
Appeal Decision

Site visit made on 12 March 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2019

Appeal Ref: APP/C5690/W/18/3203029

The Arches, Childers Street, London SE8 5BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Hensher of Evelyn Court LLP against the Council of the London Borough of Lewisham.
 - The application Ref DC/17/103827, is dated 28 September 2017.
 - The development proposed is the alteration and conversion of six vacant commercial units (use Class B1a) into 1 x one bedroom, 6 x two bedroom and 1 x three bedroom self-contained flats, together with the provision of 4 car parking and 17 cycle spaces.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. I have taken the description of development from the appeal form as this more accurately reflects the development sought.

Application for costs

3. An application for costs was made by Mr Paul Hensher of Evelyn Court LLP against the Council of the London Borough of Lewisham. This application is the subject of a separate Decision.

Main Issue

4. The main issue of the appeal is the effect of the proposed development on employment provision in the Borough.

Reasons

5. The appeal site comprises ground floor areas of 2 buildings located in an area with significant residential development. Although formerly part of the Childers Street Mixed Use Employment Area, the site would now be considered as an 'other employment location' under Policy 5 of the Lewisham Local Development Framework Core Strategy Development Plan document June 2011 (Core Strategy) and DM Policy 11 of the Lewisham Local Development Framework Development Management Local Plan November 2014 (Local Plan).
6. The marketing report focuses on the potential for the units to be used as B1 offices, including market value rates and gives a development appraisal

outlining the viability of residential use. The evidence provided suggests that the units are not economically viable for office use due to their condition and that there has been no substantive offer for the units as offices. Nonetheless, a lack of demand for the units as B1 offices does not in itself demonstrate the same for other uses. Furthermore, the site was marketed as offices prior to the appellant purchasing it and there is no clear evidence there has been wider marketing of the units for other commercial/business uses.

7. Although detailed information is provided of existing office accommodation in the area, this has not been the case for the supply of other employment/business uses. Moreover, while other commercial uses are briefly discussed, convincing evidence for the viability of, and demand for, other employment/business uses has not been presented to me.
8. The marketing report indicates that much of the interest shown has been for other commercial uses. It also highlights that plate glass windows are more appropriate to shop uses and that, rather than offices, the site demonstrates a greater suitability for alternative uses. Residential use is only one of these alternatives.
9. While proposals for conversion to other commercial uses may not have been supported elsewhere in the area, this does not demonstrate that this would be the case at the appeal site. There are offices and other commercial units in the same and surrounding streets at ground floor level. The information before me has failed to show that alternative commercial uses would not be suitable or viable in this location.
10. The appellant has stated that many of the units have not been occupied since their construction and the marketing has been in line with the planning permission at the site and the appellant's lease. Furthermore, I acknowledge site specific constraints including limited parking, IT facilities, public transport, security concerns and the presence of residential units above along with the size and layout of the units.
11. Notwithstanding this, the development plan policies referred to above do not state that only the existing uses or those subject existing planning permissions or leases should be considered. They place the onus on the applicant/appellant to demonstrate that there is no need for a business/employment use to be retained. These policies are consistent with the Framework where it states policies and decisions need to reflect changes in the demand for land.
12. As such, I conclude that the proposal would adversely impact on the provision of employment uses in the Borough. It would be contrary to DM Policy 11 of the Local Plan. This, in part, requires evidence of active marketing for re-use/redevelopment for business uses reflecting market value. It would also fail to comply with Policy 5 of the Core Strategy where it requires development proposals to demonstrate that a site should no longer be retained in employment use.

Other Matters

13. In its favour, the appeal scheme would be located in an existing built up area, and the Framework seeks to significantly boost the supply of homes. However, while any additional housing is beneficial, the contribution of the scheme to the supply and mix of housing in the area would be minimal. Any economic

benefits resulting from bringing the units in to use and from future occupation would also be limited given the scale of the proposal, as would environmental factors such as energy efficiency and biodiversity.

14. A planning obligation has been provided relating to a financial contribution towards training and/or local employment schemes. As the appeal is being dismissed it is not necessary for me to look into the matter in any detail. Nonetheless, there is insufficient evidence before me to be sure whether the size of the contribution would be reasonably related in scale and kind to the proposed development.
15. The Council has not raised any concerns in relation to matters including design, living conditions, the size of the units, highway safety or flooding. There is no compelling evidence to lead me to a different conclusion. Nevertheless, the absence of harm is a neutral factor.
16. I appreciate that the application was recommended for approval by officers and Members when initially presented to the Planning Committee. Nonetheless, no planning permission was issued, and minutes of subsequent Planning Committee meetings indicate Members ultimately came to a different conclusion, as have I.

Conclusion

17. In some respects, the development aligns with local and national policy. While the appellant considers the scheme would represent sustainable development, there is nothing to suggest that the development plan policies are out of date or inconsistent with the Framework. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the appeal scheme would conflict with development plan policies and I afford this conflict significant weight. Any benefits of the scheme, even when taken collectively, would not outweigh this.
18. I conclude that the appeal should be dismissed, and planning permission refused.

Stuart Willis

INSPECTOR