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# Appeal Decision

Site Visit made on 27 October 2021

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05/11/2021**

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**Appeal Ref: APP/C5690/W/21/3272445**

**410 New Cross Road, London SE14 6TY**

- 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 Dr Khalida Zia Hashmi against the decision of London Borough of Lewisham.
  - The application Ref DC/20/117115, dated 10 July 2020, was refused by notice dated 5 October 2020.
  - The development proposed is described as 'change of use from 1x1 bed flat into 1 studio flat and 1x1 bed flat with alterations to the rear and side elevations'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In their appeal form, the appellant suggested that I should enter the site during my site visit. On arrival at the previously confirmed day and time, I was unable to gain access to the site. However, I was still able to obtain a full appreciation of the site and surrounding context from the street. On this basis, I am content that I am in a position to assess the main issues and proceed with my decision.
3. Since the Council determined the planning application, the Government has published the revised National Planning Policy Framework (the Framework) July 2021 which is being brought into immediate effect for the purposes of decision-making. The London Plan (March 2021) (LP 2021) has also been published during this period. Policy D6 of the LP 2021 is unchanged from the Intend to Publish version, and replaces the policies in the 2016 London Plan, both of which are referred to in the Council's decision. The Council has referred to the up-to-date policy position within its statement of case and the appellant has been provided with an opportunity to comment on these matters.
4. The Council has conceded that the appeal site is not a designated employment location and therefore that DM Policy 9 (Mixed use employment locations) and DM Policy 10 (Local Employment Locations) of Lewisham Development Management Local Plan (November 2014) (DMLP) are not relevant. The Council also concedes that its assessment of the floor space for the proposed studio flat was incorrect and that this flat would meet the minimum floor space standards in Policy D6 of the LP 2021. I have taken these matters into account in defining the main issues and my assessment of them.

## **Main Issues**

5. The main issues are:

- (i) Whether or not the proposal would conflict with the approach to retaining a suitable supply of employment sites in the development plan; and
- (ii) Whether the proposal would provide suitable living conditions for its future occupants with particular regard to built-in storage and means of outlook and light.

## **Reasons**

### *Supply of employment sites*

- 6. No 410 New Cross Road is a three-storey mid terraced property. There is a dispute between the parties as to whether the established use of the ground floor of the building is as an office or residential flat. I observed during my site visit that other properties within the terrace are predominantly in residential use including the upper floors of the appeal building.
- 7. If I am to accept the Council's argument that the established use of the ground floor is as an office, DM Policy 4 of the DMLP supports conversions of office space into flats where it does not conflict with other policies in relation to employment floorspace. In that regard, the Council has drawn my attention to DM Policy 11 (Other employment locations - Sites in Town Centres, Local Hubs and other clusters of commercial and/or retail uses) of the DMLP and more specifically to paragraph 4 of this policy. However, paragraph 4 is principally concerned with applications for redevelopment for change to other business uses suitable for a residential area. Given the proposal is for residential use and not other business uses, this part of the policy does not explicitly apply in this instance.
- 8. I acknowledge that the wider area on New Cross Road is in mixed commercial and residential use. However, there is nothing before me to indicate that the building sits in the boundary of a designated Town Centre or Local Hub in the development plan. Furthermore, the position of the building within a predominantly residential building does not identify as siting within a cluster of commercial uses. In this context, I am not persuaded that further evidence to demonstrate that the lawful use of the ground floor is residential or in the alternative to demonstrate that it is either surplus or unviable as an office is required in this instance.
- 9. I conclude that the use of the building for residential purposes would not be harmful to the Borough's supply of employment sites having regard to the strategic requirements of the development plan set out in DM Policy 4 and DM Policy 11 of the DMLP.
- 10. The Council's decision also refers to Core Strategy Policy 6 Retail hierarchy and location of retail development of the Lewisham Core Strategy (2011) (CS). Given the proposal does not relate to an existing or proposed retail unit, this policy has not been material to my assessment.

### *Living conditions of future occupants*

11. The nature of a studio flat is that the habitable space is more often incorporated into one space. Based on the minimum internal floor areas set out in Policy D6 of the LP 2021, the studio flat would be of a size that would meet the requirements for a 1-person, 1-bedroomed dwelling. In such circumstances Policy D6 confirms that 1 square metre (sq m) of built-in storage space is required. Given the overall internal floor area of 40.6 sq m, I am satisfied that the required storage space could easily be accommodated and could be secured by condition.
12. The main habitable windows serving the studio flat would face small areas of external space bound by 1.8 metre high fencing. The close proximity of the fencing would lead to an acute feeling of being enclosed for occupants of the studio flat which would severely compromise the quality of outlook and levels of light experienced from within this building. I have no substantive evidence before me such as a daylight or sunlight assessment to persuade me that suitable levels of light would be provided. A condition requiring a lower fence height is also unlikely to be effective, as this would open up views of the private access track and boundary walls to the rear of the site which themselves would not provide a satisfactory front aspect for future occupiers of this dwelling.
13. I conclude, the proposal would not provide suitable living conditions for occupiers of the proposed studio flat with particular regard to outlook and light. In that regard the proposal would conflict with the requirements to provide satisfactory levels of outlook and natural lighting DM Policy 32 (Housing design, layout and space standards) of the DMLP and D6 (Housing quality and standards) of the LP 2021. The proposal would also conflict with Paragraph 130 of the Framework which amongst other things requires that developments create places with a high standard of amenity for future users.
14. The Council's decision also refers to Policy 1 (Housing Provision, mix and affordability) of the CS. This policy does not specifically refer to matters of outlook or light. I have not therefore identified specific conflict with this policy. Even so, this does not overcome the overall conflict with the development plan and the Framework.

### **Conclusion**

15. The proposal would not provide suitable living conditions for future occupiers of the studio flat and in that respect would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

*M Russell*

INSPECTOR