out Cafe, St Albans Lane, Golders Green, London NW11 7QE.

- 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 Mrs Ragi Pindoria Patel against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/5949/FUL, dated 12 September 2016, was refused by notice dated 10 November 2016.
 - The development proposed is a "detailed planning application for the change of use of the rear ground and basement of 36 North End Road (with access to St. Albans Lane), London NW11 7QE from café (A3) use to a separate office (Class B1a) and a one bedroom, residential dwelling (Class C3), plus the addition of a two level extension at the rear of the property".
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Decisions

1. Appeal A is allowed and planning permission is granted for the change of use of the rear ground and basement of 36 North End Road (with access to St. Albans Lane, London NW11 7QE from café (A3) use to a live/ work unit (C3/B1(a)), plus the addition of a rear, two level extension at Dug Out Cafe, St Albans Lane, Golders Green, London NW11 7QE in accordance with the terms of the application, 16/2033/FUL, dated 30 March 2016 subject to the conditions set out in the schedule to this decision
 2. Appeal B is allowed and planning permission is granted for the change of use of the rear ground and basement of 36 North End Road (with access to St. Albans Lane), London NW11 7QE from café (A3) use to a separate office (Class B1a) and a one bedroom, residential dwelling (Class C3), plus the addition of a two level extension at the rear of the property at Dug Out Cafe, St Albans Lane, Golders Green, London NW11 7QE in accordance with the terms of the
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application, Ref 16/5949/FUL, dated 12 September 2016 subject to the conditions set out in the schedule to this decision.

Preliminary Matters

3. As set out above there are two separate appeals. Appeal A involves the formation of a two-bedroom flat with an ancillary live/work area. In Appeal B, the flat would be a smaller one-bedroom unit with a separate office use. In both cases, the Council used identical reasons for refusal. As both appeals raise similar issues I have dealt with them in a single decision letter.

Main Issue

4. The main issue in both appeals is the effect of the development on the living conditions of future occupiers with particular regards to outlook, amenity space and noise disturbance.

Reasons

5. The appeal site comprises the rear ground floor and basement to 36 North End Road, a 4-storey, mid-terrace property located within a busy urban high street close to the centre of Golders Green. Whilst the ground floor commercial unit fronts onto North End Road, the proposed extension and flat would be located off a rear access road known as St Albans Lane. The majority of properties in the locality consist of a commercial unit at ground floor/street level with residential accommodation above.
6. As part of both schemes the property would be extended at basement and ground floor levels to create the additional floorspace. This would incur the loss of the existing parking space. In both schemes the majority of the accommodation including the bedrooms would be sited at basement level with an open-plan living/kitchen area provided on a smaller ground floor. 10m² of outdoor amenity space would be provided to the rear of the basement with steps leading up to the pedestrian access.
7. When I conducted my mid-morning site visit it was evident that St Albans Lane is a busy back street bustling with activity from the surrounding commercial uses. Most premises do not benefit from off-street parking or loading areas leading to this kind of activity taking place on St Albans Lane in widespread contravention of existing parking restrictions. Despite the severity of the existing parking situation, the Council have not objected to the scheme on highway safety terms.
8. In appeal A, the submitted plans show a spacious 2-bedroom live/work unit with over 100m² of residential floorspace. A Noise Report submitted with the application found that an adequate level of noise attenuation could be provided to the flats. Nonetheless, the Council is concerned that future occupiers would be subjected to unreasonable levels of noise from the A3 unit on the ground floor which is to be retained in both appeals. No technical evidence has been adduced to support these concerns nor is there an explanation why such matters could not be dealt with by planning conditions.
9. It seems to me that flats are routinely sited above commercial units in built-up areas like this. Whilst in these cases an element of the floorspace would be below the retained commercial unit, I am not persuaded that the overall effect in terms of noise would be materially different in that regard. In Appeal A, the

only noise sensitive accommodation under the commercial unit would be bedroom 2. In Appeal B there would be no residential floorspace under the commercial unit. There is no information before me on the opening hours of the A3 unit but even in the unlikely event they are unrestricted, I find it doubtful that an A3 use would operate late at night.

10. I accept that noise emanating from St Albans Lane may cause some disturbance from time to time. However, I suspect that there is a marked decrease in the amount of vehicular activity in the evenings and late at night when the adjacent commercial units are closed. Furthermore, this is a mixed-use area where residential accommodation evidently co-exists with commercial and vehicular activity. To that end, there is no evidence before me to suggest a history of noise complaints from adjacent residential occupiers regarding St Albans Lane. Therefore, based on the foregoing, I find that future occupiers would not be subjected to unreasonable levels of noise and disturbance.
11. I note the Council's concern about the lack of glazing, natural light and outlook to some of the habitable room particularly the bedrooms. I have also considered advice in the SPD's¹ which amongst other things state that new development should be sited and designed to maximise daylight and sunlight as far as possible. However, a Daylight Report submitted by the appellant concluded that all the rooms, apart from the second bedroom, would achieve a greater amount of daylight than that recommended by the BRE guidelines. Bearing in mind the size and number of openings across the flat as a whole, as well as the site's context within a high density urban area, I consider that future occupants would have ample levels of natural light.
12. The submitted plans show that the rear boundary of the site adjacent to St Albans Lane would be enclosed by railings with a large void to allow daylight to the patio area below. Whilst this subterranean arrangement would limit direct sunlight to the patio, it would still be a private, outdoor area benefitting from some diffuse natural light. Given that any kind of private outdoor amenity space patio is a rarity in the immediate locality, I am not persuaded that it can reasonably be argued that the lack of direct sunlight would result in unacceptable living conditions for future occupiers.
13. Section 2.4 of the Sustainable Design SPD advises that bedrooms and living rooms /kitchens should normally have a reasonable outlook with clear glazed windows. The SPD does not explain why bedrooms which are primarily used for sleeping should provide an outlook. In both appeals, the main bedroom would have 2 openings including a large full height, bi-folding door allowing access to the patio area with angled views to the buildings on the south side of St Albans Road. Both windows would be clear glazed and provide some outlook which in my view would be entirely reasonable given the site's context. I do however accept that, notwithstanding the full height light admitting window, the outlook from bedroom 2 would be poor. However as I have found in relation to light, taken across the flat as a whole I consider that the outlook for future occupiers would be acceptable and certainly not materially worse than that found elsewhere in the locality.
14. I therefore conclude that in both appeals the development would accord with Policy CS5 of the "*Core Strategy: Development Plan Document 2012*", Policies

¹ *Supplementary Planning Document: Sustainable Design and Construction & Supplementary Planning Document Residential Design Guide 2013*

DM01 and DM02 of the "*Development Management Policies: Development Plan Document 2012*", Policy 7.6 of "*The London Plan 2015*" and the overall objectives of the SPDs and the Mayor's "*Housing Supplementary Planning Guidance*". Collectively these policies seek levels of daylight, sunlight, privacy and outlook which do not cause unacceptable harm to the amenity of potential occupiers.

Conclusions

15. I have imposed a condition specifying the approved plans to provide certainty. In addition, given the location of the site within a conservation area, I have imposed a condition relating to external facing materials to ensure the satisfactory appearance of the development. Finally, as there would be noise sensitive residential floorspace below the commercial unit in appeal scheme A, I have imposed a condition relating to a scheme of noise attenuation measures.
16. For the reasons given above and taking into account all other matters raised, I conclude that the proposals are acceptable and both appeals should succeed.

D. M. Young

Inspector

SCHEDULE OF CONDITIONS

APPEAL A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A4/ExDrg100-PL01-14400, A3/PrDrg109-111-PL14-14400, A3/PrDrg302-PL14-14400, A3/PrDrg201-301-PL14-14400 and A3/PrDrg202-PL14-14400.
- 3) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 4) The premises shall be adapted so as to provide sound insulation against internally generated noise with windows shut and other means of ventilation be provided. The flat hereby permitted shall not be occupied until (a) a scheme for the installation of sound insulation has been submitted to and approved in writing by the local planning authority for the flat and live/work; and (b) all the works have been carried out in accordance with the approved scheme.

APPEAL B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A4/ExDrg100-PL01-14400, A3/PrDrg201-301-PL15-14400, A3PrDrg109-111-PL15-14400, A3/PrDrg202-PL15-14400 and A3/PrDrg 302-PL15-14400.
- 3) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.