

Appeal Decision

Site visit made on 6 September 2016

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 18th October 2016

Appeal Ref: APP/K5600/W/16/3153160

2A, Milner Street, London SW3 2PU

- 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 Yorkshire Prosperity Ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/15/06262, dated 1 October 2015, was refused by notice dated 30 December 2015.
 - The development proposed is construction of a two storey infill extension and a third floor mansard roof extension as well as associated refurbishments for the provision of 3 residential units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant, at appeal, has submitted a revised Construction and Traffic Management Plan (CTMP) dated February 2016. As this does not materially alter the appeal proposal, I have taken it into account in making my decision.
3. I was unable to gain access to the rear of 56 Rawlings Street, the adjacent property, on my appeal site visit. However, on the basis of what I could see from the appeal site and the information before me, including the appellant's daylight and sunlight study (December 2014), which is not disputed in the evidence, I am satisfied that I have sufficient information to come to a finding on the effect of the appeal development on the living conditions of those occupiers.

Main Issues

4. The two main parties agree that the Council's concerns regarding the effect of the appeal on sewer flooding can be overcome through the use of an appropriately worded planning condition. Further, the Council considers that the CTMP overcomes its concerns regarding highway safety during construction. Taking this on board, the remaining issues in dispute between the two main parties are the effect of the appeal proposal on:
 - The provision of office floor space in the Borough and the local economy;
 - The character and appearance of the Chelsea Conservation Area;
 - The living conditions of the occupiers of 56 Rawlings Street, with regard to daylight, sunlight and outlook; and,
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- On-street parking.

Reasons

Background

5. The appeal site is located on a corner plot at the junction of two streets; Milner Street and Rawlings Street. The existing property faces Rawlings Street and is a traditional three storey Victorian building. To its rear, facing Milner Street, there are two garages, which would be demolished to accommodate the new additions. On my site visit the ground floor was used by an estate agent, and the upper floors were vacant. It is agreed between the two main parties that they were previously used as offices and at some time previously residential.

Office Floor Space

6. Policy CF5 of the Royal Borough of Kensington & Chelsea Consolidated Local Plan (2015) (CLP) aims to ensure a range of business premises within the borough to allow businesses to grow and thrive. To achieve this, in CLP Policy CF5(a) it seeks to protect small and very small offices. The supporting text notes the significant pressures for redevelopment of comparatively low value uses such as offices, given the high land values in the borough and Policy CF5 seeks to offer some protection of these important commercial uses, maintaining local employment and avoiding out commuting. The CLP defines small offices in paragraph 31.3.37 as those with a floor space between 100-300sq.m. The appeal property falls within this definition; a matter which is uncontested.
7. The proposed development would result in the loss of a small office, which would diminish the range of business premises in the borough. I note that the whole of the Royal Borough has recently been granted exemption from the changes to the General Permitted Development Order regarding conversions from office to residential use up to 2019. Some of the evidence submitted in order to obtain this exemption is before me and clearly demonstrates the impact on the local economy arising from the loss of office space. Further, the supporting text to CLP Policy CF5 explains that small offices provide disproportionately more jobs for local people than larger offices and they are in the greatest demand in the borough. I find these arguments persuasive in setting out the adverse effect of the loss of even a small amount of office space on the local economy. For this reason, I do not accept the appellant's suggestion that the small loss involved would not be significant. The appellant suggests that the Council's approach to the protection of office floor space is too broad. However, I have assessed this appeal on its individual merits.
8. The appellant suggests that the existing office floor space has been vacant for some time and despite marketing efforts, primarily between 2011 and 2014, it has not been let or occupied. It concludes that it is unviable as office space today. Evidence in support of its case includes a statutory declaration from the previous owner and the estate agent involved in its marketing. It sets out the time frame, terms of letting which includes a rent free period and other incentives, and the way in which marketing took place, along with evidence that the office space was advertised. There is no dispute between the two main parties in respect of the rental figure proposed. Whilst I note the efforts that have gone into marketing the floor space to date and that the Council does not set out specific requirements on the evidence of marketing required to

justify a departure from CLP Policy CF5, what is before me is not sufficient to persuade me that the space is unviable as office space. In particular, limited information is provided on the viewings and enquiries that took place, no marketing literature is provided along with limited advertising material.

9. Furthermore, the estate agent involved suggests that the offices are refurbished prior to marketing, but this has not taken place. Whilst I note that a sale fell through at a late stage, that sale was for a residential development rather than offices, which reduces the weight I attach to it. All in all, for these reasons, I am not persuaded that adequate marketing has taken place to suggest that the offices are unviable.
10. I have had regard to feedback from a prospective tenant setting out deficiencies in the layout and condition of the offices which is substantiated by the views of the estate agent, particularly the small entrance, small room layout, stairs and washroom facilities. I note that a value is suggested for works to reconfigure and refurbish the appeal site, but I have limited information on how that figure was arrived at. Whilst I acknowledge that the appeal property contains a number of disadvantages which would limit its demand and practical use as an office, I am not convinced that prospective tenants would be seeking all of those reconfigurations suggested or that the offices are unsuited to such use. This limits the weight that I accord this matter.
11. I have noted a previous Council decision brought to my attention (Council Ref PP/13/04059). However, I have limited information on that case to draw meaningful comparisons with that before me.
12. I have had regard to an appeal decision brought to my attention by the appellant (APP/K5600/A/13/2202066). I am not aware of the evidence that was before that Inspector. However, that appeal related to different premises where the Inspector considered that they would not be suitable for office use. This matter differentiates that appeal from the one before me.
13. I have also had regard to other appeals before me (Ref APP/K5600/A/13/2204340; APP/K5600/A/13/2202313; APP/K5600/A/12/2189481; APP/K5600/A/13/2197545; APP/K5600/W/16/3142114). Generally, where relevant to this appeal, I have concurred with the views of my Colleagues.
14. I conclude that the appeal proposal would adversely affect the provision of office floor space and thereby the local economy and would fail to accord with CLP Policy CF5, in this regard.

Chelsea Conservation Area

15. Although not included in the reasons for refusal specifically, the Council raises concern regarding the effect on the Chelsea Conservation Area. The appeal proposal would result in the loss of the upper floor office use. The character and appearance of the Chelsea Conservation Area is diverse, with offices, retail, commercial and residential uses. The fine grain mix of uses attracts people into the area during the day and adds to the vitality of the locality. The office floor space proposed to be lost in this appeal contributes to that character and appearance.

16. I consider that the appeal proposal would diminish this fine grain mix of uses and would reduce the vitality of the Conservation Area. For this reason, I find that it would fail to preserve its character and appearance. This would be the case even though the offices have been previously used for residential use as I have made my decision on its most recent use.
17. Paragraph 132 of the National Planning Policy Framework (the Framework) states that great weight should be given to the conservation of heritage assets, as they are irreplaceable and any harm should require clear and convincing justification. In this case, I consider that the harm identified to the Chelsea Conservation Area would be notable, although in the context of the significance of the heritage asset, less than substantial. Paragraph 134 of the Framework requires that where the harm identified would be less than substantial, that harm should be weighed against the public benefits of the proposal. I acknowledge that the appeal development would result in three high quality units of residential accommodation, in a location accessible by public transport with local facilities and services. It would also improve the street frontage on Milner Street, the views down Hasker Street and would include appropriate repair and refurbishment of the appeal building. It would also bring vacant floor space back into use. However, when taken together, these matters would not outweigh the notable harm identified to the significance of the Conservation Area.
18. For this reason, it would fail to accord with CLP Policy CL3. That policy aims to resist the change of use of any building where the current use contributes to the character of the surrounding area and to its sense of place.

Living Conditions

19. The proposed extensions would be very close to the rear of 56 Rawlings Street, which has a number of windows in its rear elevation. As it would be so close, its height and bulk, even though there would be some break in it near to the original rear elevation of the appeal building, would significantly reduce the outlook from the windows on that rear elevation. It would appear dominant in views from them and result in an enclosed and oppressive feel for those occupiers. Whilst there is some dispute as to the exact use of those rooms, it is agreed between the two main parties that at least two are habitable rooms. Whether a bedroom, study or living room, this increases my concern for the living conditions of those occupiers.
20. Due to its orientation in relation to the appeal development, there would be no material change in the amount of sunlight received into those same windows. Whilst I appreciate that the daylight received into those rooms is limited at present by existing built form, the proposed development would worsen that situation. As room uses can change over time, I do not accept that such an effect is acceptable on the basis that bedrooms are primarily used at night.
21. In coming to this conclusion, I have had regard to the appellant's Daylight and Sunlight Study and the views expressed by Schroedersbegg Chartered Building Surveyors (31 March 2016). However, nothing before me disputes that there would be some worsening of the existing situation in this regard.
22. I conclude that the appeal proposal would adversely affect the living conditions of neighbouring occupiers at 56 Rawlings Street with regard to daylight and outlook, although it would not affect sunlight. However, overall, it would fail to

accord with CLP Policy CL5. That policy requires all development to ensure good living conditions for occupants of new, existing and neighbouring buildings.

23. I note the appellant's concern regarding the way in which the Council dealt with this issue, in particular, in its pre-application advice. However, this is a matter between the appellant and Council in the first instance.

On-Street Parking

24. A legal agreement is before me which seeks to secure ineligibility from obtaining car parking permits aimed to overcome the Council's last reason for refusal. I note that it is not dated on the front page. If I was minded to allow this appeal, I would have gone back to the two main parties on this matter. However, on the basis of my findings on the substantive issues of this appeal, I have no reason to consider this matter further.

Conclusion

25. In paragraph 17 of my decision I have acknowledged a number of benefits of the appeal development. However, those would not outweigh the harm that I have identified in terms of the effect on the living conditions of neighbouring occupiers' at 56 Rawlings Street, the Chelsea Conservation Area, the loss of office floor space and effect on the local economy.
26. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR