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## Appeal Decision

Site visit made on 19 October 2020

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 October 2020**

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**Appeal Ref: APP/Q5300/W/20/3248963**

**Refuge House, 9-10 River Front, Enfield EN1 3SZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Oliver, on behalf of Magic Living Ltd, against the decision of the Council of the London Borough of Enfield.
  - The application Ref 19/04354/PRJ, dated 18 December 2019, was refused by notice dated 31 January 2020.
  - The development proposed is for the Change of use of part ground floor and the first to fifth floors from offices (Use Class B1a) to 92 residential studio units (Use Class C3).
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The provisions of Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(GPDO) permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a)(offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule. The Council considers that the proposal would have adverse transport and highway impacts and would therefore not comply with Schedule 2, Part 3, Class O paragraph O.2.(1) condition (a) of the GPDO.
3. Paragraph W, of the GPDO, requires the local planning authority to consult the local highway authority where it considers that the development would result in a material increase in the character of traffic in the vicinity of the site. My determination of this appeal has been made on the same basis.
4. The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 was published in August. As a consequence, Class O(e) now requires a proposal to provide access to natural light in each habitable room. Furthermore, Paragraph W(2)(bc) requires floor plans to include the dimensions and proposed use of each room. However, these changes would not have a material effect on the merits of this proposal or influence the main issue of this appeal.
5. A draft Unilateral undertaking has been submitted that seeks to prevent the occupation of any proposed dwelling by a person who has a permit to park a

motor vehicle within the Enfield Town Controlled Parking Zone (CPZ). I shall return to this later.

### **Planning Policy**

6. The principle of development is established by the GPDO. The provisions of Schedule 2, Part 3, Class O of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (The Framework) only in so far as they are material considerations where they are relevant to matters of transport and highway impacts.

### **Main Issue**

7. Accordingly, the main issue is whether the transport and highway impacts would be compliant with Schedule 2, Part 3, paragraph O.2.(1)(a) of the GPDO particularly in regard to deliveries and servicing, disabled parking provision and cycle storage provision.

### **Reasons**

8. Refuge House is a five-storey building. The majority of the building is in use as an office, apart from the ground floor. The building includes parking within its courtyard, as under-croft and in its basement. The proposal includes the provision of 14 spaces, with 11 within its basement. The building is located on the corner of Fyfield Road and River Front. Both roads are subject to resident and business controlled parking zones (CPZ). The site is close to Enfield commercial centre. The site has a Public Transport Accessibility Level rating of 5 indicating a 'very good' level of access to public transport.
9. During my visit I observed that on-street parking was in high demand despite the operation of the CPZ. Although, only a snapshot in time this suggests that on-street parking would be in greater demand at evenings and weekends due to the residential character of the area and the proximity of the Town Centre. These factors would create limited capacity within the highway for manoeuvring and short-term parking demands associated with servicing and deliveries.
10. Refuse storage bins would be located within the site close to Fyfield Road. The collection of refuse from the site would be likely to be weekly. Although, the frequency of collections would be unlikely to increase from the approved use, the duration of stay would be extended due to the increased number of occupiers. This would result in an incremental increase of activity in the street.
11. The vehicle access onto Fyfield Road would provide several functions for vehicles, cyclists and pedestrians. Delivery and servicing vehicles would be unable to drive into the site, even if the barriers were removed, without compromising access to the parking areas. Therefore, delivery vehicles would be likely to deposit parcels and larger goods from the entranceway or within the highway. Allowing for resident collections each delivery could result in substantive delays and congestion in a focussed area around the frontage and within the highway. I do not concur with the appellant that the level of additional activity would be low in frequency. Instead, servicing and delivery activity that currently takes place from the highway would be likely to result in prolonged congestion. This congestion would be exacerbated by the increased activity of users that would occupy the building in comparison to the approved use. Moreover, a management plan for deliveries would be unlikely to resolve

this conflict due to the unexpected and random nature of many deliveries. As such, the intensity of activity would result in an adverse impact on highway safety.

12. The proposal would allocate three spaces for disabled parking at surface level. The basement parking would be unlikely to be suitable for additional disabled parking as there is no lift access shown from the basement. The draft London Plan requires a three percent ratio for designated parking for people with mobility difficulties. However, the London Plan Housing SPD requires 10% of new dwellings to be suitable for wheelchair users. Although this relates to new dwellings it provides an indicator of the potential demand for disabled parking.
13. Furthermore, although the proposal may accommodate a high proportion of young workers who are generally more mobile, any demand for further disabled parking spaces would need to be accommodated on street. Based on local parking congestion and the CPZ any available space could be a substantial distance from the site or result in the occupation of double yellow lines removing delivery parking space. Therefore, although the appellant considers that any overspill requirement could be satisfied by on-street provision this would be an unsatisfactory solution. Furthermore, based on the site constraints it would be unlikely that further appropriate disabled parking could be readily found on site.
14. The proposal would include the provision of 101 spaces for cycle parking, including 40 within two-tier cycle racks, and space for a larger non-standard cycle. The proposal would satisfy the draft London Plan cycle parking requirements. However, the London Cycle Design Standards recommend a 5% provision to be made for larger cycles. Although only a recommendation, this indicates that the proposal would have an under provision for larger cycles. Furthermore, the two-tier cycle racks within the under-croft could be compromised due to the low ceiling height. Alterations could be made to the layout to seek to provide an increased provision of large cycle parking. However, this may compromise the operation of the relatively congested internal layout. These constraints placed on cycle parking provision are in themselves relatively minor. Nevertheless, these would affect the functionality of some of the cycle parking provision and reduce the accessibility of the site.
15. An appeal decision at Moorland House has been submitted in evidence. This principally turned on matters of parking provision and on-street parking. Each case must be considered on its own merits. Nevertheless, the scale and context of that proposal appears to have been significantly different to the current proposal and the issues that were raised. Accordingly, it does not present comparable factors to this case and I have accorded it little weight.
16. The site benefits from Prior Approval for the conversion to 76 residential units. However, the proposal would result in a sizeable increase in unit numbers. This increase in density would be likely to result in greater pressure on the local highway, especially Fyfield Road. Consequently, the combined effect of additional deliveries and servicing would lead to substantive highway conflicts to the detriment of highway safety. Furthermore, although limited in scope individually the limited provision of disabled parking and doubts to the functionality of some of the proposed cycle parking provision would compound the adverse transport and highway impacts of the proposal. Also, the proposal

has raised objection from the Council's Highway Authority, a further point of significant weight.

17. Insofar as it is a material consideration, I have had regard to policy 6.12 of the London Plan that requires development to result in a net benefit to road capacity. Furthermore, I have also had regard to policy 24 of the Enfield Core Strategy 2010 which seeks to improve highway safety and reduce congestion. I have also noted the requirements of policies DMD 8 and DMD47 of the Enfield Development Management Document 2014 which amongst other things seeks to ensure that access and servicing would have no adverse impact on highway safety and the free flow of traffic.
18. The submitted unilateral undertaking is unsigned and therefore cannot be executed. Nevertheless, had it been signed it would not have had a substantive bearing on the main issue. This would have not therefore outweighed the identified harm or provide the necessary mitigation to prevent the refusal of prior approval.
19. Accordingly, the proposal would have a significant and demonstrable adverse impact on transport and highway matters and thereby would fail to satisfy provision O.2.(1)(a) of Schedule 2, Part 3, Class O of the GPDO.
20. For the reasons given above I conclude that the appeal should be dismissed.

*Ben Plenty*

INSPECTOR