



# Appeal Decision

Site visit made on 4 December 2023

**by A Wright BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> January 2024**

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**Appeal Ref: APP/G5180/W/23/3323721**

**Kingsley House, 5 High Street, Chislehurst BR7 5AB**

- 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 New Property Solutions Ltd against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/22/04164/FULL2, dated 20 October 2022, was refused by notice dated 28 March 2023.
  - The development proposed is part change of use from offices (use class E) to residential (use class C3) to form 2 x dwellings (1 x 2 bedroom and 1 x 3 bedroom flats).
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issue in this case, the parties have not been invited to make further comments.

## Main Issue

3. The main issue is the potential effect of the proposed development on the economic vitality and viability of Chislehurst Local Centre.

## Reasons

4. The site comprises a two-storey building on the corner of the High Street and Kingsley Mews, forming an intrinsic part of commercial development in Chislehurst town centre, with dwellings to the rear. It contains a mortgage advisory service fronting the High Street, with office space to the rear at ground and first floor levels. At the time of my site visit, the rear office spaces were vacant.
5. The proposed change of use of the rear ground and first floor offices to flats would not require any external alterations. The existing front offices and active frontage onto the High Street would be retained, with the proposed flats accessed via a side gate shared with the existing residential development at Kingsley Mews.
6. The site lies within a defined Local Centre in the London Borough of Bromley Local Plan 2019 (LBBLP). Policy 10 of the LBBLP permits the conversion of genuinely redundant non-residential buildings to residential use, subject to compliance with policies 83 and 97, amongst other things.

7. Criteria for considering proposals for change of use of non-designated employment sites accommodating Class B uses to non-employment generating use are outlined in LBBLP Policy 83. These include whether there is a demonstrated lack of demand for the existing permitted uses, including evidence of recent, active marketing of the site for reuse or redevelopment undertaken prior to the submission of a planning application over a minimum period of six months.
8. The Use Classes Order has been changed since the adoption of the LBBLP to subsume some B use classes, including offices, into a new Use Class E, meaning that the site could change to another use, including a restaurant, doctor's surgery or gymnasium, without planning permission. As Policy 83 clearly seeks to protect existing employment sites and Use Class E relates to commercial, business and service uses, which generate employment, this policy remains relevant to the proposal and is not in itself out of date. In any event, other uses within Class E would still be likely to have employment benefits and there is little evidence that these would have a greater impact on the living conditions of neighbouring residents than the existing or proposed uses.
9. Policy 83 also allows for mixed use schemes where the proposal includes the re-provision of a similar quantum of floorspace for employment generating uses, that is flexibly designed to allow for refurbishment for a range of employment uses. As the development would not include employment floorspace to replace the lost office space, it would not accord with this policy criterion.
10. The proposal would meet the five criteria relating to character and appearance, compatibility with adjacent uses, effects on residential amenity, providing a satisfactory living environment and the provision of adequate access and car parking set out in Policy 97 of the LBBLP. However, for proposals involving the loss of upper floor offices in Town Centre areas, there is also a need to demonstrate that it would not be feasible or viable to refurbish or modernise the offices to meet current occupier requirements, to be demonstrated through marketing evidence and an independently validated viability assessment.
11. The supporting text to the policies requires the applicant to demonstrate that the premises are genuinely redundant, and it provides further information on how the marketing should be undertaken. There is no evidence of any recent, active marketing of the appeal site nor any work on the feasibility or viability of refurbishing or modernising the offices to meet occupiers' requirements, which could overcome the appellant's point that the current office space is not high quality and does not have adequate disabled access.
12. I observed that the premises are currently vacant, but third parties refer to the previous long-standing office tenant being given notice to vacate the site and having to secure alternative local office accommodation. Therefore, the premises was suitable for the previous tenant and the evidence suggests that they did not voluntarily vacate it.
13. The appellant refers to the long-term active marketing of large amounts of higher quality office spaces, including vacant premises, in a more appropriate location in the town centre. However, there is limited information on this and, in any event, no marketing of the office space on the appeal site has been carried out as required by policies in the LBBLP. I accord this significant weight.

14. Policy SD6 of the London Plan 2021 (LP) sets out how the vitality and viability of London's varied town centres should be promoted and enhanced. This refers to identifying locations for housing-led intensification to optimise residential growth potential and to the potential for new housing within and on the edges of town centres through mixed-use or residential development that makes best use of land. However, it also seeks to ensure that town centres are the primary locations for commercial activity beyond the Central Activities Zone and important contributors to the economy. In the absence of sufficient justification, the loss of offices would harm the contribution that the appeal site makes to the commercial role of Chislehurst town centre, and, in this respect, it would conflict with LP Policy SD6.
15. There is reference to the planning history for the site, including a 2019 appeal decision<sup>1</sup> which the Inspector dismissed as the conversion of offices to flats did not constitute permitted development under the GPDO<sup>2</sup> provisions at that time. As the proposed development relates to a planning application, the previous appeal decision has limited relevance.
16. Therefore, I conclude that the proposed development would harm the economic vitality and viability of Chislehurst Local Centre. It would conflict with Policy SD6 of the LP and Policies 10, 83 and 97 of the LBBLP where they seek to protect existing employment and office uses in such areas and require specific evidence of marketing where proposals would lead to its loss. It would also conflict with the Framework where it places significant weight on the need to support economic growth and productivity, supports the role of town centres, including meeting anticipated needs for office uses, and requires proposals for homes on non-allocated retail and employment land to not undermine the vitality and viability of town centres.

### **Other Matters**

17. The site lies within the Chislehurst Conservation Area (CA) where there is a requirement for special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA. Having regard to the Chislehurst Conservation Areas Supplementary Planning Guidance, the significance of the CA derives in part from the development on a plateau of a scattered village settlement around the commons. The host building makes a positive contribution to the CA due to it being a large, traditional style brick property fronting a common. Given the extent and nature of the proposed development which does not include any external alterations, the character and appearance of the CA as a whole would be preserved. I note that the Council raised no objection in this regard either. Nevertheless, this lack of harm weighs neutrally and does not amount to a consideration in support of the appeal or alter my overall conclusion on the main issue.
18. Irrespective of a recent Article 4 direction which precludes changes of use of buildings in Class E to Class C3 under Class MA of the GPDO, I must determine the proposal on its merits based on the plans before me.
19. The Council does not raise concerns or find development plan conflict in relation to several other matters, including the living conditions of existing and future occupiers, space standards, design, highways and car parking. There is

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<sup>1</sup> Appeal Ref: APP/G5180/W/19/3226604

<sup>2</sup> Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. However, the absence of harm does not carry weight in favour of the proposal.

### **Planning Balance and Conclusion**

20. The Council accepts that it has a significant under-supply of housing against the required five years. Its current published position, agreed in November 2021, is a 3.99 year housing land supply, equating to 3,245 dwellings. Furthermore, an appeal decision in August 2023<sup>3</sup>, concluded that the Council has a housing land supply of 3.38 years or 3,235 units. Therefore, paragraph 11(d) of the Framework is engaged.
21. There is no evidence that the proposed development would harm any areas or assets of particular importance. Therefore, paragraph 11(d)(i) of the Framework is not engaged.
22. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of two dwellings, including a larger family sized unit, to the supply of housing within Chislehurst town centre, on a site which would not affect heritage assets. It would contribute towards Bromley's housing supply on a small site in accordance with some London and national planning policies. Two dwellings would make some difference to addressing the shortfall and therefore I attribute modest weight to this benefit.
24. There would also be some economic benefits with future residents supporting shops and services in Chislehurst. However, given the relatively small scale of the proposal, these benefits would be limited.
25. In contrast, the proposed development would harm the economic vitality and viability of Chislehurst Local Centre. The Framework places significant weight on the need to support economic growth and productivity, supports the role of town centres, including meeting anticipated needs for office uses, and requires proposals for homes on non-allocated retail and employment land to not undermine the vitality and viability of town centres. I have concluded that the proposed development would conflict with Policy SD6 of the LP and Policies 10, 83 and 97 of the LBBLP where they seek to protect existing employment and office uses in such areas and require specific evidence of marketing where proposals would lead to its loss. These matters combined carry significant weight against the scheme.
26. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.

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<sup>3</sup> APP/G5180/W/23/3315293

27. For the reasons given above, the proposed development would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

*A Wright*

INSPECTOR