



Appeal Decision

Site visit made on 18 July 2023

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal Ref: APP/R5510/W/23/3316064

13 Thorpland Avenue, Ickenham UB10 8TQ

- 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 Abeezar & Dr Salma Burhan against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 69147/APP/2022/1662, dated 22 May 2022, was refused by notice dated 15 August 2022.
 - The development was originally described as proposed garage conversion into a physiotherapy clinic and Medico legal advice clinic and single storey rear extension behind the existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from Class C3 to a mixed use Class C3 and Class E involving garage conversion into a physiotherapy clinic and Medico legal advice clinic and the erection of a single storey rear extension behind the existing garage at 13 Thorpland Avenue, Ickenham UB10 8TQ in accordance with the terms of the application, Ref 69147/APP/2022/1662, dated 22 May 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development on the decision notice is different to that on the application form. Whilst neither of the main parties has provided written confirmation that a revised description of development was agreed, the description of development from the decision notice more accurately describes the development. I have therefore used that description for my decision.

Main Issue

3. The main issue is whether the proposal is in an appropriate location with regards to development plan policies.

Reasons

4. The appeal site is a two storey house located at the end of a terrace in a residential area. The house has a modestly sized single storey garage attached to the side elevation. The area to the front and side of the garage is open.
5. Policy SD6 of the London Plan (the LP) (2021) seeks to promote and enhance town centres by ensuring they are the primary location for commercial activity and by strengthening the role of town centres as a main focus for Londoners' sense of place and local activity.

6. Policy SD7 of the LP (2021) refers to main town centre uses and the sequential test. However, I note that the Council has not raised any dispute in relation to this policy, nor does the officer report refer to the uses being 'main town centre' uses. Rather, the concerns relate to strengthening the role of the town centre and it being the primary location for commercial activity.
7. While the definition of a main town centre use in the National Planning Policy Framework (the Framework) refers to health and fitness centres, this is in the case of 'intensive' sport and recreation uses which the physiotherapy clinic clearly would not be. In addition, the Framework's definition does not specifically refer to professional services. Although offices are referred to, the proposal is clear that the intention is to provide professional advice. This can be controlled by condition, such that more general office uses are not permitted. While such uses are not uncommon in town centres, it is not clear from the evidence or arguments before me, that they would fall within the scope of Policy SD7.
8. I accept that the public would visit the site to use the physiotherapy clinic element of the proposal, and because of this there would be similarities between this, and other main town centre uses. However, given the size of the floor area and that there would be only one consulting room, this would limit the capacity of the clinic. As a result, the use is likely to be small-scale and would be unlikely to generate as much footfall as other commercial uses.
9. Even though neither party has provided any specific evidence on this, given the limited commercial operations of the proposal, it is unlikely that the development would compete with and divert business from other premises offering similar services within the town centres. Furthermore, there is no evidence that the proposal would harm the vitality and viability of any nearby town centres. It is not uncommon for these types of uses to be in residential areas to provide a service to the local community. The appellant has stated that there are no other similar services in the area and the catchment area would be within the immediate postcode. Based on the evidence, I see no clear reason to dispute this.
10. Taking account of the evidence before me, given the specialist nature of the proposal and its restricted operating capacity, I conclude that the development would be in an appropriate location. As the level of commercial activity would be low, it would not cause harm to the role of the town centres as the main focus and would not conflict with Policy SD6 of the LP in terms of enhancing the vitality and viability of town centres, as set out above.

Other Matters

11. Although my site visit only represents a snapshot of normal parking conditions, I saw that there were limited on-street parking spaces. It would also be reasonable to assume that parking pressure would be greater at evenings and weekends. However, three off-street parking spaces would be provided with two serving the commercial use and one space for the residential use. The Council's officer report confirms that this level of parking provision would meet their parking standards. Given that the level of parking provision complies with the Council's standards, there is no clear reason that this area would not provide adequate space for the vehicles of the residents of the house and customers. I am therefore satisfied that the proposal would provide sufficient

- parking for the development and in turn would not increase pressure on on-street parking.
12. During the construction process, there could be increased parking demand due to contractor vehicles and the delivery of materials. However, this would be a temporary demand and would cease once construction has finished. As such, this does not weigh against the development.
 13. Rights of access, any restrictive covenants and land ownership issues are private matters between the parties involved and outside the scope of the appeal.
 14. Third parties have also raised concerns about the accuracy of the information on the planning application form, however, the Council has not raised any concerns about this issue. This matter does therefore not alter my decision.
 15. The proposed extension would be single storey and would be of a modest scale. Whilst it would be visible from neighbouring properties, it would not be close enough to neighbouring windows to impact levels of outlook to a degree that would be harmful. As the proposal would be low-scale in terms of comings and goings and the nature of the commercial operations would not give rise to significant noise, the opening hours within daytime and early evening would be acceptable for a residential area. These can also be controlled by condition.
 16. As the application does not include any advertisement signage, this matter does not form part of my assessment. The allowing of this appeal does therefore not grant permission for any signage.

Conditions

17. I have made some minor revisions to the Council's suggested conditions in the interest of clarity. I have imposed the statutory implementation condition, along with a condition listing the approved plans to provide certainty. A materials condition is also necessary to ensure the external materials of the extension match the existing materials to protect the appearance of the house.
18. I have also imposed additional conditions which both main parties have had the opportunity to comment on. To protect the vitality and viability of the town centres and the living conditions of neighbouring residents, I have also imposed conditions that: restrict the hours that customers can visit the clinic, limit the number of consulting rooms, and remove permitted development rights so that the site can only be used as a dwellinghouse and provision of professional services or medical or health services.
19. The Council's officer report commented that it would be reasonable to impose a condition for a management plan to protect adjacent residents living conditions. I do not consider this condition to be necessary given the nature of the development, the level of commercial activity proposed, and the other conditions imposed.

Conclusion

20. The proposal complies with the development plan, read as a whole. There are no material considerations that indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude that the appeal should be allowed.

L Reid

INSPECTOR

SCHEDULE OF 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: 06-04 Rev A, 06-03 Rev A, 101 Rev A, 103 Rev A, 105 Rev A, 106 Rev A, 107 Rev A, 108 Rev A.
- 3) The external finishing materials of the development hereby permitted shall match those used in the construction of the existing building.
- 4) The premises shall only be open for customers between the following hours: 08:00 – 20:00 Mondays to Fridays, 09:00 – 13:00 Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 5) No more than 1 consulting room shall be provided as shown on drawing no. 101 Rev A.
- 6) The development hereby permitted shall be used as a dwellinghouse (Use Class C3) and provision of professional services (Use Class E(c)(ii)) or medical or health services (Use Class E(e)) and for no other purposes (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).