
Appeal Decision

Site visit made on 12 July 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/G5180/W/21/3283187

Alan Hills Motors, Alma Place, Anerley, London SE19 2TB

- 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 Alma Land Limited against the decision of the Council for the London Borough of Bromley.
 - The application Ref DC/21/00755/FULL1, dated 16 February 2021, was refused by notice dated 31 August 2021.
 - The development proposed is described as “change of use of the existing office building (Use Class E) to residential (Use Class C3) and access.”
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the existing office building (Use Class E) to residential (Use Class C3) and access at Alan Hills Motors, Alma Place, Anerley, London SE19 2TB in accordance with the terms of the application, Ref DC/21/00755/FULL1, dated 16 February 2021, subject to the conditions included in the attached schedule.

Preliminary Matters

2. The Town and Country Planning (Use Classes) Order 1987 (UCO) has been amended to provide the flexibility for businesses to adapt and to diversify to meet changing demands. The UCO provides a new use class, Class E (commercial, business and service), which, as well as covering office use, also includes uses for the now revoked Use Classes A1, A2, A3, some of D1 and D2. I have determined the appeal on this basis.
3. Although the application form states that the proposal is for a 2-bedroom unit, it is clear from the submitted plans that the proposal is for a 1-bedroom unit, and I have determined the appeal on this basis.

Main Issue

4. The main issue is whether the change of use from office to residential would be appropriate in policy terms.

Reasons

5. The proposal is for the change of use of an existing single-storey office building to a small 1-bedroom dwelling. The building forms part of a previously approved scheme DC/17/02876/FULL1 that has been constructed for six dwellings and the approved commercial floorspace to be used as an office. The site is accessed via Alma Place, a tight cul-de-sac, from the east side of Church Road, which is a one-way throughfare with a mix of commercial, retail and residential uses.

6. Policies 10 and 83 of the Bromley Local Plan adopted January 2019 (BLP) seek to improve the quality and quantity of employment uses, providing amongst other matters, that residential amenity is protected. However, the policies do contain provision for the loss of non-residential buildings to residential use, subject to the site demonstrating a lack of demand for existing use and a full exploration of alternative employment generating uses through active marketing. Policy 83 further identifies that these small sites serve an important purpose, accommodating smaller business that cannot locate in established industrial/employment areas.
7. Policies E1 and E7 of the London Plan adopted March 2021 (LP) also concern office and employment uses. These policies seek to retain land in employment use for office or industrial use. Although, where evidence demonstrates these are surplus to requirement, residential use can also be considered.
8. The appellant has submitted a commercial feasibility report that confirms that the site has been marketed unsuccessfully since March 2020 for a period of 18 months. The marketing evidence has included the distribution of the property's details to various agencies databases for potential tenants; advertising on various websites; letting rates offered; sales details; rent and vacancy rates and details of the premises being advertised under the wider Class E use.
9. I note the Council's concerns in respect to the commercial feasibility report providing a "light touch" on the exploration of alternative employment uses and active marketing details. This is in respect to flexible marketing, given the lack of evidence on different tenures; reduced rates; range of lease terms and conditions and/or incentives to encourage alternative employment use at the site. Based on the evidence before me, including the various submitted marketing-related reports and documents, I am not satisfied all opportunities for reuse or redevelopment for employment generating uses have been fully explored. For example, it seems to me that the commercial feasibility reports have not fully explored alternative uses and layouts, including small flexible business units. Consequently, the appeal proposal conflicts with BLP Policy 83.
10. In addition, although the marketing evidence exceeds the minimum period required by the policy, I note that the premises has been on the market for less than the average period than it takes to secure a buyer or tenant in this locality. Notwithstanding this, there are a number of other considerations which bear weight to be given to this lack of accordance with the policy.
11. The marketing has resulted in a number of expressions of interest from potential tenants. These include several Class E uses, such as a bakery; a nail salon; a recording studio; and two enquiries for gym use. The report also states there was interest as a church use (Class F.1) and a pottery school (Sui Generis). These expressions of interests do provide some evidence that a modest range of marketing for alternative uses has been undertaken by the appellant. The report furthermore highlighted that the potential occupiers were deterred by factors such as, the lack of footfall due to the back land location and a lack of parking.
12. Access to the appeal site and Alma Place is confined, as highlighted by the Council's Highway Officer, who also raised concerns with servicing vehicles accessing the site. During the site visit, I noted its tight nature and concur that it would make servicing and delivery arrangements difficult for commercial uses. I also noted the building is in close proximity to several residential units.

In this regard, it seems to me that some potential alternative uses, such as gyms, churches and bakeries could provide negative impacts on the living conditions of the surrounding residents.

13. I have noted the Council's assertion that small usable employment sites provide an important function within the borough, given the significant rise in land value. However, the modest nature of the appeal site, coupled with its constricted back land location highlights it is unviable as a commercial unit. The unviable nature is further emphasised through its lengthy vacancy rate, and there are no further details highlighting any specific demand for this particular employment unit in the area. Indeed, the only evidence before me, is the appellants commercial feasibility reports, which indicates the limited demand for this modest unit and its lack of useability.
14. For the reasons above, and on the basis of the available evidence, I am persuaded that it is unlikely that a commercial use would be interested in occupying the appeal site. I can also identify no conflict with Policies E1 and E7 of the LP which supports the release of office space to other uses including housing, particularly given its unviable nature. However, I acknowledge the conflict with BLP Policies 10 and 83, as not all employment generating uses have fully been explored. Nevertheless, I find the change of use to residential would be appropriate, given the lack of demand for this unit coupled with the risk to the living conditions of surrounding occupiers from various potential alternative uses. As such, I find no harm from the proposed development because a commercial use of the unit is unrealistic, and thus the appeal proposal would not lead to a loss of useable/needed commercial space in the borough.

Other Matters

15. I note that the site is located in the Belvedere Village Conservation Area (BVCA) and in close proximity to No 11-25 Belvedere Road a Grade II Listed Building; and Alma Public House and Spring Cottages which are locally listed. I have therefore had regard to my statutory duties arising from sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
16. The area is characterised by a mix of residential and commercial properties. Whilst the proposal would result in the loss of an employment use, other employment uses such as retail units remain in close proximity to the appeal site. Furthermore, the unit has been found acceptable through planning permission DC/17/02876/FULL1, and given there are no external alterations proposed, the appeal scheme would preserve the character and the appearance of the area and the setting of the listed building. For the same reasons, the locally listed buildings would also not be harmed.
17. I have noted the concerns of surrounding residents, in respect to the loss of the office use under a permitted change within the Class E, to a potentially disruptive alternative use without the need for planning permission. This is also a fallback position, which limits the weight I have given to the loss of the non-designated employment land and the conflict with Policies 10 and 83 of the BLP.
18. Several other matters have also been raised by interested parties and I have taken them all into account. These include matters such as overcrowding, a loss of the "old village look", lack of privacy, increase in noise and loss of light

resulting from an additional development on top of the existing unit. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. The appeal scheme is for a change of use and does not contain any provision for an additional storey on the existing unit, with only minor operational development required for the construction of a refuse collection point.

Planning Balance

19. The Council accepts that it cannot demonstrate a 5-year supply of deliverable housing sites. In November 2021, they refer to the supply identified as 3.99 years. Given the shortfall in housing land supply, paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged and BLP Policies 10 and 83 are deemed to be out of date.
20. The Framework footnote 7 provides a complete and exhaustive list of those Framework policies to which paragraph 11 d) i) refers; there are no others. These policies include those relating to designated heritage assets, although I have concluded above that the proposal would not harm such assets. The policies set out in footnote 7 do not include any that relate to the retention of employment uses. Consequently, the application of policies under paragraph 11 d) i) do not provide a clear reason for refusing the proposed development.
21. Although the lack of sufficient housing land supply means that the policies which are most important for determining the appeal proposal are out-of-date, BLP Policies 10 and 83 are broadly consistent with the Framework in relation to retaining employment land where necessary to avoid undermining key economic sectors or sites. The conflict I have identified with these policies therefore attracts moderate weight in my determination.
22. The Framework also seeks to significantly boost the supply of housing. The proposal would make use of the currently vacant building, adding an additional dwelling to the housing supply, despite being a small contribution. Nevertheless, with regard to the advice within the Framework and the housing undersupply position, it is an important benefit, and I afford it great weight.
23. In the context of paragraph 11(d) of the Framework, I find that the adverse impacts of the proposal would be significantly and demonstrably outweighed by the benefits when assessed against the policies in the Framework taken as a whole. The proposal would therefore benefit from the presumption in favour of sustainable development within the Framework, and I find that there are thus material considerations which indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

Conditions

24. I have considered the Councils suggested conditions having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency, brevity or clarity. The numbers given in brackets (X) refer to the condition being imposed, with the order being prescribed by the time when the condition needs to be complied with.

25. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty (2).
26. In order to ensure that there is appropriate car parking and cycle and refuse storage I have imposed a condition requiring its provision, however as the cycle storage is in situ, details are not required (3). I have also added that electric charging points are delivered to enable the use of electric vehicles as this sector is de-carbonised (4).
27. It has been put to me that conditions relating to land contamination are not necessary because the works are largely completed. However, given the lack of evidence of remediation of contamination on site and the proposed residential use of the building, I have imposed a condition requiring a closure report to ensure that any contamination on the site is dealt with in the interests of the health of the proposed occupiers (5).
28. In order to ensure that air quality is maintained a condition relating to the emissions of gas-fired boilers and the implementation of the Air Quality Assessment (6).
29. I have not imposed a condition relating to Secure by Design since the building is in situ and given that these regulations are controlled under separate legislation, a planning condition would be unnecessary. Nor have I imposed the condition requesting details of surface water drainage, again as the building is there and the change of use is unlikely to affect the existing surface water drainage of the scheme. Neither have I attached conditions requiring a lighting scheme for access and a construction management plan as the scheme is for a change of use and most of the operational development is now complete, as such these are also unnecessary.

Conclusion

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

Robert Naylor

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 be carried out in accordance with the following approved plans: Site Plan – Proposed and existing; P100-01 – Existing floor plan; P100-03 Rev 1; P100-04 Rev 1; P100-06 Rev 2; P100-07 Rev 2; P100-08 Rev 2; P100-09 and P100-01 – Proposed floor plan.
- 3) No part of the development hereby permitted shall be occupied until space has been laid out within the site in accordance with the approved plans, for vehicle parking and cycle and refuse storage (including the provision for the storage and collection of recyclable materials). Thereafter the vehicle parking and cycle and refuse storage areas shall be retained and maintained for their designated purposes and no permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.
- 4) The development shall not be occupied until the dwelling has a car parking space provided with a fast charge socket in accordance with a scheme to be submitted and approved in writing by the local planning authority and thereafter retained and maintained.
- 5) No part of the development hereby permitted shall be occupied prior to:
 - a) A contaminated land closure report being submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of the remediation works carried out pursuant to the approved condition 22, parts a, b and c of permission 17/02876/CONDIT, with reference to the 'Contaminated Land Remediation Strategy and Verification Plan' by STM Environmental, Report Reference: REM-2018-000002, dated 11/06/2018, (including waste materials removed from the site), the quality assurance certificates and details of post-remediation sampling.
 - b) The closure report shall all be carried out by a contractor approved in writing by the Local Planning Authority.
- 6) All gas-fired boilers installed as part of this development shall meet a maximum emissions standard of 40mg NO_x/kWh.