The Planning Inspectorate

Appeal Decision

Site visit made on 6 August 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/G5750/W/19/3228582
87 High Street South, East Ham, London E6 6EJ

- 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 Chowdhary on behalf of Etihad Investments Ltd against the decision of the Council of the London Borough of Newham.
- The application Ref 19/00110/FUL, dated 10 January 2019, was refused by notice dated 11 March 2019.
- The development proposed is described as: 'change of use from sui generis (cab office) to A2 accountant office at ground floor level, single storey rear extension to create 1 self-contained studio flat at rear'.

Decision

1. The appeal is allowed and planning permission is granted for change of use from cab office (Sui Generis) to accountant office (Use Class A2) at ground floor level, single storey rear extension to create 1no. self-contained flat at the rear at 87 High Street South, East Ham, London E6 6EJ, in accordance with the terms of the application, Ref: 19/00110/FUL, dated 10 January 2019, subject to the conditions set out at the end of this decision.

Procedural Matters

2. On the basis that the proposed self-contained unit of residential accommodation contains an individually partitioned bedroom, it is more accurately described as a flat as opposed to a studio flat. I have amended the description of development to reflect this and do not consider that any party with an interest in this appeal is prejudiced by me doing so. I have otherwise used the description of development as set out on the Council's Decision Notice and on the appeal form as opposed to that set out on the application form. This is because it accurately and aptly describes the proposal before me.

3. The Council has confirmed that the Mayor of London's new Draft London Plan is currently under examination, a process that has yet to conclude following initial consultation undertaken in December 2017. Where the content of relevant policies has been substantiated in the evidence before me, I have given them limited weight in my consideration of this appeal. This is because their content may yet change prior to being formally adopted.

Main Issues

4. The main issues in this appeal are:

- Whether or not the proposal would undermine the long-term vitality of identified town centre locations;
- The effect upon the living conditions of existing/future occupiers at the site; and
- Whether or not adequate cycle storage facilities to encourage sustainable modes of transport would be provided.

Reasons

Vitality of town centre locations

5. As confirmed by the Council, High Street South is considered to be one of the Borough's Key Movement Corridors/Linear Gateways. However, the site is not contained within a defined Town or Local Centre. Such centres exist elsewhere along High Street South. The particular stretch of High Street South that contains the appeal site is predominantly residential in character, although I observed there to be sporadic examples of commercial uses in existence.

6. I acknowledge that a clear hierarchy for the location of retail uses and other town centre uses is set out in the Newham Local Plan (December 2018) (the Local Plan). Indeed, Policy J1 of the Local Plan sets out that new town centre uses will be directed within the defined hierarchy to a centre proportionate to its scale. Policies SP6 and SP7 of the Local Plan emphasise the importance of consolidating ribbon developments of commercial and community uses into defined centres.

7. In this instance an accountancy office with an active street frontage is proposed, which would constitute a town centre use. It is however apparent that the proposal before me involves no alterations to the existing frontage of the property. Indeed, a change of use is being sought from a taxi cab booking office that formerly operated from the site with a commercial frontage. The remnants of this former commercial use remain readily visible from an external inspection of the building. Such a use would not, I would suggest, look out of place if positioned within a designated centre.

8. Whilst it is proposed that a new town centre use be introduced, the former use of the property and its external composition are important factors to consider. Furthermore, only a single small room would comprise the accountancy office that is proposed. Its potential draw of custom would thus necessarily be limited. In this context, I do not consider that the proposal would have an adverse effect upon the vitality of nearby designated centres.

9. I note that the Council has referenced a recent appeal decision[1] relating to a site situated on nearby Barking Road. Whilst the full details of that scheme and decision are not before me, it is apparent that it was dismissed due, in-part at least, to the proposal then under consideration being found not to consolidate ribbon development into defined centres and being seen to encourage the creation of sprawling untidy frontages. In the case of the scheme before me however, no change to the site's frontage is proposed and a

[1] APP/G5750/W/18/3196526

former commercial use would be replaced. I must consider the appeal based on the individual site circumstances at hand.

10. For the above reasons, noting that the change of use from an existing commercial use (albeit currently vacant) is proposed, the introduction of a small accountancy office would not cause harm by undermining the long-term vitality of identified town centre locations. The proposal would thus not conflict with Policies S1, S6, SP1, SP2, SP6, SP7, J1 and INF5 of the Local Plan, Policies 2.7, 2.15, 2.17 and 4.2 of The London Plan (March 2016) (the London Plan) and with emerging Policy SD6 of The Draft London Plan (December 2017) (the Draft London Plan) in so far as these policies require that proposals will contribute to the re-definition and management of Newham's interrelated town centre hierarchy and network and should sustain and enhance the vitality and viability of centres.

11. I consider that Local Plan Policies SP8, which relates to ensuring neighbourly development, and J2, which relates to providing for efficient use of employment land, are of limited relevance to this particular main issue of the appeal. Similarly, London Plan Policies 2.17, which relates to strategic industrial locations, and 4.2, which relates to economic sectors and workspaces/offices, are also of limited relevance to this main issue.

Living conditions

12. From inspection it was apparent that the rear of the property at ground floor level is already being used as a residential flat. Contrary to the arrangements depicted on the existing ground floor plan submitted, I observed that this accommodation sits separate to and does not incorporate the ground floor room that fronts High Street South and that is proposed to be used as an accountancy office. For the avoidance of doubt, I have considered the appeal on this basis.

13. I also note the Council's reference to an active enforcement investigation at the site that is, in part, related to the rear flat and to its lawfulness not having been satisfactorily demonstrated. I must however consider the appeal scheme based on the extended form of flatted accommodation proposed, as did the Council when determining the planning application that is now the subject of this appeal.

14. As confirmed in the Council's delegated report, the extended flat, which would incorporate a shower room, would meet the nationally described space standard for a one bedroom, one person dwelling as set out in the Government's technical housing standards. Whilst the shower room as depicted on the proposed ground floor plan submitted is not annotated to indicate the provision of a toilet, this does not mean to say that this facility could not or would not be provided. Indeed, I noted during inspection that the existing shower room at the property, which is similarly sized and shaped to the shower room that is proposed, contains both shower and toilet facilities. I am not aware of any specific standard set out in any policy or guidance document that dictates room size in this regard and I do not consider that the scheme would result in either impractical or substandard living conditions.

15. The Council has raised concerns about the proximity of the proposed accountancy office to the bedroom area of the flat. It would not however be anticipated that an accountancy office, particularly of the size proposed here,

would be likely to cause unduly high associated levels of noise and disturbance. Indeed, the Council's Environmental Health Officer has raised no objection in principle to the proposal subject to a planning condition being imposed to secure a scheme of sound insulation between residential and non-residential uses before occupation. Such a condition would be in the interests of safeguarding the living conditions of residential occupiers and would be both reasonable and necessary.

16. The flat, as illustrated on the plans before me and as was apparent from inspection, is/would be served by a spacious private rear garden. Its area comfortably exceeds the relevant standard for private amenity space as set out in the Housing Supplementary Planning Guidance (March 2016, updated August 2017).

17. For the above reasons, no harm would be caused to the living conditions of existing/future occupiers at the site. The proposal accords with Policies H1, H4, S1, S6, SP1, SP2 and SP3 of the Local Plan, Policies 3.5 and 3.8 of the London Plan and emerging Policy D4 of the Draft London Plan in so far as these policies require proposals to avoid problems related to bad neighbour uses, and require that all new homes should meet the internal space standards of the London Plan as a minimum, as well as provide adequate external private open space.

Cycle storage facilities

18. The London Plan standard for cycle parking facilities in association with residential development is one cycle parking space per one-bedroom unit. The plans before me contain no details with respect to intended cycle parking/storage provision.

19. However, it is evident that the flatted accommodation at the site is served by a spacious private garden area set out to the rear. This is accessed via High Street South and through the property. Whilst this area is not necessarily the most conveniently placed for manoeuvring cycles to and from the roadside, I am content from inspection that the rear garden of the property could provide a location for secure and accessible cycle storage.

20. For the above reasons, adequate cycle storage facilities would be provided to encourage sustainable modes of transport so as not to cause harm in this context. The proposal accords with Policies S1, SP3 and INF2 of the Local Plan, Policy 6.9 of the London Plan and emerging Policies T1, T2, T4 and T5 of the Draft London Plan in so far as these policies support the provision of safe, secure and high quality measures to encourage and facilitate cycling as an increasingly popular mode of transport and the provision of secure, integrated, convenient and accessible cycle parking facilities.

21. I consider that Policy S2 of the Local Plan, which relates to Stratford and West Ham, is of limited relevance to this main issue of the appeal.

Other Matters

22. The proposed extension would be located at ground floor level, would be of limited scale and would be discreetly sited. It would not therefore cause overshadowing to the detriment of neighbouring living conditions. Given the limited extent of construction work proposed, it is not necessary to condition the hours that this work is to be carried out. In any event, in the unlikely

event that noise or disturbance were to be caused during construction, this could be investigated outside of the planning process.

23. An interested party has referred to repairs having been undertaken to a boundary fence at the property. This is however a civil matter unrelated to the proposal that is before me. There is thus no need for me to consider this matter further as part of this appeal.

24. I note that the proposed front elevation is annotated to indicate the retention of fascia level signage related to the former taxi cab office use of the premises. Whilst it is envisaged that replacement signage would be required to serve the newly proposed use, such details would likely require separate permission outside of this appeal. For the avoidance of doubt, my considerations are necessarily restricted to the plans and description of proposed development that are before me.

25. The proposal accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

26. The Council has suggested several conditions and the appellant has had the opportunity to comment upon these. I have considered the suggested conditions against advice in the National Planning Policy Framework (February 2019) and Planning Practice Guidance. As a result, I have made amendments to some of the Council’s suggested conditions for consistency and clarity purposes.

27. In the interests of certainty, a condition specifying the approved plans is required. A condition is also required to ensure that the external surfaces of the rear extension hereby approved match existing building materials so as to protect the character and appearance of the main building and its surroundings.

28. A sound insulation scheme is reasonable and necessary to secure, as discussed in my reasoning above. To ensure that such a condition is robust and enforceable, it shall include requirements for full details (including evidence of installation) to be submitted to and approved in writing by the Council before the accountancy office is first occupied, and for the approved scheme to be retained at all times thereafter. In the further interests of protecting surrounding residential living conditions, a condition setting out permitted operating hours for the permitted ground floor commercial use is reasonable in this instance and has been agreed to by the appellant.

Conclusion

29. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced not later than the expiration of three years from the date of this permission.

2. The development hereby permitted shall only be carried out in accordance with the following approved plans: LIVARCH/87HSS/501 A; LIVARCH/87HSS/101 A; LIVARCH/87HSS/301 A.

3. The external surfaces of the rear extension hereby permitted shall match those used in the construction of the existing building, as indicated upon approved plan LIVARCH/87HSS/301 A.

4. The use of the accountant office hereby permitted shall not be operated or be open to the public outside of the hours of 0900 to 1800 (Monday to Sunday).

5. Prior to the first occupation of the accountant office hereby permitted a scheme of sound insulation shall be designed and installed between residential and non-residential uses such that the sound insulation provided shall meet the following standards in line with International Organization for Standardization Noise Rating curves (NR): NR25 in bedrooms (2300 to 0700 hours), NR30 in all other habitable rooms (2300 to 0700 hours). If there is a distinguishable tone the NR curves should be reduced to NR20 and NR25 respectively. Noise Rating curves should be measured as a 15 minute linear Leq at the octave band centre frequencies 31.5Hz to 8kHz. Prior to the first occupation of the accountant office hereby permitted full details of the scheme of sound insulation and certification/evidence to demonstrate that the scheme has been fully installed shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained at all times thereafter.