



Appeal Decision

Site visit made on 22 October 2020

by G Powys Jones MSc FRTPI

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

Decision date:

Appeal Ref: APP/T5150/W/20/3251588

18 Harvist Road, London, NW6 6SE

- 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 Sally Del Monte against the decision of the Council of the London Borough of Brent
 - The application Ref 20/0008, dated 2 January 2020, was refused by notice dated 20 March 2020.
 - The development proposed is the conversion of Medical Centre (Use Class D1) to single residential dwelling (Use Class C3).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of Medical Centre (Use Class D1) to single residential dwelling (Use Class C3) at 18 Harvist Road, London, NW6 6SE in accordance with the terms of the application, Ref 20/0008, dated 2 January 2020, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. In the interests of clarity and conciseness I have adopted the description of the proposed development used in the Council's decision notice.
3. The property subject of this appeal is located within the Queens Park Conservation Area (CA).
4. The Council chose not to produce a Statement of Case or a response to the appellant's Grounds of Appeal. Reliance is therefore placed on its officer report on the application.

Main issue

5. The main issue is whether, as alleged by the Council, insufficient information has been submitted to demonstrate that the loss of this social infrastructure is acceptable or adequately mitigated against.

Reasons

6. The appeal property was formerly used as the Park House Medical Centre (Doctor's Surgery), but that use ceased and the property is vacant. The thrust of the Council's case in resisting a change of use to residential is based on three development plan policies.
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7. Policy CP 23 of the Council's Core Strategy (CS) seeks to protect existing community facilities – existing community facilities will be protected and their loss mitigated where necessary.
8. Policy DMP1 of Brent's – Development Management Policies Development Plan Document (DMP) provides that development will be acceptable subject to the attainment of several criteria, including a criterion that development should not result in the loss of community facilities for which there is an identified need.
9. Policy 3.16 of the London Plan 2016 (LP) provides that proposals which would result in a loss of social infrastructure in areas of defined need for that type of social infrastructure without realistic proposals for re-provision should be resisted. 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.
10. Paragraph 11.4 of the DMP's accompanying text explains how LP policy 3.16 and CS policy CP23 will be applied. It says:

If it is considered that social infrastructure is no longer needed this is to be demonstrated through the following:-

- *consultation with service providers and the local community;*
- *details of alternative social infrastructure in the locality which meets the need in a different way or in a convenient alternative location*
- *vacancy and marketing data indicating that there is no demand despite continuous marketing at a reasonable rate for a period of 24 months; and*
- *the potential of re-using or redeveloping the existing site for the same or an alternative social infrastructure use, particularly for educational uses, has been fully considered;*

11. On the basis of comments provided by CCG¹ the Council is satisfied that the loss of these premises does not cause an adverse effect to medical service delivery in the area, and there is adequate health centre provision in the locality at the new Lonsdale Medical Centre (LMC), located a short walking distance away from the appeal site.
12. The LMC was established to house merged medical practices including the one that formerly occupied the appeal property. This merger took place with the blessing of the Patient Participation Group of the Park House practice.
13. It seems to me therefore that the Council's acknowledges the reasons for the loss of this particular doctor's surgery service as genuine and justified, and further accepts that the loss of this particular doctor's surgery service has been mitigated at another premises.
14. The Council however does not consider that the appellant has properly examined the feasibility of using the appeal property for an alternative social infrastructure use, where there is a defined need.
15. Somewhat surprisingly, in my view, the Council has not itself sought to identify a defined need for social infrastructure in the locality, which could make use of the property. Instead, it expects the appellant to do so, principally by

¹ Brent's Clinical Commissioning Group

- marketing the property for a period of 24 months. That exercise, as I understand it, is intended to 'flush out' any defined need for alternative social infrastructure in the area.
16. However, the appellant points out that a marketing exercise would prove of little value because the existing planning permission² is restricted by condition. Condition 2 effectively limits the use of the property to 3 doctors and their support staff and for no other purpose within the use class (now class D1).
 17. Thus a change to any other use falling within class D1 would require the benefit of another planning permission, as would a change of use to any other form of social or community infrastructure which fell into another use class, or was classed as *sui generis*.
 18. That is, the only use that could be made of the property under the terms of the last permission granted was as a modestly sized doctor's surgery, the loss of which has already been mitigated at the LMC. There is therefore unlikely to be any demand for the consented use.
 19. Moreover, the uncontested evidence is that the building is of an age and type that it cannot accommodate the modern day requirements/specifications of possible other medical uses, other than on a very small scale, and the location in a prime residential street is considered wrong for such purposes.
 20. In the officer report the Council says '*The site is vacant at present but the last known lawful use is considered to be in D1*'. The Council, however, seemingly ignores, and is silent on the effect of the conditionality of the permission and the restricted use that could be made of the property in the context of its future marketing.
 21. It also strikes me, by its use of the phrase, '*last known lawful use*' that the Council may well be hinting that since the property's use as a doctor's surgery has ceased and is vacant, then the 1984 permission is 'spent'. If that is the case, then the property, possibly,³ has no effective lawful use.
 22. In these uncertain circumstances the appellant's concerns are understandable since even if the property were marketed, any prospective purchasers would need to know what use he/she/they could lawfully be made of it.
 23. The Council chose not to express an opinion, one way or the other, as to what other community uses would prove acceptable in planning terms.
 24. However, the appellant asserts that some other community or social uses may draw objection from local residents and amenity groups. In my experience, and given the overwhelmingly residential nature of the locality, this is a valid point.

Planning balance and conclusions

25. In the particular circumstances of this case, given the uncertainty as to what future uses could lawfully and acceptably be made of the property, I find that the Council's requirement for a prolonged period of marketing to be overly onerous, particularly since it has not provided any realistic evidence as to the

² Ref 84/0108 dated 24 July 1984

³ I do not draw any conclusions on this point in the absence of further evidence and submissions

specific uses that it would find acceptable in this overwhelmingly residential location.

26. Additionally, the closure of the doctor's surgery had not resulted in the loss of a community/social facility since the service is still provided in the locality. Any perceived loss has been appropriately mitigated by relocation of the service into a new, conveniently located medical centre. Thus the principal tenets of the policies relied upon by the Council, as identified in earlier paragraphs, have been met.
27. Accordingly, a slavish adherence to all aspects of the development plan in the determination is, in my view, unjustified where weighty material considerations indicate otherwise.
28. Accordingly, I conclude that the appeal should be allowed.

Conditions

29. The Council has suggested the imposition of several conditions, upon which the following observations are made.
30. Notwithstanding the Council's comments as to certain inaccuracies in the plans, the planning permission permits a change of use, not operational development. Accordingly, the suggested condition regarding the approved plans is imposed in the interests of certainty.
31. In the interests of future residential amenity, the condition relating to bin and bike storage shall be imposed, albeit slightly re-worded.
32. Suggested condition 4 requires the removal of a permitted development right, that to change the use of the property to a House in Multiple Occupation. The reason for this proposed condition is:
- In view of the restricted nature and layout of the site for the proposed development, no further enlargement or increase in living accommodation beyond the limits set by this consent should be allowed without the matter being first considered by the Local Planning Authority.*
33. Quite apart from the fact that the layout and nature of the site does not appear to be restricted, this suggested condition relates to possible future operational development rather than a reason for restricting a change of use. The Council has not convinced me that such a condition is necessary, and it shall not therefore be imposed.
34. Suggested condition 5 is designed to prevent any future resident from applying for a resident or visitor parking permit. The reason for the condition provided is:
- In order to ensure that the development does not result in an increased demand for parking that cannot be safely met within the locality of the site.*
35. It seems to me however that the proposed change of use would result in a reduced demand for parking when compared with the former doctor's surgery use. The condition is therefore considered unnecessary.

Other matters

36. All other matters raised in the representations have been taken into account, including the Council's reference to a policy in the draft Brent Local Plan. Since the policy referred to by the Council is subject to possible change, it carries little weight.
37. The reversion to residential use would enable the property to be used for its originally designed purpose, and thus the overwhelmingly residential character of the CA would be enhanced. I regard this as a significant benefit of the scheme, so reinforcing my conclusions on the main issue identified at the outset.
38. No other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.
39. For the reasons already provided, the appeal is allowed.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: The location plan and Drawing No. JNL-501-18-3677 (Proposed).
3. Prior to the first occupation of the development hereby permitted, details of bin and bike storage shall be submitted to the Local Planning Authority for its approval, to be obtained in writing. Such details as shall be approved shall be implemented prior to first occupation and thereafter retained for the lifetime of the development.