



Appeal Decision

Site visit made on 30 January 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2023

Appeal Ref: APP/Q5300/W/22/3308642

590 Hertford Road, Enfield EN3 5SX

- 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 Fatima Ratnaras against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/02592/FUL, dated 30 June 2021, was refused by notice dated 26 April 2022.
 - The development proposed is erection of outbuilding, for storage and staff room.
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Decision

1. The appeal is allowed and planning permission is granted for outbuilding at rear to be used as private gym, at 590 Hertford Road, Enfield EN3 5SX in accordance with the terms of the application, Ref 21/02592/FUL, dated 30 June 2021, subject to the following 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 Plan at 1:1250, Block Plan at 1:500, FR1/300621/PL2 (Drawings: Ground Floor), FR1/300621/PL3 (Drawings: Proposed Front & Sides Elevation Plan).
 - 3) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the ground floor use of the premises known as 590 Hertford Road, Enfield EN3 5SX.
 - 4) No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Preliminary Matters

2. Though the description of development on the application form refers to a building for use as storage and a staff room, the evidence submitted by both parties and the proposed plans refer to the use of the building as a private gym. Accordingly, I have used the description on both the Council's decision notice and the appellant's appeal form for the purpose of my decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site comprises a commercial unit currently in use as a hot food takeaway and its associated land to the rear. The commercial unit sits within a shopping parade fronting Hertford Road, which is a busy thoroughfare home to many shops and local services. The roads leading off Hertford Road are predominantly residential. A 3-storey block of flats sits to the rear of the appeal site, with windows at all floors on the rear elevation facing towards the appeal site. The rear wall of the flats is separated from the rear boundary of the appeal site by a communal garden area. Other commercial uses exist to both sides of the appeal property and several single-storey outbuildings and extensions were visible in these neighbouring properties when viewed from the rear of the appeal site.
5. The proposed development relates to the land to the rear of the unit, which is currently undeveloped. The land can be accessed directly from Hertford Road via a gate to the side of the unit, and also via the unit itself. The appellants have stated that the gym would be for the private use of the owners and staff of the ground floor commercial unit, and I have no reason to consider otherwise.
6. The proposed development would involve the erection of a single-storey flat-roofed building that would cover much of the land to the rear. A gap would be retained between the existing rear elevation of the commercial unit and the front elevation of the proposed building, which would contain an entrance door and windows. The building would be constructed up to the side and rear boundary lines of the site, with no windows or openings in any other elevations.
7. To the rear of the appeal site, the ground level of the adjacent communal garden area serving the flats is slightly raised above that of the appeal site. As a result, the building would appear lower when viewed from this direction. Whilst some elements of the structure would be visible, it would not project significantly above the boundary wall. Views from other positions, including public vantage points, would be largely restricted to the uppermost parts of the building and its scale would not appear disproportionate. In that context, it would appear compatible with the broadly commercial setting of the units fronting Hertford Road. Whilst the proposed development would cover a significant proportion of the rear service area of the site, this is not an uncommon arrangement for commercial units and similar examples are found in the vicinity.
8. For the above reasons, the proposed development would respect the character and appearance of the area and would accord with Policy CP30 of The Enfield Plan Core Strategy 2010-2025 (Adopted November 2010) (the 'CS'), Policies DMD7 and DMD37 of the Enfield Council Development Management Document (DMD) (Adopted November 2014) (the 'DMD'), and Policy D4 of the London Plan (March 2021) (the 'LP2021'). Together these policies seek, among other objectives, for all developments and interventions in the public realm to be high quality and design-led, for the design quality of development to be

retained through to completion, and to ensure development does not harm the character of the area.

9. The Council has referenced Policy DMD25 of the DMD in its reason for refusal, which refers to locations for new retail, leisure and office development. On the basis that the proposed development seeks to provide ancillary facilities within an existing commercial premises, I do not find this policy to be relevant. Similarly, Policy CP4 of the CS is referenced, which refers to housing development. On the basis that the development does not propose housing, this policy is not relevant.

Other Matters

10. Reference has been made to a previously refused planning application¹ for a new residential unit on the site of the appeal proposal. Though I have not been provided with specific details of the previous planning application, I have been advised that the appeal proposals are unchanged from those previously refused, with the only difference being the proposed use of the development. In this case I have assessed the proposed development on the basis of its use as a private gym, and even if the built form is consistent with the previous scheme, I am satisfied that no harm would arise from it.
11. Concern has been raised that the development would eventually be occupied as a residential unit in the event of the appeal being allowed, based on the nature of the previous proposals. In this case, the granting of planning permission for use of the building as a gym would in no way infer or imply that the building would be suitable for use as a dwelling. A condition could also be imposed to ensure the use is ancillary to the ground floor commercial premises and to prevent its use as an independent residential unit.
12. I am satisfied that the living conditions of neighbouring occupiers would not be adversely affected by the proposed development. Based on the limited height of the development, I do not find the proposals would result in any harmful loss of light or outlook. Due to the design of the building, the position of doors and windows, and the use of the building as ancillary to the existing commercial premises, I do not find the proposals would result in harmful effects in terms of noise or disturbance. Due to the limited scale of development, it is unlikely there would be a prolonged period of construction. Furthermore, other regulatory regimes exist to ensure the living conditions of neighbouring occupiers would not be significantly impacted during the construction phase. I am also in possession of no specific evidence that suggests matters of drainage, flood risk or fire risk would generate material harm.
13. On the basis that the proposed development would serve the existing business, and as set out above, could be conditioned as such, I find no evidence that the proposed development would result in any significant intensification of the use through increased comings and goings, vehicle movements or parking congestion.
14. I am aware of allegations that a tree has been cut down on the appeal site. However, this matter has not been specifically noted by the Council and does not appear to be directly related to the development proposals. This matter does therefore not weigh against the proposed development.

¹ 20/02695/FUL

Conditions

15. The Council has submitted no suggested conditions to be imposed in the event of the appeal being allowed. Nonetheless, I consider standard conditions are required relating to a list of approved plans and the statutory time period for implementation, in the interests of certainty. In addition, to ensure the proposed development operates as described by the submitted details that I have based my assessment on, I find it reasonable and necessary to impose a condition requiring the development to be occupied at all times as ancillary to the ground floor use of 590 Hertford Road. Finally, to ensure the proposed development delivers a high standard of external design, it is necessary to impose a condition requiring the submission of details of external materials.

Conclusion

16. For the above reasons, having regard to the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed subject to conditions.

P Storey

INSPECTOR