



Appeal Decision

Site visit made on 3 June 2021

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021.

Appeal Ref: APP/Q5300/W/20/3264366

133 – 135 Bowes Road, Enfield, London N13 4SE

- 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 Dr Surraiya Zia against the decision of the London Borough of Enfield.
 - The application Ref 20/00747/FUL, dated 2 March 2020, was refused by notice dated 3 December 2020.
 - The development proposed is the 'change of use of ground floor from medical service (Class D1) to 2 x commercial units (Class A1) and 2 x self contained flats (Class C3), involving a single storey rear extension'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Dr Surraiya Zia against the London Borough of Enfield (the Council). This application is the subject of a separate decision.

Procedural matters

3. The development description used in the application form did not make reference to the ground floor extension, which is part of the proposal for which planning permission is sought. I have therefore used the similar but slightly longer description that appears in the Council's decision notice, as it more fully captures the development applied for.
4. On 1 September 2020 there were some changes to the use classes order¹ and Class A1 (shops) was revoked and, in effect, replaced by Class E(a). These changes do not have any direct bearing on the merits of the appeal and I have made my assessment on the basis that the 2 commercial units would be for use as shops, i.e. within the new Class E(a).
5. In the course of this appeal additional plans have been submitted which show the potential amendments to enlarge external amenity space². However, these plans are not fully detailed and were not the plans on which the Council made its decision. The Procedural Guide³ says that if an applicant thinks that

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

² The ground floor plan with red and purple lines that appears in Appendix 6 of the Appellant's Statement of Case

³ The Procedural Guide – Planning Appeals – England

amending their application proposal will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application (Annex M.1.1).

6. The Procedural Guide further states that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annex M.2.1). I have therefore made my assessment on the basis of the plans submitted to, and considered by, the Council.

Background and planning policy context

7. The appeal proposal relates to the ground floor of a former medical practice with consulting rooms which is now vacant. It seeks permission to change the use and make alterations and some limited extensions to create 2 commercial units which would front Bowes Road, and 2 residential flats in the rear part of the property, which would be accessed from a side street, Hardwicke Road.
8. A similar proposal, but involving 3 flats rather than 2, was the subject of a failure to determine planning appeal⁴ which was dismissed in February 2020. The Inspector identified 2 main issues, the first being the effect of the proposal on the availability of local community facilities, and the second being the appropriateness of the residential units in respect of living conditions and integration with their surroundings.
9. On the first main issue, the Inspector found that the proposal would not be detrimental to the availability of community facilities. However, on the second issue, he assessed that the proposal would involve unacceptable intensification and that the residential units would fail to provide future occupants with high standards of amenity. This decision and the Inspector's reasons are material considerations in the current appeal.
10. The development plan includes policies of the Enfield Core Strategy (ECS) (adopted in 2010) and the Development Management Document (DMD) (adopted in 2014) and the London Plan. The Council's reasons for refusal includes policies within the London Plan 2016, but this has now been replaced by the London Plan 2021.
11. The London Plan 2021(the LP) does not diverge significantly from the previous plan in terms of seeking to create a balanced housing supply and achieve adequate living accommodation. No party has been prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy and I have used the updated policy references where appropriate. I have also had regard to the National Planning Policy Framework (the Framework), the Planning Practice Guidance (PPG), and the Nationally Described Space Standards (NDSS)⁵.

Main Issue

12. The main issue is whether the proposed dwellings would be appropriate in respect of living conditions for future occupiers.

⁴ APP/Q5300/W/19/3240044

⁵ 'Technical housing standards – nationally described space standard' published by the Department for Communities and Local Government – March 2015

Reasons

Living conditions – dwelling A

13. Dwelling A would be in the south-west part of the site and largely behind No 137 Bowes Road. It would be created by converting the existing space, including former medical consulting rooms, along with a small extension. It would include 2 bedrooms, an open plan kitchen / diner / living area and a utility room leading to a bathroom.
14. The dwelling would have a gross internal floorspace of about 85 square metres⁶. This would exceed the minimum space standards set out in the NDSS and table 3.1 of LP policy D6 (which is cross referenced under DMD policy DMD5). However, the dwelling would be extremely compromised in terms of natural light, outlook and outdoor amenity space.
15. Whilst I have not been presented with any technical assessment on the levels of natural light likely to reach the habitable room areas, I am concerned that there would be very limited openings to allow natural light to the main living areas, with the 2 windows on the property boundary being small and high level. These openings are likely to allow in only limited amounts of natural light relative to the dwelling's internal area and place a reliance on artificial lighting, including in daytime hours.
16. In terms of outlook, the main living space would lack any outwards view. Bedrooms 1 and 2 would also be served by windows on the property boundary, although the plans do not show precise details of the window designs. However, they would face directly onto an area used for a scrap vehicle business, such that any outlook would be bleak and views would be possible into the bedrooms at close quarters, creating poor levels of privacy. The reliance on windows on the property boundary to serve the habitable rooms is an unsatisfactory arrangement in planning terms. Bedroom 1 would benefit from a second window, in the south elevation, which would offer some outlook, but it would be across a very limited area of just a few metres to the southern boundary.
17. Regarding external amenity space, the appellant submits that approximately 32.25 square metres of the existing ground floor buildings would be re-worked to provide a courtyard providing bin and bicycle storage, as well as amenity space, which would be split between the 2 dwellings. Whilst the courtyard area to serve dwelling A meets the minimum amount of amenity space per dwelling stated in LP policy D6 and DMD policy DMD9, and would be relatively private, it would be a poor and unattractive space, hemmed in by walls on 3 sides, and not a place future residents are likely to use or value as an outdoor amenity facility. It would not therefore satisfy the qualitative requirements set out in the policies and would fail to attain a high standard of amenity for future occupiers.

Living conditions – dwelling B

18. Dwelling B would be largely to the rear of No 135 Bowes Road. It would include an open plan kitchen / diner / living space, 2 bedrooms and a bathroom. Its floor area would be about 77 square metres and this would exceed the minimum space standards set out in the NDSS and table 3.1 of LP policy D6.

⁶ 84.9 square metres according to the Appellant Statement of Case (page 12)

19. Both of the bedrooms would rely on existing windows for natural light and outlook. These windows are directly on the street boundary with Hardwicke Road and, when I visited, these were covered with roller security shutters. Whilst these could be removed to allow natural light in and provide some outlook, it would also enable direct views from the street into the bedrooms by passers-by at close quarters, such that privacy would be extremely compromised.
20. The main living area also relies in part on a similar window, which, unless covered, would allow views in from Hardwicke Road and consequential privacy issues. However, the living spaces also have windows on the south elevation facing a small courtyard. Whilst these windows would have some outlook it would be across a very small and limited area, and would be in shadow for periods of the day, being on the north side of the adjacent gable wall of Woodgrange, a 2 storey property. Moreover, the privacy of the dwelling B living room would be compromised by the necessity of the dwelling A occupants, and any visitors, to walk past the living room windows in close proximity, allowing views into the dwelling.
21. Although dwelling B would benefit from a slightly larger outdoor amenity area which would meet the minimum space requirement set out in LP policy D6 and DMD policy DMD9, it would not achieve a high standard of amenity for future occupiers. This is due to its significant enclosure, shading from Woodgrange, the proximity of the bin store, and its use as a thoroughfare by other residents and visitors (relating to dwelling A).

Conclusions on living conditions

22. Overall, the living conditions for future occupants of both of the dwellings would be poor, in terms of natural light, outlook, privacy and outdoor amenity space. I therefore conclude that the living standards for future occupiers would be unacceptable and harmful. This means that the proposal conflicts with LP policy D6, ECS policies CP4 and CP30, and DMD policies DMD8, DMD9 and DMD 37, which, amongst other matters, seek to ensure a high standard of new housing and appropriate living conditions for future residents. There is also conflict with the Framework, which seeks to ensure that developments achieve high standards of amenity for future users.

Other matters

23. The Council's third reason for refusal alleges that the proposal would jeopardise the development potential of the adjacent site to the rear of No 139 Bowes Road. Whilst this may be so, I have not been made aware of any specific proposal on that site and, in any event, the alleged effect is directly related to my findings on the first main issue, with specific regard to the proposal's reliance on windows on the western property boundary which adjoins the scrap car use. I do not therefore consider it necessary to opine further on this matter.
24. The Council's fourth reason for refusal relates to changes to the shopfront fascia boards. However, there is insufficient information submitted with the application to enable me to make an assessment of this matter, which is not included in the development description.

25. The Council's fifth reason relates to cycle parking provision for future occupiers, as well as for visitors to the retail units and staff. However, the proposal does make satisfactory provision for secure residents' cycle parking. I am unconvinced that retail customers of the commercial units would use cycle parking at the rear of the property. In practical terms, most visiting cyclists would be likely to secure their bikes to the post and rail fence opposite the shopfronts.
26. I have taken into account that the proposal would bring an empty property back into use, that the location is sustainable and that the proposed dwellings would contribute to local housing supply. However, these factors do not provide a basis for allowing housing proposals that would fail to achieve the high standard of amenity for future occupiers required by the development plan and national planning policies.

Conclusion

27. For the reasons stated above, the appeal is dismissed.

P. Staddon

INSPECTOR