



Appeal Decision

Site visit made on 19 July 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2022

Appeal Ref: APP/T5150/W/21/3286294

16 Wotton Road, London NW2 6PX

- 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 Anderson (Clifton Securities Ltd) against the decision of London Borough of Brent.
 - The application Ref 20/4219, dated 14 December 2020, was refused by notice dated 27 May 2021.
 - The development proposed is described as *"a change of use from commercial to residential to provide two self-contained dwellings"*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans with the appeal along with an email to the Council requesting to change the description of proposed development to 'change of use of part ground floor from office use (class E(g)(i), formerly class B1(a)) to class C3 residential use, to provide one ground floor flat'. These plans were not considered by the Council in their determination of the planning application and no evidence has been provided to demonstrate that the Council accepted the proposed change of description. While the appeal process should not be used to evolve a scheme, the amendments result in the removal of one of the proposed units. As the amended plans would result in lesser works being carried out, I do not believe that the Council and interested parties would be prejudiced by my acceptance of the amended plans. Thus, I have considered the appeal on this basis.
3. On 24 February 2022 the Council adopted a new Local Plan. Therefore, Policies DMP1, DMP18 and DMP19 of the Brent Development Management Policies Plan (2016), referenced within the decision notice, have been superseded by Policies DMP1, BE3, BH13, BT1 and BT2 of the Brent Local Plan 2019-2041 (the BLP) 2022. As the Council submitted copies of these new policies as part of this appeal, the appellant has been provided with an opportunity to make a submission in respect of this adoption as part of the appeal process. Therefore, I have considered the appeal against the newly adopted Local Plan.

Main Issues

4. The main issues in the appeal are:
 - The effect of the proposed development on the provision of employment space, and

- whether the proposed development would provide adequate living conditions for the future occupiers, with regard to outlook, light, the provision of outdoor amenity space and noise and disturbance.

Reasons

Employment Space

5. The appeal site is occupied by a large warehouse style building with a combined office and residential use. The plans submitted as part of this appeal show that part of the ground floor would be converted from an open plan office space to one 3 bedroom, 6 person residential unit. With a smaller two-storey section of the building, next to the covered entrance/courtyard, being retained as office space.
6. Policy BE3 of the BLP indicates that the Council will require the retention of Local Employment Sites unless continued wholly employment use is unviable. Although currently unoccupied, as it has an office use, the appeal site is considered a Local Employment Site under Policy BE3.
7. The justification for Policy BE3 states that to demonstrate there is no demand for a Local Employment Site for ongoing employment use the applicant must submit evidence that the site is vacant and a thorough marketing exercise at realistic price for the area has been sustained over a 24 month period. The appellant has provided evidence to show that the site has been marketed since January 2019 with 95 respondents but no offers received. Evidence has also been provided to demonstrate that the price reflects the market value, compared to other similar sites within the area.
8. However, Policy BE3 also states that it must be demonstrated that consideration has been given to alternative layouts and business uses. Whilst the site has been marketed as a freehold property, leasehold property and even as single desks, alternative layouts and uses do not appear to have been sufficiently explored. In particular, it is noted that a planning application was submitted for a live-work unit in response to relevant interest, which demonstrates that an employment use could still be viable.
9. As such, I do not consider that the evidence demonstrates that continued employment use at this Local Employment Site is unviable. It is noted that the site is relatively isolated and some distance from public transport links, however the responses from the marketing campaign highlight that this could be acceptable to some potential businesses. Furthermore, no substantive evidence has been provided to suggest that the COVID pandemic is reducing the need for office/employment space in this location.
10. The appellant has stated that the residential unit could be used by its occupiers for working from home (WFH) purposes due to provision of super-fast broadband, two entrances, a mechanical ventilation heat recovery unit, a guest WC and ample cycle parking. However, whilst that may be the case, the unit would still be entirely residential and could be occupied by someone who did not require WFH facilities. It would therefore still represent the loss of a Local Employment Site.
11. Therefore, the proposed development would result in a harmful loss of employment space and would be contrary to Policies DMP1 and BE3 of the BLP. These policies seek to ensure that development results in no loss of buildings

for which there is an identified need and that Local Employment Sites are retained unless there continues wholly employment use is unviable.

Living Conditions

12. The existing windows on two elevations provide views of the outdoor space/access path to the rear and side of the building. However, this space is very narrow and the windows would be in close proximity to the high boundary fence. As the outlook from the windows is significantly impeded by the boundary fences, this would result in an oppressive sense of enclosure for the future occupiers of the dwelling when inside the building.
13. The information submitted by the appellant in relation to a change in the boundary fencing is noted. However, a change in the existing boundary fencing to something more permeable would potentially result in a loss of privacy to both future occupiers of the dwelling and the occupiers of the neighbouring properties. Therefore, this would potentially raise additional privacy concerns.
14. The plans submitted as part of this appeal include an external courtyard space within the building. Whilst this large space would provide additional outdoor amenity space for the occupiers, the outlook from this area would be poor due to the high walls which enclose it. Furthermore, whilst the submitted plans indicate that there is 51m² of existing outdoor space around the building, this is a narrow space which is largely used for access and is partially occupied by an external staircase. Therefore, neither space represents a high quality outdoor amenity area for the future occupiers of the dwelling.
15. The proposed dwelling would be served by a number of existing windows on two elevations and the proposed external courtyard. As the existing windows are openable, this would provide sufficient ventilation to the dwelling. Although the existing windows are in close proximity to the boundary fence, they still provide the dwelling with some light and the provision of the external courtyard/lightwell would also contribute to this. Therefore, the daylight and sunlight within the dwelling would be sufficient.
16. As the smaller unit, adjacent to the shared courtyard, has been removed from the proposed development. The reason for refusal relating to noise and disturbance from this communal area is no longer relevant. However, this does not alter my other concerns regarding living conditions, as set out above.
17. I conclude that the development would not provide adequate living conditions for future occupiers. It would therefore be contrary to the relevant sections of Policies DMP1 and BH13 of the BLP which seeks to ensure that development provides high levels of internal amenity and requires all new dwellings to have external private amenity space of a sufficient size and type to satisfy its proposed resident's needs.
18. The proposed development would also be contrary to the Brent Design Guide Supplementary Planning Document (SPD) 1 2018 which states that development should ensure a good level of outlook.

Other Matters

19. The appellant has stated that proposed development would provide sufficient car and cycle parking and waste storage facilities, also adding that a soil

investigation has shown no risk of contamination. However, these are neutral factors which would not make the overall development acceptable.

20. The Council have submitted copies of the Policies BT1 and BT2 of the BLP. However, these are not relevant to the main issues in this appeal and therefore have not formed part of my consideration.

Conclusion

21. For the above reasons, I conclude that the development would result in a harmful loss of employment space and would not provide adequate living conditions for future occupiers. It would be contrary to the development plan in these respects. Whilst it would provide an additional family-sized dwelling on previously developed land and would generate some economic benefit during the construction phase, that does not alter my view that the appeal should be dismissed.

E Grierson

INSPECTOR