



Appeal Decision

Site visit made on 8 July 2019

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 18 July 2019

Appeal Ref: APP/C5690/W/19/3224952

1C Elmira Street, London, SE13 7GS

- 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 Corus Consultancy Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/18/108682, dated 23 August 2018, was refused by notice dated 13 November 2018.
 - The development proposed is the change of use from office use (Use Class B1) to a use falling within Use Class C3 (dwellinghouse) category to create two flats (one 1-bedroom and one 2-bedroom).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from office use (Use Class B1) to a use falling within Use Class C3 (dwellinghouse) category to create two flats (one 1-bedroom and one 2-bedroom) at 1C Elmira Street, London, SE13 7GS in accordance with the terms of the application Ref DC/18/108682, dated 23 August 2018, subject to the conditions set out in the attached schedule.

Main issue

2. The main issue is whether the proposed development would be consistent with development plan policy relating to the provision of employment floorspace.

Reasons

Employment floorspace

3. The appeal concerns the ground floor of a modern 12 storey building, which is part of a wider mixed-use development. The upper floors are in residential use, whilst the ground floor was constructed in 2015 as double height office space. I am informed a mezzanine floor was inserted by the current owners in 2016 with the intention to expand office use into that floor. However, I am further informed that, apart from some low-key storage use, the space has lain empty due to economic difficulties.
 4. DM Policy 4 of the Lewisham Development Management Local Plan 2014 (DMP) allows for the conversion of office space into self-contained flats where certain criteria are satisfied, including where there is no conflict with other policies in relation to employment floorspace. DM Policy 11 further states that the Council will seek to retain employment uses in buildings in town centres
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- (which includes the appeal site) where they are considered capable of continuing to contribute to and support clusters of business and retail uses, and where the use is compatible with the surrounding built context. A number of site characteristics and factors are set out to be considered.
5. The proposal would see the division of the mezzanine space into two dwellings, with an access to the street separate from the retained offices on the ground floor. The Council have objected to this change as they consider this represents the loss of lawful employment space, and no marketing evidence was submitted with the application to demonstrate business use is unviable. The Council further considers the residential use could significantly constrain the retained office space beneath.
 6. The mezzanine is indeed in office use, and so there would be a conflict with the development plan's objectives that seek to retain office space. However, it is clear that the space only exists because the appellants chose to insert an additional area of floorspace within their existing office space; there has not been any loss of floorspace from that originally approved in the wider mixed-use scheme and recently built.
 7. The appellants submitted a letter from a commercial agent with the lodging of this appeal that explained the mezzanine area had been unsuccessfully marketed since August 2017. I acknowledge that this is not a comprehensive marketing exercise, but in my view does indicate absence of demand for office use and so is a material consideration of moderate weight in favour of the change of use.
 8. I am also not persuaded by the Council's generalised assertion that the mezzanine somehow might constrain the future use of the ground floor space: that floorspace remains and, as I saw at the site visit, with good headroom, frontage to the street and separate access.
 9. In my view, it is important to look at the purposes of the Council's policies that seek protection of employment floorspace. It is evident to me that the overall objective is to seek a mix of compatible uses. The change of use would not be contrary to that objective, as the areas of employment floorspace as constructed in 2015 would still remain, with a compatible residential use above. The marketing evidence further indicates to me that there is an absence of demand for an office use of the mezzanine.
 10. On the main issue it is therefore my conclusion that in this instance the proposed development would be consistent with development plan policy relating to the provision of employment floorspace, and hence no conflict would occur with Policy CS5 of the Lewisham Core Strategy (2011), Policies DM4 and DM11 of the DMP, Policies LTC4, LTC11 and LTC12 of the Lewisham Town Centre Local Plan (2014), and Policy 2.15 of the London Plan (2016).

Other considerations and conclusion

11. The Council's second reason for refusing the planning application was that they considered insufficient information had been submitted to demonstrate an acceptable standard of amenity would be achieved for future occupiers of the proposed dwellings, with regards to ventilation and air quality. The appellants submitted a ventilation strategy, with a further drawing, to address this matter that demonstrated a suitably-designed Mechanical Ventilation with Heat Recovery (MVHR) system could provide adequate air quality and purge

ventilation to both dwellings. The Council are satisfied with this system, and I see no reason to come to a different conclusion to both the appellants and Council.

12. The appeal is therefore allowed. I have attached the Council's suggested conditions relating to ventilation and sound insulation, to which the appellants have agreed, to ensure a satisfactory standard of accommodation for future occupants. Conditions have been attached to secure adequate cycle parking and refuse storage, to ensure proper provision of these facilities. Due to the proximity of the school I shall attach the suggested condition relating to delivery associated with construction works, in the interests of highway safety. Certain conditions have been modified in the interests of precision.
13. The Council seek to remove the right for future occupants to obtain car parking permits in the surrounding Controlled Parking Zone, due to the high accessibility of the appeal site in order to support car-free development and hence travel by other modes of transport. I concur that the location of the site points to the suitability of car-free housing, to reduce the dependence on the private car. The Council have suggested a condition be attached to achieve this, which I have modified in the interests of precision and enforceability.
14. Finally, a condition has been attached setting out the approved drawings in the interests of precision and certainty.

C J Leigh

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) a) The development shall be designed so as to provide sound insulation against external noise and vibration, to achieve levels not exceeding 30dB LAeq (night) and 45dB LAmax (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided, together with sound insulation against airborne noise to meet $D'_{nT,w} + C_{tr}$ dB of not less than 55 for walls and/or ceilings where residential parties adjoin non-domestic uses. The evaluation of human exposure to vibration within the building shall not exceed the Vibration dose values criteria 'Low probability of adverse comment' as defined in BS6472.
(b) Development shall not commence until details of a sound insulation scheme complying with paragraph (a) of this condition have been submitted to and approved in writing by the local planning authority.
(c) The development shall not be occupied until the sound insulation scheme approved pursuant to paragraph (b) has been implemented in its entirety. Thereafter, the sound insulation scheme shall be maintained in perpetuity in accordance with the approved details
- 3) a) Prior to first occupation of the development hereby permitted, full details of the proposed whole dwelling Mechanical Ventilation with Heat Recovery (MVHR) system shall be submitted to and approved in writing by the local planning authority, to include details of the venting locations, purge ventilation measures, and the NOx filters to be fitted to filter the air intake.
(b) The development shall not be occupied until the MVHR system has been installed in accordance with the details approved under part (a) above and the MVHR shall be retained and operated for the lifetime of the development.
- 4) Prior to first occupation of the development hereby permitted, details of proposals for the storage of refuse and recycling facilities for each of the residential units shall be submitted to and approved in writing by the local planning authority. The facilities as approved be provided in full prior to first occupation of the development and shall thereafter be permanently retained thereafter.
- 5) A minimum of 3 secure and dry cycle parking spaces shall be provided to serve the development. Prior to first occupation of the development hereby permitted, full details of the cycle parking facilities shall be submitted to and approved in writing by the local planning authority. All cycle parking spaces as approved shall be provided and made available for use prior to first occupation of the development and retained thereafter.
- 6) No deliveries in connection with construction works shall be taken at or despatched from the site between the hours of 0800 to 0930 and 1500 to 1630 Mondays to Fridays inclusive.
- 7) Prior to first occupation of the development hereby permitted arrangements shall have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - a) no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled

person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and

b) any occupiers of the approved development shall surrender any such permit wrongly issued or held.

Such scheme or agreement shall be implemented prior to the occupation of the development and shall be retained and operated for so long as the use hereby permitted continues.

- 8) The development hereby permitted shall be carried out in accordance with the following approved plans: 1302-01; 1302/02, 1302/10 & 1302/11.