



Appeal Decision

Site visit made on 22 March 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2022

Appeal Ref: APP/T5720/W/21/3282567

18A Ridgway, Wimbledon, London SW19 4QN

- 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 Mr Roger Kilby of Fleetwood Developments against the decision of the Council of the London Borough of Merton.
 - The application Ref 21/P0451, dated 26 January 2021, was refused by notice dated 24 March 2021.
 - The development proposed is the conversion of existing B1 to C3, to provide 2 new self-contained flats and a new raised refuse area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development used in the banner heading above is taken from both the original planning application form and the appeal form. The Council's decision notice, and indeed the appellant's appeal statement, described the proposal as "change of use from Physiotherapy Practice E(e) use to (C3) residential use to create 2 x self-contained flats and a new raised refuse area". This alternative description reflects the existing use of the premises following changes made to the Use Classes Order¹ in September 2020 and I have considered the appeal on that basis. I have nevertheless retained the original description for the banner heading.
3. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. This was after the Council had made its decision, but before the appeal was submitted. Given this timing, the main parties were able to consider the revised Framework as part of their appeal representations, and I have not therefore separately sought comments on it. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.
4. The appellant submitted amended plans with their appeal statement. These included changes to bin and cycle storage, as well as new external amenity spaces to serve the proposed new flats; one at ground floor level to serve the lower flat, and one on the flat roof space at the rear of the building to serve the upper flat. The *Procedural Guide – Planning Appeals – England* advises that "if

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

an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application" (Annexe M.1.1). It adds that "if an appeal is made, 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" (Annexe M.2.1). As the revised proposal has not been fully considered by the Council or subject to consultation, having regard to the advice in the Procedural Guide as well as the "Wheatcroft Principles" (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]), I have not taken the revised plans into account in my decision, as to do so may prejudice other parties.

Main Issues

5. The main issues are whether or not the proposed development would:

- Provide acceptable living conditions for future occupiers, with particular regard to outdoor amenity space;
- Result in the loss of a viable community facility, or would lead to inadequate provision of or poor accessibility to healthcare for residents; and
- Make adequate provision to comply with sustainability targets including reductions in carbon dioxide emissions and water consumption.

Reasons

Living conditions

6. The appeal site is a gated mews at the rear of Nos 18-20 Ridgway, close to the centre of Wimbledon Village. No 18A is a two-storey building which is currently occupied by a physiotherapy practice. The proposal is to convert the building to create two self-contained flats; a two-bedroom flat on the ground floor, and a one-bedroom flat on the upper floor.
7. The development would not provide private amenity space for either of the two proposed flats. I note the appellant's comment that the statement to this effect in the Council's officer report is "simply incorrect"; however, although the revised drawings submitted with the appeal included outdoor amenity space for each flat, for the reasons I have set out in the Procedural Matters section above I have not taken these into account in determining this appeal.
8. Because of the lack of private outdoor amenity space for the two flats, the proposed development would not provide acceptable living conditions for future occupiers. It therefore conflicts with Policy CS14 of the 2011 Merton Core Strategy ("the MCS"), Policy DM D2 of the 2014 Merton Sites and Policies Plan ("the MSPS"), and Policy D6 of the London Plan 2021. Together, and among other things, these policies seek to ensure that development is well designed and provides good living conditions, including in respect of the provision of outdoor amenity space.

Community facility and healthcare

9. 18A is currently occupied by tenants of the appellants, Physiocentric, who provide physiotherapy and related services to customers. The appellant's evidence indicates that there are usually between 5 and 10 staff on site, with customers attending throughout the day.

10. Physiocentric relocated to No 18A from 18D Ridgway, within the same mews development; 18D has been converted from commercial to residential uses following a notification and decision under the permitted development regime (LPA Ref: 20/P1836). The appellants state that Physiocentric are currently seeking alternative premises elsewhere, and are occupying 18A under a flexible short-term lease for the time being.
11. Policy DM C1 of the MSPS seeks to ensure the provision of sufficient, accessible community facilities, including health facilities. The appeal site is in a highly accessible location, close to other shops and services in Wimbledon Village. The appellants provided me with a list of numerous other physiotherapists operating within Wimbledon and the wider Merton borough and, while Physiocentric themselves did not provide a statement for this appeal, they apparently intend to find alternative premises elsewhere in SW19. On this basis, there is no substantive evidence before me to indicate that the loss or relocation of that business would significantly harm the provision of or access to health services in the area.
12. However Policy DM C1 also requires that, where a net loss of community facilities is proposed, developers will need to demonstrate that there is no viable demand for any other community use on the site. I note the appellant's comment that the appeal site has changed from a business hub to a residential mews, and that the other two buildings within the site (Nos 18C and 18D) are already in residential use. However it is not uncommon, especially in town, district or local centres within London, for complementary commercial and community uses to coexist with residential properties. While it may be the case that the changing nature of the appeal site has made No 18A a less attractive prospect (whether commercially or operationally) for a community use, there is no substantive evidence (such as marketing information or correspondence with potential occupiers) which would support that conclusion.
13. While the proposed development would not lead to an inadequate provision of healthcare facilities for local residents, it has not been demonstrated that it would not result in the loss of a viable community facility. I therefore conclude that the development would conflict with Policy DM C1 of the MSPS, the requirements of which I have set out in the preceding paragraphs.

Sustainability

14. Policy CS15 of the MCS seeks to ensure that development makes effective use of resources and materials, minimises carbon dioxide emissions and water consumption. The appellant's appeal submission included a Sustainability Statement, which among other things indicated that the overall energy use of two flats would be likely to be less than that arising from the use of the property as a physiotherapy centre, and that measures such as the use of LED lighting and the installation of a new boiler would reduce energy consumption and carbon dioxide emissions. The Sustainability Statement also indicated that total water consumption would be reduced simply because fewer people would be using the building, and that water use per person would be around 105 litres per person per day.
15. The submitted Sustainability Statement addresses some of the concerns about sustainability in broad terms, but is lacking in specific detail about how compliance with the policy requirements could be achieved. Nevertheless, this is a matter which, were the proposal acceptable in all other respects, I consider

could be satisfactorily addressed by the imposition of a condition requiring the submission and approval of further details in respect of water consumption and carbon dioxide emissions before the development could be occupied.

16. Subject to such a condition, I conclude that the development would make adequate provision to comply with sustainability targets. As such, it would comply with the requirements of Policy CS15 of the MCS, the requirements of which I have described above.
17. The decision notice also indicated that the Council considered the proposal would be "contrary to London Plan policies stipulated under Chapter 9 of the new London Plan (2021)". However, those policies cover a wide range of "sustainable infrastructure" matters, not all of which have been identified as relevant in this case. In the face of such a broad-brush description I find no conflict with specific individual policies of the London Plan 2021 on this matter, though again this would be subject to the use of a condition in respect of water consumption and carbon dioxide emissions.

Other Matters

18. The appeal site lies within the Wimbledon Village Conservation Area. I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 201).
19. The proposal (as originally submitted, and as I am considering it in this appeal) proposed very limited external alterations; principally, the formation of a raised area for the storage of refuse bins. The Council considered that the scheme would have a "minimum material impact" on the character and appearance of either the host property or the wider area. On the basis of all the evidence before me, I agree with that assessment.
20. I note the comments submitted by interested parties on these matters, including that the existing flat-roofed building is more commercial than residential in its appearance. However, commercial to residential conversions are not unusual, and in such cases the original "commercial" appearance of the building is often retained, even in Conservation Areas. Similarly, there is no substantive evidence to demonstrate that activity on the site, or any changes in noise or lighting levels, would be harmful to the character of the area. I am satisfied that the proposed development would preserve the character and appearance of the Conservation Area.
21. The Council also considered that a residential development on the site could be acceptable in principle and would contribute to the local housing supply. Again, I do not disagree with those findings. However, the acceptability of the development as a whole would of course be subject to compliance with the other requirements of the development plan. That the scheme would be acceptable in other respects does not outweigh the harm I have found.

Planning Balance and Conclusion

22. I have found that the proposed development would not lead to inadequate provision of or poor accessibility to healthcare for residents, and that it could be made acceptable in sustainability terms. However, it has not been demonstrated that the proposal would not result in the loss of a viable community facility. The two proposed flats would, because of their lack of outdoor amenity space, provide unacceptable living conditions for future occupiers. The proposal would therefore conflict with the development plan taken as a whole.
23. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector