

Appeal Decision

Site visit made on 9 September 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 30 September 2016

Appeal Ref: APP/X5210/W/16/3151305

Star House, 104 Grafton Road, London NW5 4BA

- 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 Finer Homes Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref 2015/5450/P, dated 25 September 2015, was refused by notice dated 24 March 2016.
 - The development proposed is the change of use to mixed use of B1 office and 5 residential units, erection of roof extension, exterior alterations and associated works.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposal on economic activity and employment opportunities in the Borough; whether the proposal would provide satisfactory living conditions for future occupiers with regard to potential noise and vibration; and the effect of the proposal on the living conditions of the occupiers of 110-114 Grafton Road with reference to privacy and light.

Reasons

3. The proposal is to convert and extend Star House, which is a mainly 4-storey office building, to a mixed-use development with offices on the ground and first floors and a total of five self-contained residential units on the second, third and fourth floors. To one side of the site is a building in use above ground floor as flats, which is 110-114 Grafton Road. A railway line passes close to the other side and rear of the appeal building.

Economic activity and employment opportunities

4. Star House is located within Kentish Town Centre with good public transport links and thus is likely to appeal to prospective businesses. From what I saw, the existing office floorspace within the appeal building was largely occupied.
 5. The appellant states that about 691sqm of employment floorspace would be retained within the enlarged building below the new flats, with upgraded accommodation that would be more attractive to prospective users. Paragraph 13.6 of the London Borough of Camden LDF Development Policies (DP) provides support for employment uses alongside other uses and a core
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principle of the National Planning Policy Framework (the Framework) states that planning should promote mixed-use developments. However, the appeal scheme would result in a significant net loss of employment floorspace within the extended building that from the evidence before me is or could be occupied by employment generating businesses.

6. That outcome would be at odds with DP Policy DP13, which seeks to retain land and buildings that are suitable for continued employment use and resist a change to non-business unless various criteria are met. In this instance, there is little convincing evidence that Star House is unsuited for continued employment use or that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative business use has been fully explored. In those circumstances, the proposal would conflict with DP Policy DP13. By significantly reducing the amount of employment floorspace within the building, the proposal would be likely to reduce economic activity and diminish employment opportunities in the Borough.
7. The appellant places considerable reliance on two recent decisions to grant prior approval for a change of use of part of Star House to residential use that would result in the loss of up to 466sqm employment floorspace. If implemented, the appellant considers that the prior approval schemes would have a similar effect on the provision of employment as the proposal. The first of these approvals¹ relates to the residential use of the second and third floors and according to the Council would need to have been implemented by 22 August 2016 for it to remain valid. At the site visit, which took place after the expiry date, there was no obvious sign that the prior approval scheme had been implemented and so it is likely to have lapsed.
8. A recently adopted Article 4 Direction withdraws the right to change from office (B1a) to residential (C3) use at this location without a grant of planning permission. Consequently, an option to effectively renew the first prior approval is no longer available to the appellant. My decision must be made in the light of development plan policies and all other material considerations that are in place at the time of the decision and not at an earlier or future stage. On that basis, I attach only limited weight to the first prior approval scheme as a realistic fall back position if this appeal were to be dismissed.
9. The second prior approval² remains extant although the scheme relates only to a part of the second floor and amounts to about 176sqm floor area. If that scheme did come forward then a major part of the host building would remain in employment use. As significantly more employment floorspace would be lost as a result of the proposal, it is likely that the new development would have a greater impact on the local economy and on employment opportunities than would be the case if the second prior approval scheme were to progress. Consequently, I attach only moderate weight to it as a fall back position in support of the appellant's case.
10. On the first main issue, I therefore conclude that the proposal would fail to support economic activity in the Borough and result in the loss of employment opportunities. Accordingly, it conflicts with Policy CS8 of the London Borough

¹ Ref 2013/3603/P dated 22 August 2013

² Ref 2015/1837/P dated 12 August 2015

of Camden Local Development Framework Core Strategy (CS), DP Policy DP13 and Policies 2.15 and 4.2 of the London Plan. These policies aim to secure a strong economy and to generally retain land and buildings that are suitable for continued business use.

Living conditions – future occupiers

11. As it passes Star House, the adjacent railway line is elevated above street level with trains frequently traveling close to the side and rear elevations of the appeal building for most of the day. Several habitable room windows of flat 3 would directly face the railway line at very close range, as would its recessed balcony that would provide the outdoor amenity space for future occupiers. Similarly, several habitable room windows of flat 5 and its roof terrace would directly face the railway at close quarters, albeit from a slightly raised position.
12. Given these conditions, and in the absence of a detailed noise and vibration assessment, I cannot be certain that future occupiers of these flats in particular would not experience undue disturbance from the noise and vibration caused by passing trains. Having stood on each floor of the existing building as it faces the railway with trains passing by, I consider that the close proximity of the busy railway line has considerable potential to cause serious harm to the living conditions of future occupiers.
13. The appellant considers that conditions could be imposed to require that a noise and vibration investigation is carried out and its recommendations adhered to if planning permission were to be granted. Reference is made to the conditions attached to the residential scheme at Nos 110-114 as a precedent in this regard. However, where the acceptability of development is contingent on the findings of such an assessment, it would be inappropriate to defer it until after planning permission has been granted, even if the Council has taken a different approach in relation to the adjacent building. DP Policy DP28 supports this approach, as does the Framework, which states that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
14. Reference is also made to the prior approval schemes that the appellant considers could be implemented without any measures in place to mitigate the effects of noise and vibration. Notwithstanding my earlier findings on these schemes, it seems to me that additional harm, which could have significant effects on the quality of life and health of people, cannot be justified on the basis that some harm might exist. I also acknowledge that the building is currently in use as offices. Irrespective, there is no detailed assessment before me to enable the effects of passing trains on people, whether they work or live within the appeal building, to be fully appraised.
15. On the second main issue, I therefore conclude that the evidence fails to demonstrate that the proposal would provide satisfactory living conditions for future occupiers. As such, it conflicts with CS Policies CS5 and CS6, and DP Policies DP26 and DP28 insofar as they aim to safeguard residential amenity.

Living conditions – 110–114 Grafton Road

16. The closest existing residential units to the site are those within Nos 110-114, which are above ground floor level. The southeast elevation of this adjacent

building would directly face some of the new flats and it contains several windows and balconies. While some of these windows are overlooked at present from Star House, its commercial use would mean that any consequent loss of privacy for the occupiers of Nos 110-114 is less likely to be at weekends and in the evening, when residents are more likely to be at home.

17. There would be considerable overlooking between the northwest facing windows of flats 2-5 and the southeast facing windows and balconies of Nos 110 – 114 due to the short separation distance between them and the position of the windows in the new flats. Windows that are obscurely glazed and fixed shut would overcome these overlooking problems and this could be covered by condition. A similar approach appears to have been taken for the residential development of Nos 110-114 to ensure that its relationship to another nearby building did not result in any undue loss of privacy. However, in this case, these measures would curtail the outlook from and natural light reaching to several main habitable rooms that could make them feel uninviting and gloomy. This would be particularly evident in relation to those bedrooms in flats 2, 4 and 5 that are only served by windows that face Nos 110-114.
18. The new roof terraces of flats 4 and 5 would be even closer to the side windows of Nos 110-114 and would clearly signal the presence of the residential units and provide an option for people to gather and to stand or sit outside and look towards the adjacent building. While an obscurely glazed screen could be placed along the perimeter of these new terraces, such a feature would not prevent upward views from a low level position towards the upper floors of Nos 110-114, nor would it diminish the sense of being overlooked, as perceived by the occupiers of this adjacent building. In my experience, overlooking of this type is a common characteristic of the relationship between adjacent buildings in dense urban areas. However, having stood on the roof of Star House, I have little doubt that the proposal would cause an unacceptable loss of privacy to the occupiers of Nos 110-114 due to overlooking.
19. There would also be some loss of natural light to the rooms served by the southeast facing windows of Nos 110-114 for a major part of the day. That loss would be primarily caused by the overshadowing effect of the proposed third and fourth floor extensions. However, due to their modest height and position set back from the edge of the roof, I doubt that the effect of overshadowing would be so great as to seriously harm the living conditions of the occupiers of Nos 110-114.
20. Notwithstanding my favourable finding on this latter point, I conclude on this issue that the proposal would materially harm the living conditions of the occupiers of Nos 110-114. Accordingly, it conflicts with CS Policy CS5 and DP Policy DP26 with regard to protecting amenity.

Other matters

21. The Council's fourth reason for refusal relates to the lack of a legal agreement in respect of parking permit eligibility. To address this objection, the appellant has submitted a completed planning obligation that secures the development as 'car free'. However, in light of my findings in relation to the main issues, there is no necessity for me to consider this particular matter any further.

22. The proposal would add to the supply of housing and the choice of residential accommodation in the Borough including for those people that are economically active. It would do so in a highly accessible location by making efficient use of an existing building. Support would be given to the local economy through the sale of construction materials, provision of jobs and by the spending of future occupiers on local services and facilities. Employment floorspace within part of the building would be retained and upgraded, with the overall appearance of the property improved as a result of the appeal scheme.
23. The Framework states that significant weight should be placed on the need to support economic growth, to which housing and employment uses can contribute, which I have done. The Framework also notes that flexible working practices should be facilitated such as the integration of residential and commercial uses within the same unit. It also recognises that residential development can play an important role in ensuring the vitality of centres. All these matters significantly weigh in support of the appellant's case.
24. However, core principles of the Framework are to always seek to secure high quality design and a good standard of amenity for all occupants of land and buildings. The support given to residential development in central locations in the Framework relates to appropriate sites. As the proposal would not adhere to these principles, the balance of national policy is tipped against the appeal scheme. As such, it does not represent a sustainable form of development.

Conclusion

25. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR