
Appeal Decision

Site Visit made on 26 July 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2021

Appeal Ref: APP/T5150/W/21/3270670

Wotton Works, 16 Wotton Road, London, NW2 6PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Clifton Securities Ltd against London Borough of Brent.
- The application Ref 20/3206 is dated 6 October 2020.
- The application sought planning permission for the refurbishment of the existing warehouse (Use Class B2) to provide office space (Use Class B1) at ground and part of first floor level and one self contained flat on first floor and conversion of loft into habitable space, creation of roof terraces, replacement of roof, roof lanterns and windows, alterations to fire escape and provision of cycle, car parking and refuse storage without complying with conditions attached to planning permission Ref 18/2523, dated 8 November 2018.
- The conditions in dispute are Nos 2 and 3 which state that:
 - 2) *The development hereby permitted shall be carried out in accordance with the following approved drawings:
Received 27/6/18:
001 rev01
002 rev01
6996/01/C; 6996/02/C; 6996/03/C
Received 25/7/18:
100 rev6
Received 3/10/18:
101 rev05
102 rev05
103 rev 04
200 rev01
300 rev02
301 rev03*
 - 3) *The refuse and recycling facilities, and cycle parking facilities as approved, shall be provided in full prior to occupation of the development, and shall thereafter be permanently retained and maintained.*
- The reasons given for the conditions are:
 - 2) *For the avoidance of doubt and in the interests of proper planning.*
 - 3) *In order that the local planning authority may be satisfied with the provisions for refuse storage and cycle parking and in the interests of safeguarding the amenities of occupiers and the area in general.*

Decision

1. The appeal is allowed and planning permission is granted for Variation of conditions 2 (development built in accordance with approved plans) and 3 (refuse and recycling facilities, and cycle parking facilities) to allow alterations to: Internal layouts and staircases. Residential recycling and refuse. Commercial recycling and refuse. Omission of one car parking space with the remaining two spaces to be accommodated on a car stacker. Inclusion of five additional bicycle parking spaces (from three spaces to eight spaces) utilising a two tier stacker. Inclusion of new soil vent pipe. Inclusion of two new Velux windows at first floor level, of Full Planning Permission reference 18/2523, dated 8 November 2018, for the refurbishment of the existing warehouse (Use Class B2) to provide office space (Use Class B1) at ground and part of first floor level and one self contained flat on first floor and conversion of loft into habitable space, creation of roof terraces, replacement of roof, roof lanterns and windows, alterations to fire escape and provision of cycle, car parking and refuse storage at Wotton Works, 16 Wotton Road, London, NW2 6PX in accordance with the terms of the application, Ref 20/3206, dated 6 October 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The Council has provided a putative reason for refusal in respect of living conditions. No objection is raised in respect of the amended arrangements for refuse and recycling storage, or any other matter, and based on what I have seen, I have no reason to disagree. I have therefore focussed the main issue below on the matter of concern.
3. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.

Main Issue

4. The main issue is whether occupiers of the residential accommodation would experience satisfactory living conditions, with particular regard to the provision of daylight, fresh air, and outlook within the second-floor bedroom (Bedroom 3).

Reasons

5. Bedroom 3 is served by an internal window which directly faces onto a void above a circulation corridor on the first floor, which is lit from above by a number of rooflights. This light then filters through the internal window into the bedroom. In terms of light, I observed that the bedroom was not gloomy and nor was there a dearth of illumination, notwithstanding the single source of light.
6. Furthermore, while I note the lack of significant outlook from this bedroom, it was especially generous in extent, in terms of the floorspace provided and the ceiling was not unduly low. Therefore, when also taken in the context of the very generous proportions of the residential unit as a whole, the users of this bedroom would not feel confined within the room and there would be no unreasonable sense of enclosure. The lack of an openable window in the room would result in no direct fresh air. However, the layout of the unit together with the nearby door opening onto a roof terrace would mean that sufficient provision of air would be possible.

7. Accordingly, I find that the occupiers of the residential accommodation would experience satisfactory living conditions, with particular regard to the provision of daylight, fresh air, and outlook within Bedroom 3. Thus, the scheme accords with policy DMP 1 of the London Borough of Brent Local Plan – Development Management Policies (2016), insofar as it seeks to ensure high levels of internal amenity.

Other Matters

8. The Council raise that further information would be necessary in respect of the additional rooflights that are proposed. However, from reviewing the submitted plans and undertaking an internal inspection of the property, I am satisfied that the new roof lights would be positioned within the roofs to bedrooms on the first floor of accommodation. They would be at a height that would not allow views out of them. As such, there would be no additional overlooking as a result of these amendments.
9. There is also reference by the Council to further information being required in respect of the location of the car stacker. However, the scheme is supported by tracking drawings indicating that it will be possible to manoeuvre vehicles onto and off the stacker. There is no substantive evidence before me that this information is inaccurate and even if it were, given the distance from the public highway the need to undertake additional manoeuvres would not be unacceptable. Thus, I do not consider it necessary to require further details in this respect.

Conditions

10. I have amended the plans condition to refer to those now approved. As condition 3 related to the facilities referred to within the amended plans, I have also reimposed this to ensure that they are retained. As it was clear that the development has been implemented, I have not included a commencement condition.
11. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
12. The Council has suggested a further condition restricting the internal layout of the non-habitable spaces. However, I have assessed the scheme on the basis of the submitted plans and do not consider it necessary to impose such a condition.

Conclusion

13. For the reasons given above I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings:
Drawing Numbers 002 Rev 01
01-02-WW-A10-001 Revision 7
01-02-WW-A10-002 Revision 7
01-02-WW-A10-003 Revision 4
01-02-WW-PL10-01 Revision 1
01-02-WW-PL10-02 Revision 1
01-02-WW-PL10-03 Revision 2
01-02-WW-PL10-04 Revision 1
Drawing titled "Courtyard views"
- 2) The refuse and recycling facilities, and cycle parking facilities as approved, shall be provided in full prior to occupation of the development, and shall thereafter be permanently retained and maintained.
- 3) The residential units hereby approved shall at no time be converted from C3 residential to a C4 small HMO, notwithstanding the provisions of Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) without express planning permission having first been granted by the Local Planning Authority
- 4) The B1 accommodation hereby approved shall at no time be converted from B1 Business use to C3 residential use, notwithstanding the provisions of Schedule 2 Part 3 Class O of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) without express planning permission having first been granted by the Local Planning Authority.
- 5) The B1 accommodation hereby approved shall at no time be converted from B1 Business use to B8 storage use, notwithstanding the provisions of Schedule 2 Part 3 Class I of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) without express planning permission having first been granted by the Local Planning Authority.
- 6) The windows 1st floor of the north-west face of the building shall be fitted with obscure glazing, and non-opening or with openings at high level only (not less than 1.7m above floor level), and shall be permanently maintained in that condition thereafter unless the prior written consent of the Local Planning Authority is obtained.
- 7) The privacy screens as approved to the south-west terrace area must be of opaque glass, and a minimum of 1.7m high, and must be installed prior to occupation of the C3 development, and maintained in perpetuity for the life of the usage of the building.
- 8) No part of the fire escape approved herein shall be used as a sitting-out or standing-out area at any time.
- 9) Prior to the commencement of building works, a site investigation shall be carried out by competent persons to determine the nature and extent of any

soil contamination present. The investigation shall be carried out in accordance with the principles of BS 10175:2011 + A2:2017 and 'Model Procedures of for the Management of Land Contamination – Contaminated Lane Report 11' (CLR 11). A report shall be submitted to the Local Planning Authority, that includes the results of any research and analysis undertaken as well as an assessment of the risks posed by any identified contamination. It shall include an appraisal of remediation options should any contamination be found that presents an unacceptable risk to any identified receptors. The written report is subject to the approval in writing of the Local Planning Authority.

- 10) Any soil contamination remediation measures required by the Local Planning Authority shall be carried out in full. A verification report shall be provided to the Local Planning Authority, stating that remediation has been carried out in accordance with the approved remediation scheme and the site is suitable for end use (unless the Planning Authority has previously confirmed that no remediation measures are required).