



Appeal Statement

Change of use from dwelling
to dwelling with clinic
AT
13 Thorpland Avenue,
Ickenham UB10 8TQ

Reference:
13TA-2118

Date:
2 February 2023

1. Introduction

- a. This Appeal Statement has been prepared by Just Planning on behalf of Mr A & Dr S Burhan to support an appeal against the decision of London Borough of Hillingdon to refuse planning permission for the use of part of 13 Thorpland Avenue as a clinic for physiotherapy and medical legal advice.
- b. Following a description of the site and surrounding area, the describes the proposal and outlines the case for the appellants.
- c. It will be demonstrated that the proposal complies with relevant local and national policies and that planning permission should therefore be granted.

2. Background

- a. On 22 May 2022, the appellants submitted an application (reference: 69147/APP/2022/1662) to London Borough of Hillingdon. The proposal was given the following description:

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.

- b. In a Decision Notice dated 15 August 2022, the Local Planning Authority (LPA) advised that the application had been refused, for the following sole reason:

- 1 The applicant has failed to demonstrate that the proposed location of the new, commercial business would support and strengthen the role of town centres as a main focus for Londoners' sense of place and local identity in conflict with Policy SD6 of the London Plan (2021).*

3. Site Description

- a. The appeal property is a two-storey, terraced house located on the southern side of Thorpland Avenue and looking out over a green. The house is twentieth century in design and is built in brick with a tiled, pitched roof. There is a garage attached to the eastern flank wall. The house has front and rear gardens with off-street parking. Figure 1, below, shows the property.



Figure 1: image of the appeal site, viewed from the side.

- b. The surrounding area is residential in character, made up of a mix of housing types in a scattered pattern of development. The site is sustainably located for Ickenham town centre and London Underground station to the west and West Ruislip to the north.
- c. There are no listed buildings on the site and it is not located in a designated conservation area.

4. Appeal Proposal

- a. The appeal proposal is for single-storey rear extension to the rear of the house, behind the existing garage. The garage and extension would be converted into a clinic for use by the appellants in their respective professions.
- b. The single-storey extension would be behind the garage only and project to a maximum distance of 3.2m beyond the main rear wall of the house. It is built in brick and finished with a flat roof.
- c. The clinic will be accessed via a door in the side elevation of the building and will have a waiting room (6.4sqm) and a consulting room (10sqm), as well as a WC.
- d. Dr Salma Burhan provides legal expert witness consultations for personal injury cases. She would use the clinic 1 to 2 days per week, for a maximum of 4 hours on each occasion. Many of the consultations would be remote (by video link) but some would be one-to-one. No medical examinations or procedures would take place.
- e. The clinic provides services for physiotherapy and osteopathy. The clients visiting will be in the range of 8 to 16 a day, for a period of 30-45 minutes each and by appointment only. Working hours would be 8am to 8pm Monday to Friday, 9am to 1pm Saturdays and not at all on Sundays.

5. Case for the Appellants

- a. The appellants wish to use part of the property as a clinic. Dr Salma Burhan's expert witness consultations would be very occasional and small in scale, and mostly remote over video link. Physiotherapy and Osteopathy patients would be seen daily (except Sunday/Public Holidays) on a regular basis, but singly (or with one accompanying person) and by appointment only.
- b. The floor area of the clinic is very modest. It is of a size that could accommodate only a very limited scale of activity. No more than 2-3 people could comfortably use it at one time. It takes up a small floor area of the host building and is clearly a secondary, or ancillary function.
- c. The council does not object to the extension behind the garage. It is satisfied that the proposal would not harm neighbours' living conditions or the character of the area and that there would be no adverse effects in terms of highway safety or parking stress. The sole issue in this appeal is whether the proposal would unacceptably harm the vitality and viability of the borough's designated town centres.
- d. According to the decision notice, the development fails to comply with policy SD6 (of the London Plan. This policy states that:

The vitality and viability of London's varied town centres should be promoted and enhanced by:

1) encouraging strong, resilient, accessible and inclusive hubs with a diverse range of uses that meet the needs of Londoners, including main town centre uses, night-time economy, civic, community, social and residential uses

2) identifying locations for mixed-use or housing-led intensification to optimise residential growth potential, securing a high-quality environment and complementing local character and heritage assets

3) delivering sustainable access to a competitive range of services and activities by walking, cycling and public transport

4) strengthening the role of town centres as a main focus for Londoners' sense of place and local identity in the capital

5) ensuring town centres are the primary locations for commercial activity beyond the CAZ and important contributors to the local as well as London-wide economy

6) supporting the role of town centres in building sustainable, healthy and walkable neighbourhoods with the Healthy Streets Approach embedded in their development and management.

- e. This policy seeks to promote successful town centres, identifying them as the 'primary' locations for commercial activity. Crucially, it does not say that they must be the *sole* locations for such activity.
- f. In fact, policy SD7 of the London Plan does specify the circumstances in which councils should actively discourage development outside of town centres (mainly through applying the sequential test), and that is where the proposal is for a 'main town centre use'.
- g. The glossary to the NPPF defines 'main town centre uses' as:

"Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)."

- h. The appeal proposal does not fall within that definition and is not therefore the kind of use that must be directed to town centres as a matter of course under policies SD6 and SD7 of the London Plan.
- i. It is common for some small-scale uses to be located outside of a town centre, in order to serve local needs. Small grocery shops and pubs are scattered across the borough for example, as are clinics and surgeries of various kinds.
- j. In this case, the scale of the proposal is so modest that it is unlikely that it would have any material or measurable impact on the borough's town centres.
- k. In addition, the main new use (physiotherapy) is a community use and intended to serve local residents. The appellants report that there are no

other physiotherapy and osteopathy services in this area. The use will serve local people within the immediate postcode area – some of whom have reduced mobility and would find it difficult to access a town centre.

- l. In various appeals in London, inspectors have accepted that small-scale commercial operations may take place outside of designated centres. In appeal decision APP/M5450/W/22/3297296, an inspector considered the case for the construction of a residential extension and its use as a physiotherapy clinic. Though the appeal was dismissed on other grounds (the new clinic took up much of the ground floor of the house), the inspector did not object to its location outside of a designated town centre. The appeal was in the London Borough of Harrow and policy SD6 of the London Plan was therefore relevant. In her decision, the inspector argued that:

"Policy S2 of the London Plan (2021) seeks to support the provision of high quality new and enhanced health and social care facilities in accessible areas. Similarly, paragraph 93 of the National Planning Policy Framework (the Framework) promotes healthy and safe communities by planning for local services to enhance the sustainability of communities and residential environments"

- m. In appeal decision APP/F5540/W/18/3213008, in the London Borough of Hounslow, an enforcement notice appeal was allowed on ground (a), granting planning permission for *"the change of use of a two bedroom dwelling to a travel agent office (Use Class A2) and a 1 bedroom flat (Use Class C3)"*, including extensions to the property.
- n. In the appeal decision, the inspector considered whether the change of use undermines the hierarchy of town centres in the borough. The inspector concluded that:

"It has not been demonstrated that the Local Plan precludes small businesses from locations outside Town Centres. There is no evidence before me that the location of the travel agent's office at No. 37 causes any harm to the vitality or viability of Hounslow Town Centre or any other Town Centre in the Borough."

- o. Copies of these appeal decisions are provided in the appendices.
- p. Paragraph 55 of the National Planning Policy Framework (NPPF, 2021) states that:

"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations."

- q. In this case, if the inspector is concerned that the change of use permanently introduces new commercial activity to a residential area on an inappropriate scale, the appellants will accept any conditions considered necessary to control and limit the use.
- r. For example, a condition may require that the clinic only be used for the purposes set out in the application (so there is no further change to some other commercial use). The inspector may also wish to limit opening hours and the numbers of people on the premises at any one time.

6. Conclusions

- a. The sole issue in this appeal is whether the use of part of the appeal property as a clinic harms the borough's town centres, contrary to policy SD6 of the London Plan.
- b. However, this policy identifies town centres as the primary, but not necessary the sole, destination for commercial uses. Policy SD7 requires that it is 'main town centre uses' that must be directed to town centres, and clinics do not fall within that category.
- c. Policy S2 of the London Plan and paragraph 93 of the NPPF direct community uses to the communities that they will serve.
- d. In this case, the scale of the proposal is so modest that there is not likely to be any material harm to the borough's town centres. The scale of the use can also be controlled by condition.
- e. For these reasons, it is considered that the proposed development would comply with the development plan and national planning policy and the inspector is respectfully requested to allow the appeal.



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