



Appeal Decision

Site visit made on 24 January 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal Ref: APP/T5150/W/22/3293766

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 Simeon Anderson against the decision of London Borough of Brent.
 - The application Ref 21/4064, dated 31 October 2021, was refused by notice dated 1 February 2022.
 - The development proposed is change of use of ground floor office (Use Class E(g)(i)) to live work unit (Use Sui Generis).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor office (Use Class E(g)(i)) to live work/unit (Use Sui Generis) at 16 Wotton Road, London NW2 6PX in accordance with the terms of the application Ref 21/4064, dated 31 October 2021, and the plans and drawings submitted with it, subject to the schedule of conditions attached to this decision.

Applications for costs

2. An application for costs was made by Mr Simeon Anderson against the London Borough of Brent. This application is the subject of a separate Decision.

Preliminary Matter

3. In February 2022, the Council adopted the Brent Local Plan 2019-2041 ('BLP'). Therefore, the Policies of the Brent Development Management Policies Plan (2016) referenced within the Council's decision notice, have been superseded by Policies of the BLP. I have proceeded with the appeal on this basis.
4. For the purposes of my decision, and in the interests of precision and because the proposal was assessed on this basis, I have taken the description of the proposal from the Council's decision notice. My formal Decision is also based on this and reflected in condition 3, which the appellant has agreed to.

Main Issue

5. The main issue is whether the proposed living space would provide satisfactory living conditions for occupiers with regard to outlook.

Reasons

6. The proposal relates to a large metal and brick partly single storey, partly two storey warehouse-type building which backs on to the rear gardens of terraced housing to three sides and a large commercial building to the fourth side. This building has already been converted for commercial and residential uses.

7. As part of the appeal scheme, the ground floor, open-plan office/workspace would be converted to a live/work unit. The living area is in the form of a studio layout and the proposed 67sqm (excluding some shared facilities) exceeds the minimum space standard requirement outlined in Policy D6 of the London Plan. The size and layout of the living space would provide usable and spacious internal living area.
8. The submitted daylight and sunlight assessment demonstrates that the living space would also receive an adequate amount of daylight and sunlight exceeding the minimum requirements.
9. In determining a previous appeal for a similar proposal at the appeal site, the Inspector upheld the Council's view that the ground floor residential space would be afforded a poor outlook due to the positioning of windows in close proximity to the boundary. Nevertheless, it would appear that the submissions relating to that application did not include information about the existing window arrangement and I cannot be certain that the Inspector was able to access the appeal property internally and observe the area for the proposed residential unit and the actual outlook from this. Furthermore, the assessment of outlook is largely a matter of a planning judgement for the decision maker.
10. The proposed living space would be served by windows along the north and east elevations of the appeal property. Therefore, there would be a significant reliance on the outlook from these windows. These windows are of a sizeable width and occupy large sections of the north and east elevations which would serve the proposed living space. Furthermore, these windows are set up high within their respective elevations (the top of the windows being about 2.4m above ground floor level).
11. Consequently, despite the existing fence being in proximity of the windows which would serve the proposed living space, from inside the building, I observed that views of the skyline are available from most of the windows along the east elevation. In addition, some of the rear elevations and landscaping in the gardens of the terraced properties beyond the fence are also visible. As such, the outlook from these windows is extensive, offers some depth and, in part, a verdant aspect.
12. Although the window along the north elevation, also looks out onto a boundary feature, with a staircase rising in close proximity. The space around the staircase comprises a small but private outdoor courtyard area. This courtyard could be personalised to provide an alternative outlook for the occupiers of the living space along with an acceptable private amenity space.
13. To address the concerns raised by the previous Inspector, the appellant has sought to provide an area within the workspace element of the proposed live/work unit, which is identified as an 'Courtyard space of about 30sqm' (internal courtyard). The internal courtyard is intended to provide both amenity space and outlook. Whilst this could provide an alternative amenity space, because of its separation from the living space and enclosure, this would not positively contribute to outlook from the proposed living space.
14. I also had an opportunity to visit other parts of the appeal property that are already in residential use and I observed that because of its backland location and the proposal relating to the conversion of an existing building, there are constraints to the extent and quality of the outlook that can be provided.
15. For the above reasons and having regard to the context of the appeal site, I do not consider the outlook from the existing windows which would serve the proposed

living space to be unacceptably oppressive or enclosing. The proposal would therefore offer acceptable living conditions for occupiers, in respect of outlook and accords with Policy DMP1 of the BLP, which amongst other things requires that new development is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides high levels of internal and external amenity and complements the locality.

16. The quality of an outlook can be influenced by the type of external amenity space. To this end, the proposal also accords with Policy BH13 of the BLP, which requires the proposal to incorporate external private amenity space of a sufficient size and type to satisfy its proposed residents' needs.

17. For the reasons already stated, I find no conflict with Policy D6 of the London Plan.

Conditions

18. Having regard to the National Planning Policy Framework ('the Framework') and the Planning Practice Guidance ('PPG'). In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans and drawings as this provides certainty.

19. In the interests of ensuring the satisfactory functioning of the development and promoting sustainable modes of travel, I have imposed a condition requiring the provision of refuse, recycling and cycle storage facilities.

20. The submitted 'Management Plan and Information for Tenants' is in draft form and is likely to be difficult to enforce. As such, I have not imposed the Council's suggested condition requiring a non-draft version of this. Instead, I have imposed condition 3. This is to ensure that the development hereby permitted is only occupied as a live/work unit and that the work element is only occupied for the purposes of (Use Class E(g)(i)) because the proposal has been assessed and approved on this basis having regard to the development plan.

21. The approved scheme is for a mixed use, live/work unit (Sui Generis use). As such, this does not benefit from the permitted development rights under the provisions of Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Consequently, it is not necessary to remove such permitted development rights.

22. The Council's suggested condition requiring a scheme of sound insulation measures is imprecise and it is unclear why this is necessary or reasonable.

23. For the above reasons, the Council's suggested conditions 4, 5 and 6 do not meet the tests for planning conditions as set out under paragraph 56 of the Framework and the PPG.

Conclusion

24. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.
- 2) The development hereby permitted shall be undertaken in accordance with the following approved plans and drawings: 01-02-WW-A50-041 Revision 1; 01-02-WW-A10-030; 01-02-WW-PL11-01; 01-02-WWPL11-03; 0484 3 D 0 001 Revision 01; 0484 3 D 0 002 Revision 01 and 0484 2 F 0 100.
- 3) (i) The work/business element floorspace of the live/work unit hereby permitted shall be finished ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the business use.

(ii) The work/business floorspace of the live/work unit shall only be occupied for Use Class E(g)(i)) as defined under the Town and Country Planning (Use Classes) Order 1987, as amended, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

(iii) The residential floorspace of the live/work unit shall not be occupied other than by a person(s) solely or mainly employed, or last employed in the business occupying the business floorspace of the associated unit, a widow or widower of such a person, or any resident dependants.
- 4) The refuse, recycling and cycle storage facilities as shown on approved drawing 01-02-WW-PL11-01, shall be provided prior to occupation of the live/work unit hereby permitted and thereafter retained for the life of the development.