The Planning Inspectorate

Appeal Decision

Site visit made on 4 February 2020

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2020

Appeal Ref: APP/C5690/W/19/3236981
7A Havelock Walk, London SE23 3HG

- 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 Ms Lesley Middleton against the decision of the Council of the London Borough of Lewisham.
- The application Ref DC/18/109425, dated 24 October 2018, was refused by notice dated 13 March 2019.
- The development is alteration of 7A Havelock Walk, SE23 to provide a 1 bedroom self-contained live work unit; a 3 bedroom live work unit, together with the construction of extensions to the first floor and second floors and the formation of roof terraces.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision letter describes the development as retrospective. It is clear from the evidence provided and my site visit that the 3 bedroom live work unit and extensions, apart from the kitchen extension and roof terraces, have been completed and are in use. The construction of the 1 bedroom self-contained live work unit has commenced but has not yet been completed. Planning Permission has subsequently been granted for the 3 bedroom live work unit, including extensions and roof terraces, at the appeal site in August 2019[1]. I shall determine the appeal on this basis accordingly.

3. I have used the Council's description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also makes reference to the updated description.

Main Issues

4. The main issues are the effect of the development on

   (i) the living conditions of the future occupiers of the 1 bedroom self-contained live work unit with particular regard to outlook, noise and disturbance; and

   (ii) the balance between residential accommodation and the workspace in the 1 bedroom self-contained live work unit and the impact on the live work community in Havelock Walk.

[1] DC/19/112509

Reasons

Living conditions of the future occupiers

5. The proposed 1 bedroom self-contained live work unit at 7A Havelock Walk (7A) would have an open plan living/kitchen area at the front of the property. This area would be served by a large full height glazed door facing onto Havelock Walk with a window on the side elevation overlooking a small courtyard and rooflights. The submitted plans also show the bedroom associated with this unit overlooking a small enclosed terrace via a full height glazed door at the rear of the property.

6. Whilst the outlook from the bedroom over the small enclosed terrace would be restricted by its narrowness and the high boundary wall, given the overall design and layout and the orientation of the building, the outlook via the window over the small courtyard together with full height glazed doors over the public highway and terrace would be reasonably open and would allow reasonable light penetration to the front and rear of the 1 bedroom unit. Overall, I consider the proposal would provide a satisfactory level of outlook for the future occupiers from the proposed living/kitchen area and bedroom.

7. Given the position of the proposed 1 bedroom unit on the ground floor, all of the living accommodation would be located adjacent to the studio/workspaces of the proposed unit together with those either side at Nos. 7A and 9. I note from the appellant's submitted evidence, that in the majority of the cases, the presence of the studio/workshops at ground floor level is a common feature in the nearby live work units along Havelock Walk and there is little or no living accommodation at ground floor level[2].

8. Paragraph 180 of the National Planning Policy Framework (the Framework) states that planning decisions should aim, amongst other things, to avoid noise from giving rise to significant adverse effects on health and quality of life as result of new development. The Planning Practice Guidance makes it clear that decision taking should consider the potential for an effect from noise and consider whether or not there would be a 'significant adverse' or 'adverse' effect that is likely to occur.

9. The current uses at Nos. 7A and 9 involve a certain degree of noise and disturbance associated with studio/workspaces. I observed during my site visit that the area experienced some noise and disturbance associated with traffic and pedestrian movements and the surrounding uses and activities in the area. Whilst I accept that the future occupiers of the proposed 1 bedroom unit would expect a certain degree of noise and activity associated with the current operation and the surrounding uses, given the close proximity of the living accommodation to the studio/workspaces and the nature of the uses, detailed evidence is required to justify the development in such a sensitive location.

10. No noise surveys or any other quantitative evidence has been submitted by the appellant to cover the impacts of the use of the studio/workspaces on the noise sensitive elements of the development. Against this background, I cannot conclude whether or not a 'significant adverse' or 'adverse' effect would be likely to occur.

[2] ppmPlanning Appeal Statement September 2019 Appendix 3

11. I have considered the appellant's arguments that the design and layout of the proposed development has been carefully considered and redesigned in response to the Council's comments on the previously refused scheme at the appeal property[3] in order to minimise any impacts on the existing and future residents. Whilst I recognise that the redesigned layout of the appeal scheme and the use of acoustically rated partition walls would assist in integrating the development with the surrounding uses, these aspects do not overcome the adverse effects outlined above. As such, I consider that the development would create an unacceptable level of risk to the living conditions of the future occupiers of the proposed 1 bedroom live work unit.

12. Consequently, I conclude that the proposal would result in harm to the living conditions of the future occupiers of the proposed 1 bedroom live work unit with particular regard to noise and disturbance. It conflicts with Policies DM30, DM31 and DM32 of the Lewisham Development Management Local Plan 2014 (DMLP) and the Residential Standards Supplementary Planning Document 2012. These policies and guidance, amongst other things, seek to ensure that new development demonstrates a high standard of design that does not give rise to significant loss of amenity, provides residents with a quality living environment and meets the functional requirements of future residents.

Balance of live work unit and impact on the nearby live work community

13. The appeal proposal would create a 1 bedroom self-contained live work unit with a total Gross Internal Area (GIA) of 74.5sqm, of which 24.5sqm (33%) would be studio/workshop space.

14. Whilst I note the Council's arguments regarding the amount of studio/ workspace provided and the viability for such a use in this location, the Council has not referred me to any specific requirements or standards for the amount of studio/workspace required with this type of development. Based on the evidence before me, regarding the ratio of the floorspace between residential live and work space in some of the nearby live work units along Havelock Walk[4] and the marketing advice from the local estate agents on the viability of selling or letting in the area[5], I am satisfied that the ratio of the floorspace between residential live and work space would be acceptable and the provision of a 1 bedroom live work unit in the area would be viable. However, this would not address my fundamental concerns outlined above.

15. Paragraph 182 of the Framework states that planning policies and decisions should aim, amongst other things, to recognise that development will often create some noise and that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

16. In this case, given the close proximity of the ground floor living accommodation to the adjacent studio/workspaces, there may be potential noise sources associated such as use of tools/equipment, deliveries and other activities associated with these businesses. There are also no restrictions on the operating hours of the Class B1 studio/workspaces at Nos. 7A and 9[6]. The noise and disturbance associated the use of these spaces, therefore, could occur in

[3] DC/17/101011
[4] ppmPlanning Appeal Statement September 2019 Appendix 3
[5] ppmPlanning Appeal Statement September 2019 Appendix 2
[6] Planning Decisions DC/19/112509 dated 22 August 2019 (No. 7A) and LE/565/9/TP dated 15 June 2007 (No. 9)

the evenings and at weekends, at a time when the background noise levels would be lower and the occupiers of the proposed 1 bedroom live work unit would be at home relaxing and carrying out household and leisure activities.

17. In the absence of any quantitative evidence about the potential effects of noise and disturbance from the activities at Nos. 7A and 9, I cannot conclude whether or not a 'significant adverse' or 'adverse' effect would be likely to occur. The proposed 1 bedroom live work unit could therefore lead to potential unreasonable restrictions being placed on the existing businesses and may hamper future expansion or the viability of the business due the threat of restrictions should there be a statutory noise nuisance. I therefore consider that the proposed residential use in this location could potentially undermine the effective operation and viability of the surrounding studio/workspaces.

18. Consequently, I conclude that the proposal would compromise the surrounding employment uses and live work community contrary to Spatial Policy 3 and Policy 5 of the Lewisham Core Strategy 2011 (CS) and DM Policy 11 of the DMLP which seek to retain and protect the existing employment sites and uses, ensure that non-employment uses do not compromise the surrounding employment uses and support the creative industries in Havelock Walk. In addition, the proposal would conflict with Paragraph 182 of the Framework which seeks to protect existing businesses from having unreasonable restrictions being placed on them as a result of changes in nearby uses.

Other Matters

19. Given the location of the appeal site within the Forest Hill Conservation Area (CA), special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. I consider that the appeal scheme, by virtue of its scale, layout and design would have a neutral material impact and would preserve the character and appearance of the CA. I find no conflict with Policy 16 of the CS and DM Policy 36 of the DMLP in this respect.

20. I noted the appellant's statement regarding class B1 uses sitting comfortably next to residential uses and that Havelock Walk is a recognised live work location. Whilst this maybe so, this does not preclude the proper planning assessment of the impact of the development on the property and the surrounding area and is not a determinative factor on its own.

21. I have considered the various benefits put forward by the appellant that the proposal would bring, including providing additional housing and employment uses within an identified live work opportunity area and making efficient use of a building in a highly accessible location. However, the adverse harm outlined above would, in my view, outweigh the benefits identified in this case. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR