
Appeal Decision

Site visit made on 13 January 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2020

Appeal Ref: APP/L5810/W/19/3239594

1A Walpole Place, Teddington TW11 8PL

- 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 Bretson Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/1378/FUL, dated 24 April 2019, was refused by notice dated 25 June 2019.
 - The development proposed is the use of the building as a residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site has a lengthy planning history, largely relating to various proposals to use the existing building for residential purposes. There has been a dispute between the parties regarding the building's lawful use and that is not a matter for me to determine in the context of this appeal. However, in dismissing an earlier scheme the Inspector considered that it was 'more likely than not that the building could be used for purposes within Use Class B1'¹. I have determined the appeal on this basis.
3. As part of the appeal process, the appellant has submitted a copy of a signed s106 Unilateral Undertaking (UU) dated 13 December 2019, in respect of an indexed contribution of £5,625 for affordable housing. The Council confirmed that the UU is acceptable. As this has addressed the Council's third reason for refusal, I have taken the UU into consideration in my determination of the appeal.

Main Issues

4. The main issues are:
 - The effect of the proposal on the supply of employment floorspace; and
 - Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to internal space and outlook.

¹ Appeal reference APP/L5810/A/14/2228573

Reasons

Employment floorspace

5. The appeal relates to a small self-contained two-storey building with an external gated yard situated on a backland site, which the appellant wishes to use as a dwellinghouse. The site lies between mainly residential properties on the adjoining streets of Walpole Place, Walpole Road and Walpole Crescent, although it is close to Teddington town centre and its various shops, offices and other services.
6. Both parties have drawn my attention to two previous refused planning applications and subsequent appeal decisions relating to the site where the loss of employment land or premises was not a reason for refusal². I do not know the full details of either case. However, in line with the previous Inspectors in those cases, I have assessed the proposal before me based on the present use of the premises for employment purposes and the current development plan policies. The proposal would result in the loss of that employment use to housing.
7. Policy LP40 of the 2018 Richmond upon Thames Local Plan (the RLP) aims to retain land in employment use and to encourage the provision of small employment units. RLP Policy LP42 requires proposals which would lead to the loss of industrial land to be backed by robust evidence that there is no longer demand for such a use, nor that there is likely to be any in the foreseeable future. This should include evidence of completion of a full marketing exercise at a realistic price for the site over a minimum of two years.
8. No substantive evidence has been provided to demonstrate either that there is no demand to use the site for employment uses, or that it has been marketed for sale or rent as such. Consequently I am unable to rule out the possibility that there is a realistic prospect of a suitable employment use being found.
9. I conclude that the proposal would result in an unacceptable loss of employment land. It would therefore conflict with RLP Policies LP40 and LP42 which seek to support the local economy by ensuring that the Borough has sufficient employment land and sites, including those which are suitable for small businesses.

Living conditions

10. The proposed accommodation would have an open plan living and bedroom area on the ground floor, with a kitchen-diner, study area and shower room on the upper floor. Although the submitted drawings show a single bed within the living and bedroom area, I saw on my site visit that there is room for a double bed and there is the potential for the proposed accommodation to be occupied by two people. Taking into account the layout of the building and the other evidence before me, on balance I consider that the appeal scheme has the characteristics of and should be assessed as a one-bedroom two-storey dwelling rather than either a studio flat or a one-bedroom single-storey dwelling.

² LB Richmond Upon Thames references 13/3272/FUL and 16/4455/FUL, appeal references APP/L/5810/A/14/228573 and APP/L5810/W/18/3200118

11. All new housing development is required by RLP Policy LP35 to comply with the Nationally Described Space Standards (NDSS). The parties agree that the appeal property has a floorspace of around 49m². The NDSS requires a minimum gross internal floor area of 58m² for a one-bedroom, two-person dwelling on two storeys. The proposal therefore falls some way below this. No elevations or sections have been provided, but from observations on my site visit I also note that the headroom of much of the first floor would be limited by the slope of the roof, and this would significantly reduce the usability of that space. I am not therefore satisfied that the dwelling would provide the minimum floor to ceiling height of 2.3m across at least 75% of the Gross Internal Area required by the NDSS.
12. While the Council's 2010 Residential Development Standards Supplementary Planning Document (the SPD) indicates a minimum net internal floor area requirement of 45m² for a one-bedroom flat, this excludes stairs. It seems likely that the spiral staircase would reduce the internal floor area from around 49m² to less than the 45m² required by the SPD. Measured against the standards in both the NDSS and the SPD, I consider that the proposed dwelling would provide inadequate internal living space for its future occupiers.
13. The appellant has referred to an appeal where the Inspector addressed the issue of amenity space provision related to the number of bedrooms³. However, in that case the issue was whether the appellant might seek to subdivide large bedrooms, and the Inspector considered it possible to control this by use of a condition. In this case, the occupancy of the dwelling could not be limited by a condition, and I therefore consider that the cases are not comparable.
14. Turning to outlook, the building's windows are on the elevation facing the rear of the adjacent properties on Walpole Road, while there are also three rooflights on the rear roof pitch. The first-floor windows are set at a very low height, and their upper parts are currently obscurely glazed.
15. The kitchen-diner and the study area would be in an open-plan space occupying most of the upper floor. Under the appeal proposal, the first-floor windows would be entirely obscurely glazed in order to prevent overlooking of neighbouring properties. Although the space would receive sunlight and daylight via the rooflights, the obscure glazing in the windows would mean that occupiers would have no outlook from the entire floor. In my view this would provide them with unsatisfactory living conditions.
16. Although objections were received from third parties, I am satisfied that the proposal would not result in material harm to the living conditions of neighbouring residents arising from overlooking, noise or other disturbance. However, the lack of harmful overlooking arising from the use of the building as a dwelling would come in part at the cost of removing any outlook from the upper floor of the appeal property. The external yard would provide the future occupiers with limited but adequate amenity space. However, these factors do not outweigh the other significant harm in respect of living conditions which I have identified.
17. Proposals for residential development should provide a satisfactory combination of quantity and quality of living space. In this case, I have found both to be deficient. There may be other cases where permission is granted for proposals

³ Appeal reference APP/L5810/A/12/2188686

where space standards are not strictly met, including in a further appeal decision which the appellant has brought to my attention⁴. However, in allowing such schemes to proceed all the site-specific circumstances will have been considered. In this case, I have reached my own conclusions on the basis of the evidence before me and taking into account the layout of the appeal property.

18. I therefore conclude that the proposal would not provide future occupiers with adequate living conditions, with particular regard to living space and outlook. It would therefore conflict with RLP Policy LP35, which requires all new housing developments including conversions to comply with the NDSS. It would also conflict with RLP Policy LP8 which has been drawn to my attention and which is relevant as it seeks to protect living conditions including outlook for future occupants of new developments. For the same reasons it fails to comply with the National Planning Policy Framework, in particular the requirements set out in paragraph 127, and the advice set out in the SPD.

Other Matters

19. The appellant has referred to the potential use of permitted development rights to change the use of the appeal premises from employment to residential use. This would require a 'prior notification' to be submitted to the Council, which to my knowledge has not been pursued. As such, I can give limited weight to this potential fallback option in my determination of the appeal.
20. The proposal would provide an additional housing unit in an accessible location close to public transport links, shops and services. It would make a modest contribution to the provision of affordable housing, which would be secured by the s106 UU provided for this purpose. It would also improve the environmental performance of an existing building. However, none of these factors either alone or in combination outweighs the harm caused by the loss of a small employment site, or by providing future occupiers with inadequate living conditions.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

M Cryan

Inspector

⁴ Appeal reference APP/H5960/W/18/3211615