



Appeal Decision

Site visit made on 16 August 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th September 2022

Appeal Ref: APP/Y5420/W/22/3291132

Land Rear of 3 New Road, Hornsey, London N8 8TA

- 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 Barry Shaw against the decision of London Borough of Haringey.
 - The application Ref HGY/2021/0929, dated 26 February 2021, was refused by notice dated 8 September 2021.
 - The development proposed is Change of use and conversion of the ground, first and second floors from (vacant) Class B1 to provide 7no. self-contained flats (the application does not propose or involve any external physical alterations to the existing facades of the property).
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Decision

1. The appeal is dismissed.

Applications for costs

2. The appellant has made an application for costs. This application is subject of a separate decision.

Preliminary Matters

3. The appellant has submitted various amended plans, showing adjustments to the appeal scheme in response concerns raised by the Council.
4. The Procedural Guide: Planning Appeals – England clearly advises that the appeal process should not be used to evolve a scheme and “if an applicant thinks that amending their application proposals will overcome the local planning authority’s reasons for refusal they should normally make a fresh planning application”.
5. The changes go to the heart of the issues raised at this appeal. The amended plans have not been subject to public consultation through the application process and with regards fairness and natural justice and having regard to the Wheatcroft principles, in light of the key nature of the amendments I consider that the Council and other interested parties would be prejudiced if I considered the amended plans. Thus, my findings relate to the plans on which the application was determined.

Main Issues

6. The main issues are:

- i. Whether or not the appeal scheme complies with the provisions of policy DM40 of the Local Plan, with particular regards to marketing
- ii. The effect of the appeal scheme on the living conditions of the occupiers of the 23 Lynton Road with particular regards to privacy
- iii. Whether or not the appeal scheme would provide adequate living conditions for future occupiers with particular regards to outlook, daylight and outside space.

Reasons

Marketing

7. Policy DM40 of Development Management DPD - Haringey's Local Plan (DMLP), amongst other matters, requires that a proposal such as the appeal scheme is supported by "Evidence of recent, continuous and suitable marketing, covering a minimum period of 3 years".
8. The appellant has submitted a marketing report detailing entries on independent third-party websites, various particulars and very brief details of interest in the site including a single offer that did not progress. With regards specific marketing activity and in particular any proactive marketing, there is little substantive evidence submitted by the appellant. The marketing efforts appear to be entirely passive and minimal in coverage.
9. As such, on the basis of the evidence before me I am not satisfied that it has been demonstrated that the appeal property has been the subject of recent, continuous and suitable marketing, covering a minimum period of 3 years. As such the appeal scheme does not comply with the provisions of Policy DM40 of DMLP.

Living Conditions (neighbours)

10. The submitted plans show residential accommodation at the ground and first floor level, and to a lesser extent second floor, adjacent to the boundary with 23 Lynton Road. I saw at the site visit that the large windows allow views towards and, in the case of the upper floors over, the rear garden of No23. As such the appeal scheme would reduce the privacy of the occupiers of No23, in particular when using the garden area.
11. I note that as existing, open plan office accommodation occupies this area and therefore there would be a degree of overlooking and therefore loss of privacy for the occupiers of the No23. Furthermore, the appellant has suggested the use of elements of obscure glazing in the appeal scheme, which could be controlled by a suitably worded condition and would be an improvement to the current situation.
12. On the basis of the evidence before me I am not satisfied that the loss of privacy for the occupiers of No.23 that would result from the appeal scheme would be materially worse than that which would already exist.
13. Therefore, to conclude this main issue, for the reasons detailed above I find that the appeal scheme is not contrary to Policy D6 of the London Plan and policy DM1 of the DM LP that, amongst other matters, seeks to ensure that new development protects the living conditions of the occupiers of neighbouring properties.

Living conditions (occupiers)

14. The submitted plans show areas of outside space associated with two of the proposed flats, no other usable outside space is shown. The appellant has referred to the size of the flats as being above the minimum required by policy and the public parks nearby. However, on the basis of the evidence before me I am not persuaded this is sufficient mitigation for the complete absence of outside space within the appeal site for the use of the occupiers of the remaining 5 flats and I therefore find that the appeal scheme would not provide adequate living conditions for the future occupiers in this regard.
15. I saw at the site visit and the submitted plans show that the main living area of the proposed ground floor unit to the rear of the property in particular would be afforded a very limited outlook only and access to limited daylight as a result of the close proximity of the windows to the solid boundary.
16. To the first floor, no windows are provided to the side elevations and instead reliance for daylight and outlook is placed upon the, albeit large, windows in a single elevation and rooflights. To the second floor, a large gable end window provides some outlook and daylight and a novel solution of a sliding door would, when open, provide some limited daylight and outlook to the future occupiers of that accommodation. Overall, I find that the appeal scheme would provide poor outlook and daylight to the future occupiers of the appeal scheme.
17. For the reasons detailed above it is my planning judgement that the appeal scheme would not provide adequate living conditions for future occupiers with particular regards to outlook, daylight and outside space. Thus, I find that the appeal scheme is contrary to Policy 6 of the London Plan, Policies SP2 and SP11 of the Strategic Policies - Haringey's Local Plan and Policy DM12 of the DM LP that amongst other matters seek to ensure that new accommodation provides adequate living conditions for future occupiers.

Other Matters

18. The appeal scheme would bring an empty property back into use and would provide additional residential accommodation that is generally in excess of the minimum space standards required by planning policy and within walking distance of nearby public open spaces. These are material considerations that weigh in favour of the appeal scheme but do not outweigh the harm I have identified previously.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR