The Planning Inspectorate

Appeal Decision

Site visit made on 28 January 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH May 2020

Appeal Ref: APP/E5330/W/19/3239207
4-6 The Mound, Eltham SE9 3AZ

- 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 Winnie Etebe of Eternal Care UK Limited against the decision of Royal Borough of Greenwich Council.
- The application Ref: 19/2233/F, dated 20 June 2019, was refused by notice dated 16 September 2019.
- The development proposed is a change of use from surgery (Class D1) to domiciliary provider offices (Class B1).

Decision

1. The appeal is allowed, and planning permission is granted for a change of use from surgery (Class D1) to domiciliary provider offices (Class B1) at 4-6 The Mound, Eltham SE9 3AZ in accordance with the terms of the application, Ref: 19/2233/F, dated 20 June 2019, subject to the conditions in the attached schedule.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the provision of community facilities in the area.

Reasons

3. The appeal building is a ground floor commercial unit within a mixed use development which has various commercial uses at ground floor level with residential units on the upper floors. The premises are currently vacant and were last used as a general practitioner's (GP) surgery. From the evidence, this use ceased in April 2017 and there is nothing that would suggest that the premises have been used for any purpose since that time. The appeal proposal is to use the premises as offices for a company that provides home-based care for elderly people and people with disabilities.

4. Policy 3.16 of the London Plan 2016 (the London Plan) sets out that London requires additional social infrastructure to meet the needs of its growing and diverse population and seeks to resist the loss of social infrastructure in areas of defined need for that type of social infrastructure. The supporting text to the policy sets out that social infrastructure covers a wide range of facilities which includes, among others, health provision. Policy 3.16 also requires that the suitability of redundant social infrastructure premises for other forms of social infrastructure, for which there is a defined need in the locality, should be

assessed before alternative developments are considered. London Plan Policy 3.17 specifically addresses healthcare provision and seeks to ensure high quality health and social care provision. It sets out that where local health services are being changed, it is expected that replacement services are operational before the facilities they replace close.

5. When read together, Policies CH1 and CH(a) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies 2014 (the Core Strategy) seek to protect local services and encourage a mix of community and retail uses in existing local centres and neighbourhood parades. CH(a) sets out that changes of use will only be permitted if there is evidence that the loss of the premises would not create or add to a shortfall in the specific community use, and alternative community facilities of a similar nature are provided locally in the area that facility serves. An exception to this is if the premises are demonstrably unsuitable for continued use for community facilities. The Core Strategy does not define community facilities, however, having regard to the definition of social infrastructure in the London Plan, it is reasonable to presume that a GP surgery is a community facility.

6. Neither party has submitted any substantive evidence in respect of the need for, or the current provision of, GP surgeries in the area, and the Council have not suggested in their evidence that there is a defined need for GP surgeries in the area. Although the Council states that there will be a loss of a facility, it does not specifically demonstrate that the proposal would create, or add to, a shortfall in GP surgery provision. As the last use of the premises was as a GP surgery and there have been no subsequent uses, either authorised or unauthorised, that would supplant that use, it is indisputable that the appeal proposal would result in the loss of a premises with a lawful use as a doctor's premises. However, this is a purely quantitative assessment, and whilst the Council argue the appellant has not justified the loss, equally, the Council has not submitted any evidence indicating that the proposal would result in a shortfall in GP surgery provision in the area, which is the test set out in the relevant policies.

7. I noted when I visited the site that there is a GP surgery on William Barefoot Drive a short distance from the appeal site. I am also mindful that the appeal premises have been vacant for several years and that if there was a latent demand for GP premises in the area then it would be surprising that the premises have remained vacant given the current lawful use. In this context I do not find that the appeal proposal would result in a shortfall of GP surgery provision.

8. London Plan Policy 3.16 requires an assessment of the suitability of redundant premises for other forms of social infrastructure for which there is a defined need in the locality. Although the appellant suggests that the premises are no longer suitable for use as a GP surgery, this argument is predicated on the period of vacancy. When I visited the site, I was able to inspect the premises internally and I did not see anything that would preclude the use of the premises for this specific purpose.

9. The supporting text to London Plan Policy 3.16 sets out that social infrastructure covers a wide range of facilities in addition to health facilities, including, but not limited, to nurseries, schools, colleges and universities, community, cultural, play, recreation and sports and leisure facilities, places of

worship, fire stations, policing and other criminal justice or community safety facilities. At approximately 163m^2 floor area, and due to its location below residential properties, the appeal premises would not be suitable for some of the above uses. Nevertheless, it could realistically be used for other purposes on this list. Neither party has, however, identified any other social infrastructure or community facilities for which there is a defined need in the area.

10. This notwithstanding, the premises would also be suitable for the appellant's proposed use and the Council accepts that if the provisions of Core Strategy Policies CH1 and CH(a) were met, it would not have objections to an office use of the premises.

11. The appellant's proposed use is not primary healthcare provision in the sense of healthcare provided in the community for people making an initial approach to a medical practitioner or clinic for advice or treatment. However, the appellant is a community care provider and the proposed office use would be a base for that provision. The Core Strategy does not define community facilities and the wording of Policies CH1 and CH(a) do not indicate that community care provision would be precluded.

12. The lack of a marketing exercise to establish demand has been cited as a failing of the proposal. Nevertheless, I note from the evidence that the premises are owned by the Council. Consequently, the appellant would not legitimately be able to market the premises. I have no information regarding the steps taken by the Council to find a tenant for the unit with its current use.

13. The policies in the development plan seek appropriate replacement provision when there a development proposal would result in a loss of a specific community or social infrastructure use. In this case, whilst the lawful use of the building persists, it has not actively been in use as a GP surgery for several years. In the context of the above, I consider that it would be unreasonable to require alternative provision to be made by the appellant when there is no compelling evidence of need for GP surgery premises in the area.

14. Paragraph 92 of the National Planning Policy Framework (the Framework) expects planning decisions to guard against the unnecessary loss of valued social, recreational, and cultural facilities and services. Whilst the appeal proposal would result in the loss of a premises with a lawful use as a GP surgery, the premises are not currently in active use for that purpose and there is no evidence that demonstrates there is a shortage of GP provision in the area.

15. Based on the evidence put to me, I therefore conclude that the proposed development would not have a harmful or adverse effect on the provision of community facilities in the area. It would not conflict with the relevant requirements of London Plan Policies 3.16 and 3.17, or Core Strategy Policies CH1 and CH(a).

Conditions

16. I have had regard to the list of conditions that have been suggested by the Council. In order to provide certainty in respect of what has been granted planning permission, I have attached a condition specifying the approved drawings. The submitted drawings provide little detail in respect of the storage

of refuse bins at the premises and the service yard to the rear of the premises is shared with other properties. Therefore, to ensure that adequate waste storage provision is made for the development, it is necessary to require that detail of this be provided before the use is begun. The condition suggested by the Council is overly complex and contains elements that are not relevant to the development proposed and, consequently, I have simplified the wording of this condition. London Plan Policy 6.9 and Core Strategy Policy IM(c) require cycle parking provision in connection with new development. This is not shown on the submitted drawings and in order to comply with the development plan policies and to encourage travelling by alternatives to the private car, it is necessary to attach a condition requiring cycle parking/storage to be provided.

17. The Council have also suggested a condition restricting the hours of operation of the proposed office. Whilst this is located beneath residential properties, there is no substantive evidence that would indicate that normal use of the premises would generate significant levels of noise. I also saw when I visited the site that among the commercial units also present within the immediate vicinity are two hot food takeaways and two general dealers which will operate into the evening. Consequently, I do not find that this condition is necessary and have not attached it.

Conclusion

18. For the above reasons, I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR

Schedule of Conditions

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: Site Location Plan; 4-6TM/PP/011; and 4-6TM/PP/012.

3) Prior to the first occupation of the development hereby approved, full details of the refuse storage, recycling facilities and refuse collection arrangements shall be submitted to, and approved in writing by, the Local Planning Authority. Such details shall include details of any enclosures to be provided for the storage area and details of management arrangements for movement of refuse to any collection points.

   The storage and recycling facilities shall in all respects be constructed in accordance with the approved details before the development is first occupied, and thereafter maintained for that purpose for the lifetime of the development.

4) A minimum of 1 secure and dry cycle parking space shall be provided within the development hereby approved and full details of the cycle parking facilities shall be submitted to, and approved in writing by, the local planning authority prior to the first occupation of the development. All cycle parking spaces shall be provided and made available for use prior to the first occupation of the development and thereafter maintained for that purpose for the lifetime of the development.