
Appeal Decision

Site visit made on 12 March 2022

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2022.

Appeal Ref: APP/N5090/W/21/3277347

20-22 Station Road, Edgware HA8 7AB

- 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 West Sand Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/1005/FUL dated 16 February 2021, was refused by notice dated 22 April 2021.
 - The development proposed is conversion of first and second floor offices (Use Class E) to 2no self-contained residential units (Use Class C3) involving roof extension involving rear dormer window and 2no front and 1no rear facing rooflight.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of first and second floor offices (Use Class E) to 2no self-contained residential units (Use Class C3) involving roof extension involving rear dormer window and 2no front and 1no rear facing rooflight at 20-22 Station Road, Edgware HA8 7AB in accordance with the terms of the application, Ref 21/1005/FUL dated 16 February 2021, and the plans submitted with it, subject to conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by the appellant West Sand Ltd against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on (i) the vitality and viability of Edgware Town Centre; (ii) the level of amenity space of future occupiers; and (iii) highway and pedestrian safety.

Reasons

Vitality and Viability

4. Policy DM14 of the Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) (the DMP) states that office space (Class B1) should be retained in town centres and edge of centre locations. Loss of office space will only be permitted in town centres and edge of centre locations where it can be demonstrated to the Council's satisfaction that a site is no

longer suitable and viable for its existing or alternative business use in the short, medium and long term and a suitable period of active marketing has been undertaken.

5. The pre-amble of Policy DM14 of the DMP suggests that effective marketing entails continuous active marketing both for sale and rent for a period of 12 months at an appropriate price which can be agreed in advance with the Council for re-use or redevelopment for employment use. I note that the details provided by the Appellant show that the site has been marketed for lease only.
6. My attention has been drawn by the appellant to an allowed appeal decision¹ at Heron Court, Hampton (the Heron Court Appeal) relating to the conversion of an existing office in a Key Office Area which is covered by an Article 4 Direction restricting the change of use of Class B1(a) (offices) to Class C3 (residential). Whilst there are similarities to the case before me the policies relating to the Heron Court Appeal are different as the site lies within a different administrative area. For instance, the policy in the referenced Heron Court Appeal does not allow for marketing evidence to be considered (paragraph 14 of the Heron Court Appeal). Nonetheless to demonstrate that the use was no longer in demand the Appellant in that case provided 2 years and 8 months' worth of evidence. The marketing evidence supplied in this proposal before me covers a 6 month period.
7. Despite an Article 4 Direction being in place I note that the Inspector gave weight to the fallback position in the Heron Court Appeal for the realistic prospect of changing the use of the offices to any other class within Class E (commercial, business and service) which would result in the loss of the office without planning permission. Also noted was that the units above and below the Heron Court Appeal site were identified as residential and the potential for increased risk of noise and disturbance was given weight. The number of vacant offices in the area of the Heron Court appeal site were also high.
8. Notwithstanding the Heron Court Appeal each proposal must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal before me. In terms of the appeal proposal there is conflict with Policy DM14 of the DMP.
9. The Council has drawn my attention to the Edgeware Grown Area Supplementary Planning Document (2021) and its aims to increase housing supply within the town centre. Whilst the Council do not contest the general principle of re-using existing buildings to increase the supply of new homes the cornerstone of the Council's case in relation to the reason for refusal No. 1 appears to revolve around the lack of marketing to demonstrate that the office use is no longer required and on that basis the proposal would have a detrimental impact on the vitality and viability of the town centre.
10. I agree with the Council that marketing of the property has been limited and I have not been supplied with substantive evidence with regard to the vacancy levels of offices in the area. Nonetheless, I have been provided with letters from two local marketing agents confirming in their view that the upper floors of the appeal site are no longer attractive for use as office accommodation.

¹ Appeal Decision APP/L5810/W/20/3259537

11. Policy DM14 of the DMP seeks to protect office space within locations such as the appeal site. Notwithstanding this I am mindful that despite an Article 4 Direction being in place restricting conversion of office to residential use the office space could realistically be converted into an alternative Class E use without the need for planning permission. This alteration in use could potentially affect the vitality and viability of the town centre through the loss of office space is not something which can be controlled.
12. Regardless of the limited marketing carried out, I give significant weight to the realistic fallback position of the office space being used for an alternative use falling within Class E. Along with the potential noise and disturbance which could occur from an alternative use combined with the need identified to increase housing supply within town centres I find that the loss of office space associated with the proposed development would not harm the vitality and viability of Edgware Town Centre.

Amenity Space

13. The Barnet London Borough Local Plan, Supplementary Planning Document: Sustainable Design and Construction (2016) (the Sustainable Design and Construction SPD) sets out guidance in relation to calculating outdoor amenity space acknowledging that flats may not always be able to provide amenity space in line with the standards. In these instances, the Council will seek a Planning Obligation to secure a financial contribution to the nearest appropriate public open space to compensate for the lack of outdoor amenity space.
14. The appeal site has hardstanding to the rear of the building however this is open and during my site visit I observed that it is currently used for vehicular parking. The proposed development does not include provision of outdoor amenity space. A Unilateral Undertaking has been provided as a mechanism to secure the financial contribution to the outdoor amenity space in the area. The agreement is triggered upon occupation of the first dwelling, I am satisfied that the submitted agreement secures the relevant contribution towards outdoor amenity space.
15. I conclude that the proposed development would provide sufficient level of amenity space of future occupiers. There is no conflict with Policy DM02 of the DMP, the Sustainable Design and Construction SPD and the Barnet London Borough Local Plan, Supplementary Planning Document: Planning Obligations (2013) (the Planning Obligations SPD) which amongst other things seek to ensure outdoor amenity space for future occupiers of residential developments.

Highway and Pedestrian Safety

16. The appeal site lies within a sustainable location with good access to public transport with a PTAL rating of 6a.
17. Policy DM17 of the DMP sets out that maximum standards for parking for residential development. The standard for the proposal before me would be 1.5 to 1 space for the two-bedroom duplex flat and 1 to less than 1 space for the 1-bedroom flat. The Appellant confirms that the proposed development includes two dedicated off-street car parking spaces, one per flat to the rear of the building. Whilst these spaces have not been demonstrated on a plan it was obvious during my site visit that there was ample space to accommodate dedicated parking spaces.

18. Taking into account the sustainable location, the commercial use of the building along with other uses which could occur without planning permission, and that parking spaces can be provided. Substantive evidence has not been provided to persuade me that the proposal would put strain on the existing parking situation in the vicinity of the site.
19. I conclude that the development would not have an unacceptable effect on highway and pedestrian safety. There is no conflict with Policies CS9 and CS15 of the Barnet's Local Plan (Core Strategy) Development Plan Document (2012) and the aims of Policy DM17 of the DMP which seek amongst other things to deliver infrastructure relevant to a development and manage parking regimes.

Conclusion and Conditions

20. For the above reasons I conclude that this appeal should be allowed.
21. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
22. I have imposed a standard condition relating to the commencement of development. I have included a condition specifying the relevant plans as this provides certainty. In the interest of safeguarding the character and appearance of the area I have imposed conditions relating to details of the refuse/recycling storage.
23. In the interests of promoting sustainable forms of transport I have attached a condition relating to cycle parking provision and in the interests of highway safety I have imposed a condition relating to the provision of off-street car parking spaces.
24. Highway safety and the living conditions of neighbouring occupiers would be safeguarded through the approval of a Construction Management Plan, including control over the hours of construction.
25. I consider that conditions related to the provision of water saving and efficiency measures, and carbon dioxide emission reduction measures, would be in the interests of meeting the needs of future occupiers, and ensuring the development is sustainable.
26. I have not been provided with substantive evidence to persuade me that Policy D7 Accessible housing of the London Plan (2021) applied to the proposal before me. Dwellings which are created via works to which Part M volume 1 of the Building Regulations according to the London Plan generally limits the application of this policy to new build dwellings. The proposed development is conversion of a building. I have therefore revised the wording of the proposed condition accordingly to reflect this.
27. The Council have suggested a condition restricting the use of the proposed dwelling and removal of permitted development rights I am not persuaded that these restrictions are reasonable or necessary.

C Pipe

INSPECTOR

Schedule of 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 not be carried out otherwise than in complete accordance with the approved plans: Location Plan; 154/20/03 Rev B; 154/20/06; 154/20/07; and 154/20/08
- 3) a) No development or site works shall take place on site until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following: i. details of the routing of construction vehicles to the site, hours of construction and security procedures; ii. site preparation and construction stages of the development; iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site facilities and materials; and iv. details of a community liaison contact for the duration of all works associated with the development.

b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.
- 4) Prior to occupation of the development, details of cycle parking including the type of stands, gaps between stands, location of cycle parking and type of store proposed shall be submitted to and approved in writing by the Local Authority. Thereafter, before the development hereby permitted is occupied, 3 long stay cycle in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards shall be provided and shall not be used for any purpose other than parking of vehicles in connection with the approved development.
- 5) a) Notwithstanding the details submitted with the application and otherwise hereby approved, no residential units shall be occupied or any use commenced until details of (i) A Refuse and Recycling Collection Strategy, which includes details of the collection arrangements and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider, (ii) Details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable, and (iii) Plans showing satisfactory points of collection for refuse and recycling, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented and the refuse and recycling facilities provided in full accordance with the information approved under this condition before the development is first occupied and the development shall be managed in accordance with the information approved under this condition in perpetuity once occupation of the site has commenced.
- 6) Prior to the first occupation of the new dwellings hereby approved they shall have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure

that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. Each residential phase of the development shall be maintained as such in perpetuity thereafter.

7) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 10 % in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

8) Should the hereby approved dwellings be created via works to which Part M volume 1 of the Building Regulations applies; they shall be constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future).

9) Prior to occupation of the development, details of two off-street car parking spaces shall be submitted to and approved in writing by the Local Authority. Thereafter, before the development hereby permitted is occupied, the car parking spaces shall be provided, one for each residential unit, and shall not be used for any purpose other than parking of vehicles in connection with the approved development.