



Appeal Decision

Site visit made on 13 July 2019

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2019

Appeal Ref: APP/U5360/W/19/3229615

131-133 Stoke Newington High Street, London N16 0PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Red Primrose Ltd against the decision of the London Borough of Hackney Council.
 - The application Ref 2018/3032, dated 17 August 2018, was refused by notice dated 28 February 2019.
 - The development proposed is for the conversion of office (B1) at first and second floors to three self-contained units (1 x 1-bed, 1 x 2-bed, 1 x 3-bed), the creation of 1 x 1-bed flat on the third floor, 2 no. balconies to the rear, removal of external rear staircase, and cycle and bin storage facilities to the rear.
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Decision

1. I allow this appeal, and grant planning permission for the conversion of office (B1) at first and second floors to three self-contained units (1 x 1-bed, 1 x 2-bed, 1 x 3-bed), the creation of 1 x 1-bed flat on the third floor, the formation of 2 no. balconies to the rear, the removal of external rear staircase, and the provision of cycle and bin storage facilities to the rear at 131-133 Stoke Newington High Street, London N16 0PH in accordance with the terms of the application 2018/3032, dated 4 October 2018, subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. I note that there is a discrepancy in the description of the development given by the appellant from that given by the Council. In the planning appeal form dated 24 May 2019 the appellant describes the development as being for the conversion of vacant office space on the first and second floors of 131-133 Stoke Newington High Street to form 4 flats. In its decision notice the Council describes the development as being the conversion of office space on the first, second and third floors to form 4 flats. The proposal includes the formation of a flat on the third floor which, I understand, was vacant when the first and second floors were in use as office space. For the purpose of clarity, and to reflect what seems to be the correct position, I have amended the description of development accordingly as set out in my decision.

Main Issue

3. The main issue in the determination of this appeal is whether the loss of employment floorspace is justified.

Reasons

4. The appeal property comprises the first, second and third floors of a brick-built building of Victorian appearance located on the west side of Stoke Newington High Street in north London. Internally, the upper floors of the property are in a state of disrepair. The ground floor is currently occupied by a Costa Coffee shop and is not subject to this appeal. The appeal property is accessed via an internal staircase to a ground floor entrance on Kynaston Avenue, a pedestrian thoroughfare on the northern side of the building connecting Stoke Newington High Street to Dynevor Road and Kynaston Road to the west. At the rear of the appeal property is what appears to be a large overgrown and unkempt garden bounded by a high brick wall. The proposed cycle and bin storage areas will be located on the eastern side and the north-eastern corner of this former garden respectively.
5. A number of policies within the Hackney Local Development Framework Core Strategy 2010 (CS) seek to protect employment floorspace (Policy 17 and Policy 18) and encourage greater employment opportunities within the borough (Policy 16). I find that the proposal breaches these policies. However, because of the age of the plan I attach little weight to them.
6. Policy 4.1 of the London Plan 2016 (LP) seeks to encourage economic development in London whilst Policy 4.2 of the LP seeks to protect office space. Again, I find that the development proposal conflicts with these policies. Some degree of latitude is provided by Policy DM14 and Appendix 4 of the Development Management Local Plan July 2015 (DMLP) which permits a change of use to residential where the applicant can show that the property has been actively marketed for office use continuously for 2 years at a commercially realistic rent by two firms of reputable agents.
7. A letter from the agents Rochester Place 21 May 2019 confirms that they had been marketing the property since July 2017. It is not clear whether the property is still being marketed by Rochester Place and during my visit I did not see any advertising board bearing the firm's name and contact details, as per the requirement under Appendix 4 (2). The second firm of agents, Aston Rose, whose board is still on the building, only started marketing the property in January 2018, thus falling short of the 2-year requirement by several months.
8. Nevertheless, the property has been marketed by two reputable firms for an extended time without attracting any commercial interest. According to Rochester Place and Aston Rose this lack of demand is due to the poor internal condition of the property, the lack of a front entrance, its outmoded compartmentalised structure, the low level of office demand in Stoke Newington and the availability of more suitable premises. I would concur with this assessment and consider that the prospects of finding a tenant for the office space before the end of 2019 is remote.
9. Where a change of use from office to residential would help meet an identified need, would not undermine a key economic sector and where there is no reasonable prospect of the preferred use being implemented the National Planning Policy Framework 2019 (the Framework) encourages Councils to grant planning permission. The Framework postdates publication of the CS, DMP and LP and represents current Government policy. Therefore, I attach considerable weight to it.

10. I did note that the upper floors of most of the properties fronting on to Stoke Newington High Street in the vicinity of the appeal site appeared to be in residential use. I did not see any evidence of any properties being used for office purposes.
11. Having regard to the above points I find that the appeal proposal is non-compliant with policies 16, 17 and 18 of the CS and non-compliant with policies 4.1 and 4.2 of the LP. However, I find that it is compliant with policy DM14 of the DMLP and with the Framework, which I attach considerable weight to. On balance I find that the proposal is compliant with the development plan and with national policy.

Conclusions and Conditions

12. I allow this appeal subject to the Schedule of Conditions.
13. In addition to the standard 3-year condition I have attached a condition requiring implementation compliant with the approved plans in the interests of certainty. I have also attached a condition limiting NOx emissions from the space and water heating systems in the interests of air quality. Finally, I have attached a condition requiring the appellant to submit to, and have approved by, the Council in writing plans concerning cycle parking and waste recycling in order to ensure that the proposal complies with the local standards.

William Walton

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be begun not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1621-00-rev P1; 1621-E03-00 rev P4; 1621-E03-01 rev P1; 1621-E03-02 rev P1; 1621-E04-00 rev P1; 1621-E02-BP rev P1; 1621-E02-00 rev P4; 1621-E02-01 rev P4; 1621-E02-02 rev P1; 1621-P03-00 rev P4; 1621-P03-01 rev P1; 1621-P03-02 rev P1; 1621-P04-00 rev P1; 1621-P02-00 rev P1; 1621-P02-01 rev P4; and 1621-P02-02 rev P1.
- 3) All space and hot water fossil fuel (or equivalent hydrocarbon-based fuel) boilers must achieve dry NOx emission levels equivalent to or less than 40 mg/kWh.
- 4) Prior to occupation of the residential development full details of cycle parking (including stands) and waste / recycling facilities shall be submitted to, and approved in writing by, the local planning authority. All facilities shall be implemented in full prior to the first occupation of the development and retained thereafter.

