



Appeal Decision

Hearing held on 26 June 2024

Site visit made on 9 April 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2024

Appeal Ref: APP/H5960/W/23/3331847

Vivienne House, Ground Floor Unit, Balham Hill SW12 9EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Optivo against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/2924.
 - The development proposed is change of use of vacant premises from community use (former use class D1) to Use Class E(a-g).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. Permission is sought for the change of use of the appeal property from community use to commercial use. The appeal property has been vacant since it was completed in 2017 and has never performed any community function. Nonetheless, there is no particular evidence that it would not be valued by and help meet the day-to-day needs of the local community were it to open. Given this, the proposal would result in the loss of community infrastructure. I have determined the appeal on this basis.

Main Issue

4. In light of the above, the main issue is the effect of the proposal on the provision of community infrastructure in the area.

Reasons

5. The appeal site comprises a ground floor unit within a modern 5-storey building known as Vivienne House. The site forms part of a mixed-use development¹ which approved the use of the appeal property for community use. The property adjoins a supermarket and a fitness studio, and the upper floors of the building are in residential use.

¹ Approved under application reference 2013/4965

6. Part B of Policy LP17 of the Wandsworth Local Plan (2023) (LP) states that proposals resulting in the loss of community infrastructure will only be permitted in certain circumstances and such proposals will need to clearly demonstrate specific criteria are met, one of which is that there is no longer an identified need for the facilities or future demand for the space. The supporting text states that the Council will require evidence to justify the loss and must be satisfied that there are no reasonable prospects of reuse by an alternative community use. Appendix 1 of the LP provides guidance on the details that should be provided as evidence of marketing.
7. The marketing of the appeal property commenced when the previous development plan, the Wandsworth Local Plan Development Management Policies Document (2016) (DMPD), was in place. The appellant suggests that the requirements of Policy LP17 and Appendix 1 of the LP are more onerous than those of DMPD Policy DMC1. Even if this were the case, I must determine the appeal in accordance with the development plan, being the current adopted policy, unless material considerations indicate otherwise.
8. The appellant's submission sets out that the appeal property was marketed from September 2018 to the present day across a range of platforms by 2 different property consultants, initially by Whybrow and then by Boddy & Edwards. This did not result in any enquiries for the community use of the property, though did generate some interest for commercial use. Given this, the appellant sets out that there is no identified need for the space for community use and the appeal property is un-lettable in its current use class.
9. However, based on the evidence before me there does not appear to have been a targeted marketing campaign which consistently promoted the site exclusively for community use throughout the marketing period. Indeed, for part of the marketing period by Boddy & Edwards the site was marketed solely for commercial use. Whilst some direct marketing with local community organisations took place in December 2023, this targeted only a very small number of organisations. Given this I am unconvinced that the site has been exclusively and thoroughly promoted on the basis of its community use.
10. For much of the marketing period there were no on-site promotional window vinyls or sale boards advertising the property for community use. These were installed in Autumn 2023, some 5 years after the marketing of the property commenced. The absence of on-site materials promoting the site would make the availability of the unit less likely to be known to interested community groups in the local area.
11. Additionally, whilst it may well be the case that the property is competitively priced for commercial use, I am not certain from the evidence before me that the asking rent is commensurate with the market value of the unit for community use. The initial and increased annual rents of £25,000 and £29,000 were calculated based on commercial rents and were not informed by other units in community use. Given this, there is no robust evidence which demonstrates that the rent being sought represents a realistic value of a community use. Indeed, feedback from the Wandsworth Care Alliance sets out that community groups would likely be seeking low-cost or free rent. Whilst I am not suggesting that the appellant should be expected to receive a nil rent, it was part of the original planning permission that community space was provided as part of the overall development, and it has not been shown that

the cost of doing so was not considered at that stage or that circumstances in that regard have significantly changed. It is likely that the asking price could have dissuaded potential offers from prospective community users interested in operating the premises.

12. There is no particular evidence from community organisations that the size of the unit renders it unsuitable to meet their needs, and, whilst occupation would come with the costs of a fit out, there is nothing before me to suggest that this would be a determinative factor which would prohibit occupation by a community group. Additionally, there is no evidence before me that changes in market conditions since the unit was approved have rendered the unit any less desirable for community groups.
13. The marketing which has taken place has not adequately targeted prospective community users at a price realistic to the targeted end user. It has therefore not been sufficient to highlight the availability of the property such as to provide the opportunity for any individual or group to come forward to demonstrate an interest in opening the property for community use. Thus, I cannot be satisfied that there are no reasonable prospects of the use of the property for community use. I therefore conclude that the development would lead to an unacceptable loss of community infrastructure in the area and would fail to accord with the provisions of LP Policy LP17, as set out above.

Other Matters

14. The active use of the building could help address problems of vandalism and anti-social behaviour associated with vacant buildings and create a continuous active frontage along this stretch of the road. This, along with the economic benefits associated with the active use of the building including job creation, increased pedestrian footfall and support for other local businesses are positive factors in favour of the proposal which would meet some of the place making objectives set down in LP Policy PM8. However, these matters do not overcome the harm identified above.
15. The appeal property is located close to local facilities, services and public transport and the proposed commercial use would be accessible on foot, by bicycle and public transport. Nonetheless, this is also the case for the existing community use. Therefore, this matter does not weigh in favour of the proposal.
16. There is nothing before me to suggest that the proposal would have an unacceptable impact on the living conditions of the residents of nearby flats by virtue of noise or disturbance, effect on the local highway network, refuse storage or anti-social behaviour. Compliance with the relevant development plan policies on these matters would be required in any case, therefore these matters weigh neutrally, rather than in favour of the appeal proposal.

Conclusion

17. The proposal conflicts with the development plan and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, I conclude the appeal should be dismissed.

N Robinson INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tom Tanner	Optivo
Elie Osborne	4D Planning
James Kinally	Boddy and Edwards

FOR THE LOCAL PLANNING AUTHORITY:

Wendy Melaab	Senior Planning Officer
Richard Crutchley	Policy Planner

OTHER PARTIES:

Will Manhire	Fitness Works, Balham
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HEARING DOCUMENTS

1. Marketing overview letter from Boddy and Edwards dated 11 June 2024.
2. Letters from Boddy and Edwards to community users dated 11 December 2023.
3. Email correspondence between the appellant and Wandsworth Care Alliance dated 24 October 2023.