



Appeal Decision

Site visit made on 7 September 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 6th October 2023

Appeal Ref: APP/C5690/W/23/3315675

6 The Studio, Shardeloes Road, Lewisham, London, SE14 6NZ

- 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 Ms Monika Piatkowski against the decision of London Borough of Lewisham.
 - The application Ref DC/22/128088, dated 17 August 2022, was refused by notice dated 12 October 2022.
 - The development proposed is a retrospective application for the continued use of a studio/micro flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the slightly amended description of the development proposed given in the appeal form, I am required to consider the appeal on the basis of that provided on the original application form, as indicated in the banner heading.

Main Issues

3. The main issues are:
 - whether the appeal site is in an appropriate location for the proposed development;
 - whether the proposed development would provide acceptable living conditions for future occupiers, having particular regard to floor space and external amenity space;
 - whether or not satisfactory arrangements for the storage of cycles has been demonstrated; and
 - whether or not satisfactory arrangements for the storage and collection of refuse has been demonstrated.

Reasons

Location of development

4. The appeal site is a small two storey building, which adjoins a larger two storey property on Shardeloes Road in an area which is characterised by residential dwellings. It is currently used as a residential dwelling (Use Class C3), however, both parties agree that the previous use of the appeal site falls under Use Class E. I have no reason to disagree.
5. Core Strategy Policy 5 of the Lewisham Core Strategy Development plan document (2011) states that the Council will protect the scattering of

employment locations throughout the borough outside Strategic Industrial Locations, Local Employment Locations and Mixed Use Employment Locations. As described by the appellant and the Council, the appeal site is designated as Use Class E. Therefore, it is reasonable to anticipate that there would be some element of Commercial, Business and Service use at the appeal site.

6. Although the extent of employment activity would be limited by the relatively small size of the building, I consider it likely that some form of employment could occur at the site, even if this were to be in a self-employed or small scale capacity such as an artist's studio. In the absence of any substantive evidence to the contrary, I cannot but conclude that a use under Class E would be an employment location. As the appeal site is located outside one of the locations specified above, the appeal site should be protected as described by Core Strategy Policy 5.
7. DM Policy 11 of the Lewisham Development Management Local Plan (2014) states that where uses are proposed for a site or building in employment or retail use that do not involve any job creation or retention, the Council will require evidence that a suitable period of active marketing of the site for re-use/redevelopment for business uses through a commercial agent, that reflects the market value, has been undertaken. The appellant refers to the site being advertised over a period of time to secure a suitable tenant, however, there is no evidence before me that it was advertised for a business use by a commercial agent. As such, there is insufficient evidence before me to conclude that there is no reasonable prospect of the site being used for business use, as described by DM Policy 11.
8. The Council has referred to Policy E2 of the London Plan 2021, which seeks to prevent the loss of existing use class B (now class E) business spaces, in areas identified where there is a shortage of such spaces. However, there is nothing before me to indicate that the appeal site is located within an area of such shortage. Therefore, no conflict with this policy has been demonstrated.
9. The Council has referred to Policy HC5 of the London Plan 2021, which seeks to protect existing cultural venues, facilities and uses where appropriate. It also seeks to identify and promote existing locally-distinct clusters of cultural facilities, venues and related uses defined as Cultural Quarters. However, the significance of this policy is unclear, as there is no evidence before me that the appeal site is a cultural venue or located within a Cultural Quarter. Accordingly, without any evidence to support the significance of the proposed development, I find that there is no conflict with this policy.
10. The appellant has referred to a lack of facilities at the appeal site as posing a hindrance to the continued use of the appeal site. However, the appeal site does contain adequate facilities for domestic habitation, including a kitchen, bathroom, shower and washing facilities. Class E provides a range of viable uses and there is no information before me which specifies how the appeal site may be hindered from the continuing use of the site as a class E building due to a lack of facilities. Although the appeal site is limited in size, no fundamental impediments have been brought to my attention which would prevent its use as a Class E building. Equally, while the local area is predominantly residential in character, there is no information about how the location of the appeal site would prevent its continued use in class E. Having regard to the above, I

cannot but conclude that the appeal site remains viable for its continuing use as a Class E building.

11. The appellant has stated that there is overwhelming evidence to support the position that the proposal would not result in a loss of employment generating floor space. However, while the change of use would not alter the dimensions of the existing floorspace of the building, given that the scheme would result in the loss of space used for employment, it would mean the loss of space which involves job creation or retention.
12. While the proposed development could be reverted through a later application to change the use of the building from Class Use C back into Class Use E, this potential future outcome does not outweigh my findings in respect of the immediate effect of the proposed development on the cessation of the employment use of the appeal site.
13. Although the building is located within a residential area, there is no evidence that the continuing use of the building as a Class E building would disturb or harm the amenity of the area. While there are limited opportunities for onsite parking within the vicinity of the appeal site, the location itself benefits from good connections to existing public transport. As such, it has not been adequately demonstrated that the use of the building as Class E would be inappropriate or incompatible.
14. Section 11 of the National Planning Policy Framework (NPPF) requires that planning decisions should promote an effective use of land in meeting the need for homes, which includes promoting the development of under-utilised buildings especially where housing is constrained. While the national lockdowns following the Covid 19 outbreaks may have affected the use of the appeal site as a Class Use E property, a significant duration of time has since passed since the national lockdowns have finished. While housing may be constrained in the area, there is no evidence that the employment use of the appeal site is a continuing factor which affects the use of the appeal site or that this use would result in the appeal site being under-utilised.
15. Section 12 of the NPPF requires that developments should function well and add to the overall quality of the area, not just for the short term, but over the lifetime of the development. While the appeal site is located within a predominantly residential setting, there is no evidence before me which would lead me to conclude that the use of the building as Class E would not function well over the lifetime of the development.
16. The appellant has referred to other planning permissions (DE/90/13/TP and LE/451/307/TP) for the conversion of buildings into residential use, as a precedent for the proposed development. However, there is no evidence to indicate what the specific circumstances of each case were which led to their respective approvals. I cannot therefore draw direct parallels to this case. Moreover, the effect of those cases on the employment use of those sites remains unclear. Accordingly, there is limited weight I can attach to these cases. In any event, I am not aware of the particular circumstances of those cases and must consider this case on its own merits.
17. In conclusion, the appeal site would not be an appropriate location for the proposed development. Accordingly, it would conflict with Core Strategy Policy 5 of the Lewisham Core Strategy Development plan document (2011) and DM

Policy 11 of the Lewisham Development Management Local Plan (2014). It would also conflict with Section 12 of the NPPF.

18. The Council also alleges a conflict with Policies E2 and HC5 of the London Plan 2021. However, as noted above, these policies do not directly relate to the proposed development. They have therefore not been determinative in my decision on this issue.
19. The appellant has referred to Policy GG2 of the London Plan 2021, however, a copy of this policy has not been provided. In any event, as it is understood that this policy relates to making the best use of land, this does not affect the other conflicts which I have identified above.

Living Conditions – future occupiers

20. The appeal site is relatively small and has been described by the appellant as a 'micro-flat'. Such dwellings are, by design, smaller than conventional accommodation.
21. Policy D6 of the London Plan 2021 requires housing development to be high quality design and provide adequately sized rooms which are fit for purpose. As such, new dwellings must provide a minimal internal standard of gross internal floor areas and storage. Although there is no direct match under the standard for the proposed development, as a 1 bedroom, 1 bed space, 2 storey dwelling, the most appropriate standard requires that the dwelling needs to be at least 37 square metres (as it includes a shower room, rather than bathroom) and provide 1 square metre of built-in storage. It also requires one bedspace, single bedrooms to be at least 2.15m wide. The minimum floor to ceiling height must also be 2.5m for at least 75% of the gross internal area of each dwelling. For a one person dwelling, a minimum 5 sqm of private outdoor space should also be provided.
22. Contrary to the requirements set out in Policy D6, Council officers have measured that the internal space of the property is 33.6 sqm. Additionally, the rear terrace would not provide the required 5 sqm of private external amenity space. Additionally, the Council's evidence is that the bedroom width and ceiling height of the dwelling would also fail to meet the required standard. However, there is a significant amount of storage space located on the ground floor, and as such, there would be a sufficient level of built in storage for a single occupier.
23. Although the appellant's figures on the application form differ from the Council's assessment, as they have measured the appeal site to be approximately 35 sqm, it would still not meet the standard required by Policy D6. Due to these deficiencies, the experience of occupying the appeal site would be cramped and confined, with insufficient space available for reasonable domestic activities. It would therefore not provide satisfactory living conditions for future occupiers or result in a good quality home.
24. In reaching this view, I have considered the fact that even at the smallest standards for a dwelling under Policy D6, the building would fail to meet the minimal level for a new dwelling. Accordingly, any more occupiers above 1 person would lead to a higher discrepancy between the dimensions of the property and the requisite standard. The same approach can be taken with the rear terrace, which is insufficiently large for even 1 person. While there may be

a high demand for micro flats in London, it is not considered justifiable to construct a residential unit with inadequate size and quality.

25. In conclusion, the proposed development would not provide acceptable living conditions for future occupiers, with particular regard to floor space and external amenity space. Accordingly, it would not provide successful sustainable housing or conform to the relevant standards contrary to Policy D6 of the London Plan 2021 and DM Policy 32 of the Lewisham Development Management Local Plan (2014). It would also not function well or be high quality design, contrary to paragraph 130 of the NPPF and Core Strategy Policy 15 of the Lewisham Core Strategy Development plan document (2011).
26. The Council also alleges a conflict with the Mayor of London's Housing Supplementary Planning Guidance (March 2016); however, my attention has not been drawn to any wording that relates to this main issue. It has therefore not been determinative in my decision on this issue.

Cycle storage

27. The plans indicate that no space has been allocated within the appeal site for cycle storage. While the forecourt could be used for this purpose, the red line boundary of the appeal site does not include this area of land. No conditions could adequately secure cycle storage on the forecourt, as it is located outside of the appeal site.
28. There is no evidence that there would be sufficient space on the rear terrace for cycle storage. In any event, the provision of cycle parking within the terrace would reduce the already limited external amenity space, which as noted above, is already inadequate given the limited dimensions of the property. No planning obligation has been submitted which would provide an alternative solution to cycle storage.
29. Even if the roof terrace were large enough for storage, it would require any future occupier to carry the bike up a narrow flight of stairs and through the living space of the dwelling. This arrangement would not be convenient or sufficiently accessible.
30. In conclusion, satisfactory arrangements for the storage of cycles have not been demonstrated. The proposed development would therefore not provide adequate cycle parking or remove barriers to cycling, contrary to Policy T5 of the London Plan 2021 and Core Strategy Policy 14 of the Lewisham Core Strategy Development plan document (2011).

Refuse storage

31. The plans indicate that no space has been allocated within the appeal site for refuse storage. During my site visit, I observed that there were only one set of bins, which were indicated to be for the use of no 6, rather than the appeal site. While the forecourt could be used for the purpose of refuse storage for the proposed development, the red line boundary of the appeal site does not include this area of land. No conditions have been put to me which would adequately secure refuse storage on the forecourt, as it is located outside of the appeal site.
32. There is no evidence that there would be sufficient space on the rear terrace for refuse storage. In any event, the provision of refuse storage within the

terrace would reduce the already limited external amenity space, which as noted above, is already inadequate given the limited dimensions of the property. No planning obligation has been submitted which would provide an alternative solution to refuse storage.

33. Refuse storage is not shown on the plans submitted. The red line boundary shown on the site location plan seems to solely concern the property itself and does not contain any of the land to the front of the property. There is not sufficient room for refuse storage to be kept inside the property, and the space to the front of the property is not included within the application. As such, the Applicant has not demonstrated that there is space for adequate refuse and servicing to meet policy requirements. As such, this constitutes a reason for refusal.
34. Even if the roof terrace were large enough for the storage of refuse, it would introduce another use into this area, which would reduce the usable space of the terrace. Additionally, due to the odours related to the storage of waste, it would also diminish the standard of accommodation and amenity value of the roof terrace.
35. In conclusion, satisfactory arrangements for the storage and collection of refuse have not been demonstrated. The proposed development would therefore not provide integrated, well-designed recycling facilities, contrary to Core Strategy Policy 13 of the Lewisham Core Strategy Development plan document (2011). As storage facilities for waste and recycling containers would not be provided in accordance with local authority requirements, the proposed development would also fail to comply with Standard 23 of the Mayor of London's Housing Supplementary Planning Guidance (March 2016).
36. The Council alleges a conflict with Policy T7 of the London Plan 2021; however, this policy primarily relates to freight movements and my attention has not been drawn to any wording that relate to this main issue. Accordingly, the above policy has not been determinative in my decision on this issue.

Other Matters

37. I have considered the benefits that would arise from the proposed development. The appeal site is within walking distance of Goldsmiths University and could provide affordable student accommodation. It may also provide an affordable rent solution for those with limited salaries. There is a need for quality housing in Lewisham. Given the location, the appeal site is located close to existing services, shops and public transport links. However, having taken these considerations into account, I find that the benefits would be relatively limited. Given the scale and nature of the development proposed as a micro flat, these considerations neither outweigh the harm I have identified nor the conflict with the development plan.

Conclusion

38. I have found that the appeal scheme conflicts with development plan policy and thus find that it would be contrary to the development plan as a whole. No material considerations have been demonstrated which would outweigh the planning development conflict. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR