
Appeal Decision

Site visit made on 30 November 2020

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020.

Appeal Ref: APP/C5690/W/20/3251882

16-22 Brownhill Road, London SE6 2EJ

- 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 Brownhill Properties LLP against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/20/115246, dated 8 January 2020, was refused by notice dated 6 March 2020.
 - The development proposed is 'use of part ground floor and existing basement to provide serviced B1(a) office space, formation of 4 apartments (two x 2 bed , two x 1 bed) at ground floor level'.
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Decision

1. The appeal is allowed and planning permission is granted for the use of part ground floor and existing basement to provide serviced B1(a) office space, formation of 4 apartments (two x 2 bed , two x 1 bed) at ground floor level at 16-22 Brownhill Road, London SE6 2EJ in accordance with the terms of the application, Ref DC/20/115246, dated 8 January 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin 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:

BR-988-PD-03, BR-988-PD-04 and BR-988-PD-05.
 - 3) A detailed schedule of all external finishing materials shall be submitted to and agreed in writing by the Local Planning Authority before they are introduced to the development hereby permitted. Development shall take place in accordance with the approved schedule.
 - 4) Before the apartments hereby permitted are first occupied a scheme for the relocation of the existing cycle stores located along the southern elevation of the building along with the provision of additional cycle storage shall be implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved cycle storage shall be retained thereafter.
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- 5) The dwellings hereby approved shall not be occupied until a scheme to safeguard adequate levels of privacy for the habitable rooms served by the ground floor windows of the building has been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained thereafter.

Main Issues

2. The main issues in this case are as follows:

- Whether there would be a loss of commercial space and if so, whether this is acceptable in light of the requirements of relevant development plan policies;
- The effect of the proposal on the character and appearance of the street scene;
- Whether adequate living conditions would be provided for future occupiers of the proposed apartments; and
- Whether adequate cycle parking could be provided.

Reasons

3. The appeal relates to an imposing corner building which fronts Brownhill Road with a smaller frontage to Plassy Road. It is a building of some architectural and historic merit, as recognised by a local listing. It is located on the edge of but within Catford Town Centre, with a mix of commercial and residential buildings within the immediate locality.

Commercial use

4. Planning permission was granted for A2, A3 or D1 uses on the ground floor of the building with ancillary storage and facilities in the basement, along with the conversion of the upper floors to 9 no. apartments on 11 January 2016 (Ref. DC/14/089404). A further planning permission granted B1(a) use on the ground floor and basement on 23 March 2018 (Ref. DC/18/105429). The building has now been refurbished and the apartments have been completed.
5. The proposal seeks to convert the basement to small serviced B1(a) office suites along with a communal kitchen and toilets, with a reception and one office at ground floor level. The remainder of the ground floor would be converted to four apartments (2 no. 1 bed units and 2 no. 2 bed units).
6. Core Strategy 5 of the adopted Lewisham Local Development Framework Core Strategy (CS) seeks to retain employment uses in town centres although it does indicate that other uses such as residential will be supported, if it can be demonstrated that site specific conditions, including business viability, show that the site should no longer be retained in employment use. Core Strategy 6 of the CS relates to the retail hierarchy for the Borough.
7. DM Policy 11 of the adopted Development Management Local Plan (LP) aligns with Core Strategy 5 and seeks to retain employment uses on sites and buildings in town centres where they are considered capable of continuing to contribute to and support clusters of business and retail uses and where the use is compatible with the surrounding built context. Section 2 of this policy indicates that the redevelopment of a site on a commercial street frontage will

be supported where, amongst other matters, a business use is retained on the ground floor. Section 3 of this policy explains that where uses are proposed for a site or building in employment or retail use that do not involve any job creation or retention, the Council will require evidence that a suitable period of active marketing of the site for re-use/redevelopment for business uses at an appropriate market rate has been undertaken through a Commercial Agent. The justification to this policy explains that at least two years of marketing will normally be required, although shorter timescales (up to one year) may be appropriate for B1(a) uses in centres where demand is strong.

8. The refurbishment scheme has included works to the basement, which I understand has historically suffered significant water ingress from the lightwells located at the front of the building and was unusable until recently. The ground floor has also been refurbished. From my visit, both are useable spaces, but they require finishing works and a commercial fit out.
9. The previous planning permissions include commercial space at ground floor level with storage space and/or B1(a) space within the basement. The Council considers that the proposal would result in a loss of commercial space because the ground floor would be converted to mainly residential use.
10. There is some disagreement between the parties as to whether the basement should be considered a commercial space. Regardless, the basement would not be as attractive a workspace as the ground floor because it has a low ceiling height, it has no street frontage and the only natural light entering this space is from the lightwells to the front and back of the building. Furthermore, the proposed layout for the basement would provide a smaller commercial space than that of the ground floor. In any event, Section 2 of DM Policy 11 of the LP specifically requires the retention of business uses on the ground floor when redeveloping sites on a commercial street frontage. On this basis, whilst a commercial use would be retained, there would be an overall loss of commercial floorspace and undisputedly so at ground floor level.
11. According to the Report provided by the Commercial Agent, the ground floor and basement of the appeal building have been marketed for commercial uses since November 2013 as a 'pre-let opportunity'. Works were only substantially completed in May 2019 and even now, the ground floor and basement require finishing and a commercial fit out, as I have explained. However, in my experience, it is not uncommon for commercial spaces to be offered to the market in this way and priced accordingly. The Council has not suggested that the proposed terms were unrealistic.
12. The Report explains that although the ground floor and basement have been marketed for several years, there has been no interest from A2, A3, B1 and D1 users. The Report suggests that there could be demand for small scale start up or serviced office accommodation and that there has been some interest from B1 users, but this has not translated to a let since planning permission was granted for this use in 2018. The Appellant Company asserts that any such demand could be accommodated within the basement if it did materialise.
13. I recognise the importance of retaining commercial uses within town centres, particularly at street level. In this case, a smaller commercial space would be retained predominantly within the basement and partially on the ground floor.

Furthermore, the loss at street level must be balanced against the negative visual and economic effect which can be caused by prolonged vacancy, along with the fact that empty buildings in sustainable locations can make a very significant contribution to the much needed supply of new homes.

14. I am satisfied that the evidence before me demonstrates a suitable period of active marketing of the site for commercial use by a Commercial Agent has taken place without success. On this basis, I find that the requirements of the development plan policies outlined above have been met and that the predominant loss of the existing commercial use at ground floor level is acceptable.

Character and appearance

15. The large ground floor windows of the building which front Brownhill Road and Plassy Road would serve several habitable rooms of the proposed apartments. The Council has raised concern that in order to provide adequate levels of privacy for future occupiers, the installation of screens would be necessary and their visual effect would harm the character and appearance of the host building.
16. The window detailing of this locally listed building is attractive and it would be retained. The Appellant Company accepts that some form of internal screening would be necessary. To my mind, there are many examples where attractive commercial units have been converted to residential use, with internal screens successfully fitted to provide privacy without causing a harmful visual impact.
17. The frontages of the building might appear less 'active' than if they were in commercial use, but it is entirely feasible that screens might be installed if certain sensitive commercial users were operating at ground floor level. Furthermore, at my visit, I noted that many of the dwellings along Brownhill Road have blinds, nets or curtains providing a degree of screening to their ground floor windows in order to provide privacy for their occupiers.
18. In light of the above, I am satisfied that it would be possible to devise an appropriate design solution which could secure adequate levels of privacy for future residents without causing undue harm the character and appearance of the host building. As such, the requirements of policies 19 and 37 for high quality design could be met and this could be secured by a suitably worded planning condition.

Living conditions

19. The Council's concerns relate to the levels of privacy, outlook and access to natural light for future occupiers of the apartments, along with the quality of the outside space which would serve at least some of the units.
20. There is no dispute that the proposed apartments meet the internal space standards outlined by The London Plan and the Technical Housing Standards. However, the Council is concerned that Apartments 1, 2 and 3 would have at least some of their habitable rooms served by windows fronting either Brownhill Road or Plassy Road, whilst Apartments 2 and 4 would have windows facing the communal area of the adjacent apartment development, which would generate privacy issues. Whilst I have found that privacy screens would

be an appropriate solution from a visual perspective, the Council argues that such an approach would cause other issues such as reduced outlook and potential loss of light.

21. In order to secure privacy, screens need only be as tall as eye level. On this basis, and bearing in mind the fact that the windows facing the street are large and tall in the main, I see no reason why the installation of screens need unacceptably reduce the levels of natural light entering the affected rooms. Also, as I have explained, many occupiers of properties directly fronting urban streets use blinds, nets and curtains to ensure privacy. This is clearly achieved without unduly compromising the outlook from these rooms. On this basis, I see no reason why a design solution could not be flexible enough so as to meet the requirements of future occupiers in terms of both privacy and outlook; which may not be the same for everyone and may also be different at certain times of the day.
22. In addition, the Council has expressed concern that Apartment 2 is single aspect with the windows serving its bedroom and lounge looking directly at the adjacent apartment building. The Council also has concerns that Apartment 4 would have the window serving its lounge also facing the adjacent apartment block and the window serving its bedroom would look directly at the fire escape. Whilst I accept that the outlook from these rooms would be somewhat restricted, I consider that it would be within acceptable parameters for a high density residential conversion scheme in a built up urban environment.
23. Apartments 2 and 4 would have patio areas which would accord with the Council's standard for private open space. Apartments 1 and 3 would not have a private space. Occupiers of these dwellings would be reliant on the communal open space which serves the adjacent apartment development. This is an attractive and good sized space and in my view, it would be capable of accommodating the additional needs of the occupiers of two modest apartments. The occupiers of Apartments 1 and 3 would have to exit their dwellings on Brownhill Road and walk around to the corner to access this space, which is not ideal. However, some compromises have to be made when converting existing buildings and particularly those which are locally listed. Furthermore, not all occupiers want or need an outside space. The option would be there for occupiers if they wanted some outside space and its suitability would be a decision for them before any commitment to occupation.
24. In light of the above factors, I am satisfied that adequate living conditions would be provided for future occupiers of the apartments in compliance with the overall aims of policy 3.5 of The London Plan and policy 32 of the LP.

Cycle parking

25. The proposal does not include any secure cycle parking facilities. I also note that some of the existing cycle parking which serves the adjacent apartment development is located along the south elevation of the appeal building. This would have to be relocated so as not to obstruct the windows to be introduced which would serve some habitable rooms.
26. As explained, two of the proposed apartments would share the communal open space of the adjacent apartment development which is controlled by the Appellant Company. To my mind, there is plenty of scope within this space to

relocate the existing cycle parking and provide additional cycle parking for future occupiers of the proposed apartments to meet the requirements of policy 6.9 of the London Plan and policy 15 of the CS. This could be secured by a suitably worded planning condition.

Overall Conclusions

27. I conclude that the proposed development would not conflict with the development plan policies outlined above relating to employment generating uses within town centres, it would not harm the character and appearance of the host building, it would provide adequate living conditions for future occupiers of the proposed apartments and appropriate levels of cycle storage could be secured.

Conditions

28. In addition to the standard conditions which limit the lifespan of the planning permission and direct that development takes place in accordance with the approved plans, along with the conditions I have mentioned, the Council has suggested one other condition in the event the appeal succeeds. I agree that external finishes should be controlled in order to ensure a visually acceptable development.

29. In allowing the appeal, I shall impose conditions accordingly.

David Fitzsimon

INSPECTOR