

Appeal Decision

Site visit made on 7 September 2016

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 September 2016

Appeal Ref: APP/N5660/W/16/3149317

Shop, 155-157a Clapham High Street, Lambeth, London, SW4 7SS

- 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 Paul Elster against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 15/06882/FUL, dated 25 November 2015, was refused by notice dated 16 February 2016.
 - The development proposed is Rear extension to provide additional residential space and the conversion of retail space at first floor level to residential. Parapet to be raised for improved insulation.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the change of use to residential on the provision of floor space in business use in the borough;
 - Whether the proposed development would preserve or enhance the character or appearance of the Clapham High Street Conservation Area (CA);
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with regard to size and layout of accommodation, provision of garden areas and outlook;
 - Whether the proposed development would provide acceptable cycle spaces; and
 - Whether the proposal would make appropriate provision for affordable housing.

Reasons

Change of use to residential

3. Policy ED2 of the Lambeth Local Plan (LP) is clear that the loss of land in employment generating use will not be supported unless clear and robust evidence is submitted which shows there is no demand for the floor space. The evidence should demonstrate that the floor space has been unsuccessfully
-

marketed for a period of at least one year and that continued use of the business is not viable. In addition that the proposed use is appropriate to the building and its location. The Council's concern in this case relates to the first floor of the building which it considers to be in use as an office. This is also shown on the 'existing first floor plan 111A' submitted with the application.

4. There is no information regarding the marketing of the premises provided with either the application or appeal submissions. The appellant submits that the property had consent to change the first floor office space to residential. This was granted under the prior approval procedure¹. This is not disputed by the Council. However, I understand that it does not consider that this would outweigh the provisions of the development plan.
5. The change of use permitted is available and would be lawful if implemented. I have noted the Council's concerns regarding the implementation of this. Nevertheless the permitted scheme, detail of which is provided within the appellant's statement, would have the same layout for this floor as the appeal scheme. It would therefore appear to me that it is ultimately the appellant's intention to use the first floor for residential accommodation. I am satisfied that there is ever likelihood that such a fallback would be carried out. Therefore I consider that the likelihood of the change of use occurring in any event is a material consideration which would, in this case, justify making a decision which is not in accordance with the development plan policy ED2.

Conservation Area

6. The CA (a designated heritage asset) in the immediate locality of the appeal site is characterised by retail and commercial enterprises. The area is vibrant and busy. The area around the site contains a mix of building ages and types. The appeal premises are a simple four storey building with a flat roof.
7. LP policies Q11 and Q22 require new development proposals in conservation areas to preserve or enhance the character or appearance of the CA. Paragraph 132 of the National Planning Policy Framework (The Framework) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
8. The existing building is simple in appearance. There is already a small rearward projection which is the full height of the building. The change to the front elevation would be an increase in height of the parapet which would be visible. The extension proposed would be at second and third floor level. It would infill next to the existing projection. The addition would not be subservient. Nevertheless, the materials and window detail would match the existing building. Therefore it would not appear out of place. In addition the rear elevation is glimpsed from Clapham Park Road. As such views of the addition would be limited. Its addition would not represent a marked change and would therefore preserve the CA within which it would be located. As such it would not be in conflict with LP policies Q11 and Q12 or the Framework.

Living conditions for future occupants

9. LP Policy H5 sets out standards for new housing development. This is clear that it includes '*...new-build dwellings, conversions and change of use schemes*

¹ LPA ref 13/04611/P3JPA

where new dwellings are created...'. It specifically seeks provision of dual aspect accommodation and an appropriate level of external space for all residential units.

10. At the second and third floor levels only one of the units shown on the plans would meet the required standard. The Council is clear that the new units would not meet the relevant space standards. Of the new units at first floor level only one would meet the required standard. In addition the layout plans show the provision of specific stores for only two units.
11. In this case all the proposed flats would be single aspect. The units at the front of the building would face the High Street. Those at the rear would have windows facing the access area for the rear of units along High Street. This area appears to be used for parking, bin storage, access and some units have flues.
12. The plans provided show a terrace area to be provided for one unit (No 1). This would be directly accessible for that unit. There are not proposals for any other units to have a balcony/terrace or private garden area. In addition there are no proposals before me for the provision of any communal areas.
13. I am conscious of the need to avoid the inflexible application of numeric standards in urban areas. I am also mindful that there is prior approval in place for the first floor. However, in this case the units that do not meet standards at second and third floor level would be substantially below the requirement. In addition the deficiencies in the numerical floor areas and storage requirements are considered alongside the poor aspect and outlook that would exist for the units and the lack of private and useable outdoor areas. Overall, the proposal would not produce a pleasant living environment for future occupiers.
14. I therefore conclude that the proposal would not provide acceptable living conditions for future occupiers, with regard to size and layout of accommodation, provision of garden areas and outlook. It would therefore be in conflict with LP policy H5 and the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Cycle spaces

15. The Council's report on the proposal clarifies that the requirement would be a minimum of 4 cycle parking spaces for the development. The Council's concern being that the site is constrained and therefore it is important to understand where these spaces could be accommodated. The appellant's statement includes a plan which demonstrates how the cycle storage would be provided. The Council does not dispute that these spaces could be provided but notes that they are not shown on the application plans. Further detail of how they would be stored and made secure would still be required. Therefore, overall, the application as submitted would not provide acceptable cycle spaces. It would therefore be in conflict with LP policy T3 which requires the provision of appropriate secure and covered cycle parking facilities.

Affordable housing

16. The Council has referred me to LP policy H2. This is clear that sites where fewer than 10 units will be provided that the Council will seek a financial contribution towards the delivery of off-site affordable housing. In this case,

whilst I note the appellant indicates that he would agree to the provision, no appraisal of the scheme is provided or a mechanism to secure such a contribution.

17. However, I have not been provided with any detailed information regarding housing need and why the provision would be necessary. Equally, I have no substantive evidence that the constraints or other factors would render the scheme unviable with the inclusion of affordable housings or an appropriate commuted sum. Whilst provision of affordable housing would be a benefit it would not outweigh the harm I have found on the other main issues. Furthermore, as I am dismissing the appeal for other reasons, this matter would not alter my decision.

Conclusion

18. I have found that there would not be harm from the change of use of the first floor to residential, taking account of the prior approval position. In addition the extension would preserve the CA. However, the scheme would not provide satisfactory living conditions for future occupiers or make appropriate provision for cycle storage. These considerations and the resultant harm would outweigh the benefits of the scheme.
19. For the reasons given and having regard to all other matters raised the appeal is dismissed.

D J Board

INSPECTOR