



Appeal Decision

Site visit made on 4 October 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal Ref: APP/W5780/W/21/3288831

4 Daniel Mews, Newbury Park, Ilford IG2 7FF

- 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 L Daniels (Hyleford Investments Ltd) against the decision of London Borough of Redbridge.
 - The application Ref 4077/21, dated 23 September 2021, was refused by notice dated 10 November 2021.
 - The development proposed is first floor flat.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the development has been carried out, retrospective planning permission is sought. I have amended the description removing the word retrospective, as it is not an act of development.
3. The Epping Forest Special Area of Conservation (SAC) is protected as a European Site of Nature Conservation Importance. It is therefore subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended) which outline a duty to consider whether a proposed development may have a significant effect on the conservation objectives of such protected sites. The Council in their appeal statement withdrew their second reason for refusal in relation to the impact of the development on the SAC. However, it was subsequently confirmed that the appeal site is within the zone of influence for the SAC. I will therefore return to this matter later in my decision.

Main Issue

4. The main issue is whether the loss of employment land can be justified with regard to local and national planning policies.

Reasons

5. Policy LP14 of the Redbridge Local Plan 2015-2030 (2018) (RLP) states that unless identified as an Opportunity Site (which the appeal site is not) proposals for alternative uses on non-designated employment land, should demonstrate that the continued business activity would conflict with the character, appearance and amenity of the locality, that the premises have been vacant for over twelve months following active marketing and has no reasonable prospect

- of being occupied for another business use, and should include compatible modern fit for purpose employment uses, such as live/work units.
6. The appeal site comprises the first-floor of a 2-storey building located at the end of a private road to the rear of parade of commercial premises, some of which contain residential units above. The continued use of the appeal site for business purposes would therefore be unlikely to be incompatible with the mixed residential and commercial character of the area.
 7. Reference is made to the premises being advertised for letting for storage purposes on Box Pod commercial letting since October 2021. One expression of interest and viewing took place but this did not lead to a rental. Whilst I appreciate that some marketing has taken place, the scope of the marketing is not sufficiently comprehensive to qualify as active marketing.
 8. I appreciate that the use of the premises for storage purposes may be hindered by its first-floor location via a narrow staircase, and that there may be more suitable premises for such uses locally. However, I saw that the internal configuration and lack of dedicated car parking provision would not necessarily mean that the appeal site is unsuitable or unattractive for other employment generating activities, for example offices or financial services, particularly given its proximity to public transport links. Consequently, there is no substantive evidence before me to demonstrate that the appeal site could not be occupied by an alternative business use.
 9. The use of the appeal site as a dwelling does not make provision for modern fit for purpose employment. Neither does it provide a live/work unit. Whilst the proposal has led to the creation of accommodation for a person who is now employed, the proposal has created a dwelling rather than directly creating jobs from a place of work.
 10. The appellant advises that the Council have allowed 3 shops within the adjacent parade to be converted into flats. However, I have not been provided with any further detail of the circumstances under which such a change has been supported or whether the same local policies are applicable. Therefore, I do not have sufficient evidence to make a comparison with the appeal scheme.
 11. Overall, the development has resulted in the loss of non-designated employment land without justification, in conflict with Policy LP14 and Policy LP1 of the RLP, where it sets out the spatial strategy for the area.

Other Matters

12. Reference is made to the Council's housing strategy, in particular the Council's intention to increase housing supply and to work with landlords to improve the private rental sector. The flat would provide one additional unit of accommodation that is said to be being offered at a rent lower than the market value. It would therefore provide a social benefit in being a low cost unit of housing. However, as there is no evidence that there is a lack of affordable housing in the area, I can only attribute modest weight to this benefit.
13. Compliance with bin and cycle storage and amenity requirements are to be expected of all developments and so are neutral factors that weigh neither for, nor against allowing the proposal.

14. I have taken into account Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 which states everyone has the right to respect for his private and family life. The flat is said to be occupied by a tenant that would become homeless in the event that the residential use has to cease. Whilst I am sympathetic to the situation, there is very limited evidence before me of the circumstances of the tenant, such as details of any formal rental agreement and its duration, the income of the tenant or details of whether the tenant's accommodation needs may change in the future, including the availability of alternative accommodation.
15. Having regard to the well-established planning policy aims to protect employment land, I consider in the absence of any substantive evidence to the contrary, that this right does not outweigh the harm identified to the loss of employment land in this instance. Dismissal of the appeal would be proportionate, and it would not result in an unacceptable violation of the human rights of the tenant. It would be a matter for the Council to decide the next steps in relation to the unauthorised use of the dwelling, including whether enforcement action would be expedient in the public interest.

Planning Balance and Conclusion

16. The Council's Housing Delivery Test results demonstrate a recent under provision of housing delivery. As such, the relevant policies for the supply of housing should not be considered up to date and paragraph 11(d)ii of the Framework should therefore be applied.
17. For the reasons given above, the development conflicts with Policies LP1 and LP14 of the RLP with respect to the loss of existing non-designated employment land. These policies are consistent with the Framework which aims to build a strong, responsive and competitive economy by ensuring that sufficient land of the right types, is available in the right places.
18. Set against the harm identified, the development provides a social benefit in providing an additional residential flat that would add to the range of local low cost housing stock. Whilst any contribution to housing delivery would be worthwhile, the benefits from one housing unit would inevitably be modest.
19. Overall, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The proposal would not therefore represent a sustainable form of development.
20. If I had come to a different conclusion, it would have been necessary for me to undertake an appropriate assessment and, give further consideration to the location of the appeal site in the SAC zone of influence. However, as I am dismissing the appeal for other reasons, this has not been necessary.
21. For the above reasons, having regard to the development plan as a whole, the approach in the Framework, and all other matters raised, the appeal is dismissed.

M Clowes

INSPECTOR