
Appeal Decision

Site visit made on 10 March 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/C5690/W/19/3243569

127 Rushey Green, London SE6 4AA

- 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 Candome Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/113775, dated 6 September 2019, was refused by notice dated 1 November 2019.
 - The development proposed is "the part conversion of the rear ground floor office and meeting space and the construction of a single storey first floor extension above at 127 Rushey Green, SE6 to provide a two storey, two bedroom separate dwellinghouse; including external alterations, cycle storage and commercial bin store".
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Decision

1. The appeal is allowed and planning permission is granted for "the part conversion of the rear ground floor office and meeting space and the construction of a single storey first floor extension above at 127 Rushey Green, SE6 to provide a two storey, two bedroom separate dwellinghouse; including external alterations, cycle storage and commercial bin store" at 127 Rushey Green, London, SE6 4AA in accordance with the terms of the application, Ref DC/19/113775, dated 6 September 2019, subject to the conditions in the schedule attached to this decision.

Procedural Matter

2. The appellant has produced an additional drawing which they suggest would go part of the way towards addressing the reason for refusal. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. However, in this case the Council appear to have indicated that they will not entertain a fresh application to test this revision.
3. Notwithstanding that, having had regard to the Wheatcroft Principles, the interests of fairness, and the clarity of the effects of the revision, I have made my decision on the basis of the original drawings before the Council.

Main Issue

4. The main issue is whether or not the proposal would provide suitable living conditions for future occupiers having regard to the provision of natural light, outlook and ventilation to the ground-floor.

Reasons

The site

5. The appeal site is the rear, single storey wing of a restaurant which fronts onto Rushey Green, accessed from Florist Mews. The shared rear access serves a number of other properties on Rushey Green, as well as a number of residential properties. The appeal proposal seeks to provide a contemporary two-storey, two-bedroom dwelling in place of part of the rear ground-floor space of the restaurant. In previous applications, the principle of the development, as well as the acceptability of its proposed size, design, and layout of the first-floor and relationship to surrounding properties have all been established as acceptable by the Council. The only issue which remains is that before me in this appeal.

Natural light, outlook and ventilation

6. The updated internal daylight assessment directly addresses the criticisms of the Council with regard to potential light levels in the ground-floor of the proposal. I also note that the updated assessment assumes for its calculations that the full-height side window is obscurely glazed, yet the level of light within the ground-floor of the proposal exceeds the BRE guidelines. Given the dense, urban nature of the site, I am satisfied that this level of light would therefore be acceptable.
7. Turning to outlook, the Council's concerns appear to be related to the depth of the ground-floor of the proposal, and in particular the effect of that on the outlook from the kitchen. I accept that outlook from the kitchen would be more limited than from other parts of the ground-floor area and that the outlook from the side window on the ground-floor would be limited by its recessed position. However, the kitchen would benefit from long-views to the front windows across the lounge area and would receive light from the side window. I do not consider that this arrangement would be particularly unusual or harmful in this case.
8. The design and layout of the proposal, and the ground-floor in particular, appears to be a pragmatic approach to the nature and constraints of the site. In my view, the proposal strikes an appropriate balance between the availability of natural light and the provision of a suitable outlook. It proposes a ground-floor layout which makes the most effective use of it in terms of its arrangement, with the lounge area closest to the windows. In reaching this conclusion, I have had particular regard to Standard 32 in the Mayor of London Housing Supplementary Planning Guidance, March 2016 (the SPG). I note that the level of light in the ground floor would exceed the minimum level set out in BRE guidelines. Given therefore the open-plan nature of the proposed ground-floor layout, I do not consider that overall, the outlook from the ground-floor would be so limited as to be harmful or unacceptable.
9. The Council appears to have approached the issue of ground-floor ventilation on the basis of the full-height window in the southern side elevation being fixed-shut, having indicated that they would seek to ensure this by condition. The appellant however has stated that it would be openable, and that any concerns over potential odour effects are within their control and would not therefore preclude the opening of that window. In light of that, and the lack of detailed reasoning from the Council to support their concerns, I have treated

that window as openable. I also note that there is an openable rooflight above the bathroom which in combination with the other windows, would in my view allow effective cross ventilation of the ground-floor. I consider that this would be consistent with the guidance in the SPG.

10. I therefore consider that the proposal would provide suitable living conditions for future occupiers with regard to the provision of natural light, outlook and ventilation to the ground-floor. The proposal would therefore comply with Policy 3.5 of the London Plan 2016, Policy DM32 of the Lewisham Local Development Framework Development Management Local Plan, 2014 and the SPG. These policies seek, amongst other things, to ensure that development is of the highest quality both internally and externally, provides satisfactory levels of privacy, outlook, natural light and ventilation, and meets the functional requirements of future residents. The SPG sets out the importance of the highest standards and gives more detailed guidance on meeting the needs of occupiers and delivering housing with high standards and appropriate levels of amenity.

Conditions

11. The Council has suggested a number of conditions to be attached, should planning permission be granted. I am satisfied that the conditions requiring compliance with the submitted plans and approval of external materials and bin store details are necessary to ensure the satisfactory appearance of the completed development. They also meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.
12. However, I do not consider that a condition requiring submission of details of cycle parking is required, as this information is already shown on the submitted drawings and this offers a mechanism to secure compliance. I do not consider it necessary or reasonable to require a condition to fix-shut and obscurely-glaze the full-height, side-facing ground-floor window, as I do not consider that it would give rise to any harmful overlooking or loss of privacy to the occupiers of neighbouring properties, as suggested by the Council.

Other Matters

13. A number of third parties have objected to the proposal due to ongoing issues relating to noise and odour arising from ventilation plant and machinery on the roof adjacent to the site. Whilst I acknowledge these comments, they do not relate to the appeal proposal before me, and there is evidence to suggest that they are the subject of separate action and applications apart from this appeal. As a result, they do not affect my findings on the main issue set out above.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
2. The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:
 - 351.LN.001 Rev.A;
 - 351.PL.005 Rev.K;
 - 351.PL.006 Rev.J;
 - 351.PL.007 Rev.D;
 - 351.PL.012 Rev.G;
 - 351.PL.013 Rev.E;
 - 351.PL.014 Rev.F;
 - 351.PL.022 Rev.D;
3. No development above ground shall commence on site until a detailed schedule and specification of all external materials and finishes/windows and external doors/roof coverings/other site-specific features to be used on the building have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. No development above ground level shall commence until details of proposals for the storage of refuse and recycling facilities for the residential unit hereby approved, have been submitted to and approved in writing by the local planning authority. The facilities as approved under shall be provided in full prior to occupation of the development and shall thereafter be permanently retained and maintained.