
Appeal Decision

Site Visit made on 8 June 2021 by Miss Sarah Witherley CIHCM MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2021

Appeal Ref: APP/E5900/W/20/3265626

4 - 6 Brick Lane, London, E1 6RF

- 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 Mark Frey against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/20/01704, dated 11 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is Conversion of existing flat and stock rooms to provide 4 x one bedroom self-contained flat.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The effect of the proposal on:
 - the provision of family sized accommodation;
 - the supply of retail space and;
 - whether it provides adequate cycle and waste storage.

Reasons for the Recommendation

4. The appeal site comprises of two separate units located across the first and second floors of a three-storey building. Unit No. 4 has a commercial unit at ground floor with ancillary storage facilities located in the first and second floors above. Unit No. 6 has a ground floor commercial unit with a four bedroom flat across the first and second floors.
5. It is located within the Brick Lane and Fournier Street Conservation Area (CA). Its significance deriving from the social history associated with the area along with the built form. Along Brick Lane the area can be characterised by its long linear form of terraced buildings which as a result of their consistent height and architecture contribute positively to the character and appearance of this part of the CA and the CA as a whole.

6. The proposal seeks to convert both existing units to create four, one-bedroom self-contained flats. Part of the proposal would include the development of a rear extension.

Family Accommodation

7. The proposal would see the loss of the existing four bedroom flat located in unit No. 6. Policy D.H2 of the Tower Hamlets Local Plan (2020) (LP) seeks to resist the loss of family-sized housing and states that *'development involving the conversion of family homes will only be permitted when a 3-bed plus unit is retained in the new development...'* This clearly sets out that conversions of existing units are to retain as a minimum a one, three-bedroom unit.
8. The appellant suggests the provision of three single units of accommodation could still provide three bedrooms of single use accommodation and therefore family housing would not be lost as a result. However, it is clear that family housing is intended typically for members of the same household to be living together, sharing the same facilities and utilities and, that each of the three bedrooms are functionally connected to the overall unit of accommodation. I attached limited weight to this suggestion and consider that the proposal would result in the loss of a family unit.
9. The appellant notes that the existing unit of accommodation does not have access to private outdoor amenity space, cycle storage, is located in a busy high street and that the existing layout and standard of accommodation would not be suitable for family accommodation. However, it is not uncommon for families to live in flats in urban areas and make use of outdoor public parks and open space where private space is limited. Large family sized flats are not excluded from the requirements of Policy D.H2. The appellant also notes that the existing accommodation which comprises of ten rooms, seven of which they state could be used as bedrooms, would result in a significantly higher occupancy density than the proposed single units of accommodation. These matters the appellant considers would not comply with the requirements of the LP.
10. Be that as it may, the existing unit of accommodation appears to have been in the same use for some time and likely predates the up to date Policy requirements. There is nothing in the evidence that suggests following a refurbishment programme including the reconfiguration of the layout that the existing unit could not continue to provide suitable family accommodation. This would not only address the appellant's concerns in regard to the condition of the existing accommodation but also ensures that the retention of a family unit complies with the current Policy requirements.
11. Given that the proposal before me seeks to remove the existing family unit of accommodation and replace it with single units of accommodation, it has been assessed as such and found not to accord with Policy D.H2 of the LP which seeks conversions to retain as a minimum a three bedroom unit of accommodation in order to respond to the pressing need for family accommodation in the area. On this main issue, I therefore consider that the proposal would result in the permanent loss of a family-sized dwelling.

Retail Space

12. The site sits within the Brick Lane District Centre which according to Policy S.TC1 of the LP are vibrant areas containing a mix of shops, services and employment and these areas should be promoted.
13. The proposal would see the loss of the existing storage space located across the first and second floors of unit No. 4. Policy D.TC2 of the LP requires proposals in District areas where there is a reduction of A1 retail floorspace, *to demonstrate that the loss of this floorspace is of a scale that will not materially alter the nature of the unit, its future viability and the function of the host shopping area.*
14. The Council state that the proposal would result in the loss of 96 sqm of retail floor space across both the first and second floors. They also state there is a lack of demonstrable evidence, such as photographs and floor plans proving the loss of this area would not have a negative impact on the retail unit.
15. The appellant has submitted a letter from the tenant of the retail unit who confirms that the storage facilities located on the first and second floors of Unit No. 4 is used only temporarily, and that storage can be met elsewhere within the premises. They state that storage could be provided in the basement and ground floor areas of the existing retail business. Whilst the Council assert that this letter does not provide justifiable evidence, there is nothing within the Policy requirements that sets out the level of evidence that is required. I have no reason to disagree and consider that the loss of the existing storage areas could be compensated for by using the basement areas as confirmed by the tenant. Other retail units commonly operate without storage areas at first and second floor level, including the unit at No.6 which already has residential accommodation above. There is no reason to suppose that the unit at No.4 could not operate successfully in the same manner.
16. Having regard to the evidence before me, I consider that on this main issue, the loss of this retail space across the first and second floors of unit No. 4 would not be detrimental to the associated retail unit, its future viability and the function of the host shopping area, as required by Policy D.T2 of the LP.

Cycle and Waste Storage

17. The Council note that as part of the proposal, four cycle storage spaces are to be provided on site as set out in Policy D.TR3 and Appendix 3 of the LP. However, given the internal layout of the units, the appellant has confirmed that only two cycle storage areas would be provided on site and these would be located within unit No. 4. Nevertheless, having regard to the evidence before me I am not convinced that a reconfiguration of the internal accommodation within unit No. 6 could not accommodate the additional two cycle storage areas.
18. Despite the proposal being located in Public Transport Accessibility Levels area 6B, as confirmed by the appellant, this does not overcome the fact that it does not accord with Policy S.TR1 of the LP which seeks to ensure that new development prioritises and integrates cycle provision in order to reduce highway congestion, poor air quality and capacity constraints across public transport networks. Nor does it accord with Policy D.TR3 which seeks to ensure cycle provision is provided for new developments.

19. In terms of waste and recycle storage areas, the appellant states adequate provision would be provided within unit No. 4 and from the drawings submitted I do not dispute this. However, they note that unit No. 6 does not currently benefit from refuse storage and that as part of the proposal no future provision would be provided. The appellant also states that a net reduction in occupancy levels from a family unit, which could accommodate up to 6 people, to single accommodation would see the proposal generate less waste. Be that as it may, Policy D.MW3 requires that all new development must include sufficient accessible space to separate and store dry recyclables, organics and residual waste for collection, both within individual units and for the building as a whole.
20. The proposal is to be viewed as a whole and as such, whilst adequate waste storage provision appears to be provided within the proposed units in unit No. 4, it is lacking within the proposed units that would accommodate unit No. 6. Given this lack of provision, the proposal would not comply with the requirements of Policy D.MW3.
21. The proposal therefore on this main issue would fail to provide adequate cycle parking or waste storage facilities within the new development, contrary to policies S.TR1, D.TR3 and D.MW3 which seek to ensure that development promotes sustainable modes of transportation by providing safe, secure and accessible cycle parking and promotes sustainable waste disposal by providing accessible and segregated waste stores.

Other Matters

22. A number of matters relating to the internal housing standards, lack of outdoor amenity space and the amenity of neighbours and future occupiers have been considered to be acceptable by the Council and I have no reason to consider otherwise.
23. The Council note that the principle of the rear extension would be acceptable subject to changes in the materials. I have no reason to disagree with this and would concur that the proposal would have a neutral impact on the character and appearance of the building and the CA. Thus, the proposed rear extension would preserve the character and appearance of the CA.
24. The appellant has noted that historically unit No. 4 was used as a residential unit and that unit No. 6 was used as shared accommodation. No evidence to demonstrate these former uses has been provided. I attach limited weight to this and have proceeded on the basis that the existing units are as described in the application details and which the Council determined the application upon.
25. The appellant has referred to a number of applications which were granted planning permission in the area. The reference made to the approval for the conversion of a five bedroom flat to a 1 one bedroom flat and a 1 two bedroom flat at Flat 37 Brune House, indicates that the Council considered that the existing accommodation was not fit for purpose, not all rooms within that development met with the existing technical standards, unlike the existing units of accommodation subject to this appeal. I do not consider given the very different site circumstances that the decision by the Council sets a precedent. In any event, each proposal is to be determined on its own individual merits.

26. Reference has been made to the developments at 31 New Road and 52 Brick Lane. No details have been submitted in regard to these proposals, nor the circumstances in which the Council approved them. In regard to the appellant's suggestion that they would consider a condition accepting a car free arrangement to mitigate against the lack of cycle storage, again I am not familiar with the circumstances of the case nor the reasons why the Council agreed this. For the reasons given above, the lack of cycle storage space would not be alleviated by placing a condition which restricts the users of the accommodation to accept a car free arrangement. If anything, the lack of a car would only seem to heighten the need for alternative means of transport and the need for cycle storage. Only Limited weight can therefore be given to these other examples.

Conclusion and Recommendation

27. Whilst it is considered that the loss of the existing retail space would not be harmful for the reasons discussed above, the proposal is to be assessed as a whole. As such, the overall proposal and the creation of four, one-bedroom units would result in the loss of a family unit which would reduce the stock of a much-needed type of housing. Nor would it provide adequate cycle and waste storage facilities for the reasons discussed above. Therefore, the proposal would not comply with the policies of the development plan when read as a whole.

28. For the above reasons and having had regard to all other matters raised, I find that there are no material considerations that indicate the decision should be made other than in accordance with the development plan. I recommend that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

29. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR