



Appeal Decision

Site visit made on 29 March 2021

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2021

Appeal Ref: APP/G5180/W/20/3257644

26c Chislehurst Road, Orpington BR6 0DG

- 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 Mr S Grover against the decision of the London Borough of Bromley Council.
 - The application Ref DC/20/00281/FULL1, dated 17 January 2020, was refused by notice dated 7 April 2020.
 - The development proposed is conversion of existing office to 1 No. apartment and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since Bromley Council's (the Council) refusal of the application the Mayor of London has adopted a new London Plan. In line with the Planning Practice Guidance, my consideration of the issues of the appeal has, therefore, been on the basis of the National Planning Policy Framework (the Framework), the policies of the Bromley Local Plan (2019) (the Local Plan) and the London Plan (2021) (the London Plan). The appellant and the Council have confirmed that this is not prejudicial to their cases.

Main Issues

3. The main issue of this appeal is the adequacy of information provided to justify the proposal with reference to loss of commercial/ employment use in this location.

Reasons

4. The appeal property at 26c Chislehurst Road (No.26c) is located at the rear of 26 Chislehurst Road, which is within a small cluster of commercial buildings in a predominantly residential area, a short walk from the main Orpington commercial and retail centre. The building comprises 3 separate garage spaces at ground level with approximately 55 SQM of office use on the floor above. The proposal is for the change of use of this office space to provide a 1 bedroom dwelling with associated works.
5. As part of their application the appellant provided evidence that the office part of the appeal property had been the subject of unsuccessful marketing

- to obtain a tenant in the preceding 12 months. As part of their appeal submission the appellant has further submitted their own assessment of the suitability of the office part of the appeal property for some other employment generating uses.
6. The appellant has also put forward the argument that the COVID 19 Pandemic has altered the market for office space including small out of centre office space of this type, with organisations and individuals moving to working from home or more flexibly in terms of their need to work statically in a single office location. However, the situation in the current emergency is fluid and the long terms implications in this regard are far from clear, including for small offices in locations away from office and business centres and I have, therefore, afforded this little weight in my considerations.
 7. The appellant has brought my attention and made reference to allowed planning appeals¹ in the Council area for housing development. Whilst I have noted the Council's Housing Land Supply (HLS) shortfall issues detailed in these appeals, these would have been considered on their own merits. I have, likewise, considered the proposed development on the same basis, which is a fundamental principle that underpins the planning system and have afforded them moderate weight in my considerations in so far as they relate to the Council's HLS shortfall.
 8. The appellant has provided evidence of the marketing strategy for the office space at the appeal property and that no qualified enquiries were received by their appointed agent, despite the apparent low office availability in the Orpington area of less than 600 Square Meters. However, the information provided does not indicate whether, over the marketing period, this strategy was reviewed or adapted to deal with this lack of interest.
 9. Whilst it may very well be the case that the future use of the office use in of the upper floor of the appeal property is not viable within the current market for accommodation of this type, the marketing information provided is limited in scope and does not convincingly demonstrate active, comprehensive marketing of the space for office or other compatible employment generating uses that would, on its own, adequately justify the proposal.
 10. As part of the material provided by the appellant for the purposes of this appeal, the appellant has further submitted an assessment of the upper floor of the appeal property for other compatible employment generating uses. However, whilst this is a professional assessment by the appellants property consultant, this has not been market tested and is not accompanied by any other supporting information relating to the accommodation needs and supply for these uses in the local area and I, therefore, afford it limited weight in my considerations.
 11. For these reasons, the marketing and viability evidence for office or other compatible employment generating uses, does not justify the appellants case for a change of the office part of the appeal property to residential and, therefore I find that the proposal would result in harm to the provision of necessary floorspace for commercial/employment use for small businesses

¹ Appeal Ref: APP/G5180/W/18/3206947 and APP/G5180/W/18/3206569

in this location. The appellants case for the proposed change of use has, therefore, not been demonstrated to the degree that satisfies the requirements of Policies 83 and 86 of the Local Plan and Policies E1, E2 and E3 of the London Plan, which collectively seek to protect commercial/employment floorspace and ensure provision and protection of smaller and more affordable spaces that meet the needs of start-up and smaller businesses as well as those seeking to expand.

Planning Balance and Conclusion

12. Paragraph 11d, footnote 7 of the Framework states that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a 5 year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
13. When this is the case, and as this appeal relates to the provision of housing, the need for the proposal to be considered against paragraph 11d is triggered. However, although the proposal must be determined within the context of paragraph 11d, I consider the Local Plan and London Plan policies to be a material consideration within this decision, which carry full weight in so far as they conform to the Framework, along with the relevant policies of the London Plan. The Local Plan Policies 83 and 86 and London Plan Policies E1, E2 and E3, which are the most relevant to this appeal, are consistent with the Framework and specifically Paragraph 80, which seeks to create the conditions in which businesses can invest, expand and adapt, support economic growth and productivity, taking into account local business needs.
14. According to the Government's Housing Delivery Test: 2020 the Council has a significant projected housing shortfall on that required. The Council's projected housing shortfall is also below that identified in the London Plan (2021).
15. As I have identified above, the appellant has not submitted material that would justify the loss of a commercial/employment use that could be harmful to the provision of office and employment space in this location, contrary to Policies 83 and 86 of the Local plan and Policies E1, E2 and E3 of the London Plan. In light of the Council's housing land supply position, paragraph 213 of the Framework makes it clear that weight should be given to existing development policies according to their degree of consistency with the Framework. Section 6, Paragraph 80 of the Framework recognises that developments should take into account local business needs and create the conditions in which businesses can invest, expand and adapt. Even taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and the relevant parts of Policies 83 and 86 of the Local plan and Policies E1, E2 and E3 of the London Plan should be given significant weight in this appeal.
16. Set against the harm identified there would be social and economic benefits associated with the development. The office part of the appeal property is small in terms of its ability to provide housing, and the proposal would provide a single bedroom dwelling in demand by the growing number of smaller households. Although a small contribution to the overall housing

target for the London Borough of Bromley, small housing schemes do collectively make a major contribution to the number of new residential units, as further recognised in Policies H2 and H3 of the London Plan, which seek to increase the supply of housing on small sites and I have given this significant weight in my considerations. The proposal would also generate employment opportunities during its conversion to residential use, and through the employment of local services for its upkeep and maintenance when occupied. In connection with the single additional dwelling proposed, these benefits attract modest weight in favour of the proposed development.

17. Consequently, I conclude that the potential harm through the loss of floorspace for commercial/employment use that I have identified, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
18. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR