The Planning Inspectorate

Appeal Decision

Site visit made on 31 January 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 17 February 2020

Appeal Ref: APP/Q5300/W/19/3240044
135-137 Bowes Road, Southgate N13 4SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Dr Surraiya Zia against the Council of the London Borough of Enfield ('LBE').
- The application Ref 19/01212/FUL, is dated 14 March 2019.
- The development proposed is described on the application form as the 'change of use from a medical facility (D1) to two shops (A1) and three dwellings (C3) on the ground floor…'.

Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary matters

2. The appeal is against LBE's failure to determine application Ref 19/01212/FUL within the relevant statutory period. There is, however, correspondence from LBE to the appellant of 18 September 2019 before me. That explains how LBE had concerns over two matters, the 'loss' of medical provision and the 'quality' of the proposed residential units/ dwellings.[1] I have taken those matters to represent the principal areas of dispute, noting that the proposal would entail little substantive alteration to the appearance of Nos 135-137 as they stand.[2] The appellant has also addressed those issues at appeal.

Policy context

3. Noting the planning history here,[3] each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the London Plan ('LP'), Enfield Core Strategy ('CS'), and of the Council's Development Management Document ('DMD').[4] The appeal site also falls within the area covered by the North Circular Area Action Plan ('AAP'),[5] specifically in a short commercial parade stretching between Nos 125 to 167 along the south side of the North Circular. I have also had regard to various material considerations,

[1] There is also correspondence from the Council before me of 31 July 2019, in which reference is made to the layout of proposed accommodation and its potential inter-relationship with a row of utilitarian buildings between No 135 and Woodgrange (the former accessed via Brownlow Road, the latter via Hardwicke Road).
[2] In accordance with section 79(1) of the Town and Country Planning Act 1990 as amended.
[3] Notably an unsuccessful proposal for 14 units in 2016 (Ref 16/02630/FUL).
[4] The LP adopted in March 2016, the CS in November 2010, and DMD in November 2014. That is notwithstanding a recently-examined draft new London Plan and emerging work underway updating the CS.
[5] Adopted October 2014.

including the National Planning Policy Framework and the Planning Practice Guidance ('NPPF', 'PPG').

Main issues

4. Against the context above the main issues are (i) the effect of the proposal on the availability of local community facilities, and (ii) whether or not the residential units would be appropriate in respect of living conditions and integration with their surroundings.

Reasons

Community facilities

5. CS Core Policies 9 and 7 set out how the Council will promote accessible healthcare, and retain existing provision where that would continue, or could be adapted, to meet needs. The DMD defines community facilities as those, including related to healthcare, which 'meet local community needs, facilitate social interaction, and promote inclusive communities'. Policy DMD 17 sets out how the loss of community facilities will not be permitted unless (a.) a suitable replacement is provided that 'maintains the same level of public provision and accessibility' or (b.) where there is evidence of 'no demand for the existing use or any alternative community use'.

6. Similarly, although the focus in this location on health provision relates to the expansion of the Arnos Grove Health Centre, relatively conveniently located half a mile or so away, the AAP seeks to create vibrant commercial centres and enable suitable provision of community facilities. Likewise NPPF paragraph 92 guides as to how planning should make appropriate provision for community facilities, and guard against the 'unnecessary loss of valued facilities and services'.

7. The authorised use of Nos 135-137, at the corner of Bowes Road (part of the North Circular/ A406) and Hardwicke Road, is as a D1 medical facility. I understand that was a private practice, as reflected in the signage still present, operated by Dr Zia (as the sole practitioner). I am told that the appellant retired on 6 June 2016, at which point the surgery closed; at ground floor the properties have been left to their own devices for some time.

8. A private practice does not sit comfortably with the derivation of 'community', does not represent 'public provision' as is used in policy DMD 17 (a.), and would not be equivalent to healthcare provision at the NHS operated Arnos Grove Health Centre. However CS Core Policy 7 sets out how LBE will work with both public and private sector agencies in delivering appropriate provision; the distinction between sectors in respect of healthcare provision being nuanced.

9. Although the services provided by a private practice in this location would not have been exclusively available to those nearby, they would nonetheless in all likelihood have been beneficial to some members of the local community. Consequently, and given that there is no express provision made in either the development plan or NPPF regarding the status of privately owned assets in this regard, the authorised use of Nos 135-137 may reasonably be described as a community facility (albeit with a qualified level of accessibility, and therefore value locally).

10. However the practice has now been closed for close to four years. I understand that the properties have since been marketed as in D1 use. I am told that process has registered no interest whatsoever. Comprising two Edwardian properties, the premises are furthermore limited in scale relative to many other healthcare facilities. They are therefore likely to appeal to sole practitioners, as previously operated.

11. There is evidence before me indicating that the number of permanent General Practitioners is, for various reasons, in decline.[6] That will dampen demand. Moreover on account the size and historic origins of the properties, the premises are likely to be less convenient than many more modern or purpose built community facilities. For those reasons I am satisfied that there is no substantive evidence of demand for the premises remaining in D1 use.

12. That there should also be no demand for 'any alternative community use' as set out in policy DMD 17 (b.) is a stringent test (which, incidentally, does not specifically reference whether any such demand is realistic with regard to the market). However the proposal entails the creation of two retail units. Page 73 of the AAP explains that the commercial parade in which Nos 135-137 fall 'continues to service the day to day retail and community needs of the local Brownlow Road community.'

13. Moreover CS paragraph 6.56 sets out how 'ensuring that everyone has access to a range of shops which meet their needs, in a sustainable way, is important to delivering Enfield's sustainable communities agenda'. Similarly NPPF paragraph 92 refers to local shops as community facilities. In that context the proposal would entail the creation of retail units which will be of value to the local community, as is supported by CP policy 17 (which in turn draws on evidence of rising demand for such).

14. The local benefits of a private medical practice would be qualified, and there is no evidence indicative of demand for the premises remaining in D1 use. Any loss resulting from the redevelopment of the properties, in terms of community benefit, would therefore be highly limited. By contrast the property has remained vacant for a considerable time. Its redevelopment as proposed would entail community benefits, which would offset any harm that would result. I therefore conclude the proposal would not have a detrimental effect on the availability of local facilities, and that no conflict arises with the relevant provisions of CS Core Policies 9 or 7, DMD policy 17, or NPPF paragraph 92.

Appropriateness of residential units

15. This location has a PTAL rating of 4 and an urban character. As such the creation of flats through subdivision would not be inherently unacceptable. Policies H1, H2 and H3 of the emerging draft London Plan accord high-level encouragement for optimising density relative to the accessibility of a location and making best use of brownfield and smaller sites. CS Core Policy 2 does not set a maximum housing requirement.

16. The proposed flats would have internal floorspaces of between 50 and 71sqm. That would meet, or just fractionally exceed, the minimum space standards in

[6] Data from digital.nhs.uk, showing a decline from 27,837 in 2017 to 27,435 in 2018 and to 26,958 in 2019.

the London Plan (LP policy 3.5, cross-referenced in DMD policy DMD 5, criterion a.). Via alterations to an area close to Woodgrange, provision would be made for bicycle and refuse storage.

17. The upper floors of many of the properties in the parade between 125 and 167 are occupied as flats. In that context the effect of the proposal on, and inter-relationship with, its surroundings would be comparable. There is no indication that a string of utilitarian buildings to the rear of Nos 135-143 are presently intended for redevelopment.[7]

18. However the application form gives the site area as 285.25 square metres (about 2.85% of a hectare).[8] Other than at ground floor, I saw how No 135 appeared to comprise three flats and No 137 a further two. Therefore the proposal would result in a total of eight units being present at Nos 135-137. That approximates to 280 units per hectare (u/ha).

19. Although there may be a case to go above LP density recommendations on occasion, which are in any event a rough benchmark, that exceeds even the highest recommended density in the density matrix related to LP policy 3.4. That is despite the prevailing settling along Hardwicke Road and Brownlow Road likely representing a significantly lower contextual density, as those roads are primarily characterised by traditional terraced houses.

20. Whilst the units proposed would add to the variety of housing provision, the CS explains how needs in the Borough are predominantly for larger properties than proposed here.[9] There is nothing to indicate that demographic trends have significantly changed, albeit I acknowledge that development pressures are likely to rise in broad terms.

21. DMD policies 8 and 9, relevant to the development proposed, are referenced in the appellant's appeal statement. Criterion e. of the former, broadly aligned with NPPF paragraph 127. f), sets out how development should result in a 'well-designed, flexible and functional layout with adequately sized rooms in accordance with the London Housing Design Guide'.

22. The aims of the London Housing Design Guide have since been articulated in the Mayor's Housing Supplementary Planning Guidance (published March 2016, the 'SPG'). SPG standard 29 sets out how development should minimise the number of single aspect dwellings. SPG standard 28 sets out how habitable rooms should be provided with an adequate level of privacy. Further, SPG standard 26, broadly aligned with DMD policy 9/ table 2.1, sets out how a minimum of 5sqm of private external space should be provided per dwelling.

23. Dwelling 'C' would, however, be single aspect. It would have only two windows facing towards Hardwick Road.[10] There is no evidence before me to indicate whether or not rooms would benefit from adequate levels of light, given that the depth of that unit would be roughly equal to its frontage. Moreover given that No 135 forms part of a commercial parade, footfall here will be more

[7] In any event, were that to occur, the implications thereof would need some form of separate assessment.
[8] Expressed alternatively, about 35 such sites could fit within a hectare.
[9] For example paragraphs 2.45, 5.42 and 5.44.
[10] As shown on plan No 5, being enclosed by commercial 'unit 2', and dwellings 'A' and 'B'. Noting that there appears to be a discrepancy between the floor plans and side elevation plans in this respect.

intense than elsewhere. In that context there would likely be an unacceptably limited sense of privacy within dwelling C.

24. Although it appears that dwellings A and B would technically be dual aspect, the southwards aspect would be across a very modest area (which would vary from around 2.5 to 4 metres in width). That would not represent a high standard of amenity. It may be that numerically the total area of the courtyard and storage area shown on plan No 5 exceeds SPG standard 26 and those in DMD table 2.1, and there are publicly-accessible open spaces a relatively short walk away.

25. However SPG paragraph 2.3.31 guides that external space should be 'of practical shape and utility', which would not be the case of a narrow area of land next to a substantial boundary wall used in part for refuse and bicycle storage. Moreover on plan 5 it is annotated how that outside space would provide 'access to dwellings A, B and C'. However that is not the case as dwelling 'C' is directly accessed via Hardwicke Road. It therefore appears, based on the plans before me, that dwelling C would not only be single aspect but, in practice, benefit from no dedicated private external space.

26. For the above reasons, the residential units proposed would result in a significant, and in my view, unacceptable intensification. Numerically there may be a case for higher levels of density, however in this instance the scheme would result in residential units that would fail to provide future occupants with high standards of amenity by consequence. That is particularly the case of proposed unit C, where occupants would feel unduly hemmed in by their surroundings. I therefore conclude that the proposal fails to accord with LP policy 3.4, DMD policy 8, criterion e., DMD policy 9, and NPPF paragraph 127. f), with regard to the approach set out in the SPG.

Other matters

27. The proposal would add to housing provision in the Borough, and I acknowledge that would be beneficial (particularly given longer-term pressures for growth, including from those potentially associated with Crossrail 2/ the New Southgate Opportunity Area). The AAP also aims to uplift housing supply. I also accept the proposal would bring back into use vacant premises, thereby creating an active frontage and aiding natural surveillance. There would also be some benefits in supporting employment during conversion, and as future occupants would bring trade and vibrancy to the area.

28. However the benefits of three new flats would, inevitably, be modest. The appellant does not challenge LBE's present ability to demonstrate a five year housing land supply relative to needs (with regard to NPPF paragraphs 67 and 73 in particular). Intensification supported via the AAP is primarily focussed northwards of the A406 in this location, given the greater availability of opportunities there. Redevelopment of the premises is, moreover, not inherently reliant on this particular scheme.[11]

29. More fundamentally, neither the support in the development plan, emerging draft London Plan, nor NPPF for increasing housing provision is at the expense

[11] Referenced only in so far as robust justification for this proposal relative to any others may have weighed in favour of the scheme.

of ensuring that all development is appropriately designed. Consequently no other matters are sufficient to justify allowing the appeal relative to the harm that would result (as reasoned in relation to the second main issue).

Conclusion

30. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR