



Appeal Decision

Site visit made on 16 October 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2024

Appeal Ref: APP/E5330/W/23/3320743

1 PRINCE OF ORANGE LANE, GREENWICH SE10 8JQ

- 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 Harneet Mangat against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 21/3528/F, dated 30 September 2021, was refused by notice dated 10 March 2023.
 - The development proposed is change of use from B1 offices to C3 residential use including extension of basement for 2 no. self-contained residential flats.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from offices (Use Class E(g), formerly B1) to 2 x 1-bed units (Use Class C3) with extension of basement and all associated works at 1 Prince of Orange Lane, Greenwich SE10 8JQ in accordance with the terms of the application, Ref 21/3528/F, dated 30 September 2021, and subject to the conditions in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by Mr Harneet Mangat against the Council of the Royal Borough of Greenwich. An application for costs was also made by the Council of the Royal Borough of Greenwich against Mr Harneet Mangat. These applications are the subject of separate decisions.

Preliminary matters

3. The description of the development in the banner heading is taken from the application form. However, the wording used on the decision notice and appeal form is "proposed change of use from offices (Use Class E(g), formerly B1) to 2 x 1-bed units (Use Class C3) with extension of basement and all associated works". I consider this to be a more accurate description of the appeal proposal, and I have therefore followed it in my formal decision.
4. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal.

Main issues

5. The main issues are:
 - i. whether the proposal would provide appropriate living conditions for future occupiers, with specific regard to outdoor amenity space; and

- ii. in the event of living conditions being less than appropriate, whether there are material considerations which justify a decision otherwise than in accordance with the development plan.

Reasons

Living conditions of future occupiers

6. The appeal proposal seeks to convert a vacant office building into two 1-bedroom flats. The proposal includes a basement extension to create additional living accommodation. A small number of new openings would be inserted, as well as alterations and the replacement of existing openings, to make the property more suitable for habitation. Unit 1 would occupy most of the ground floor and basement area, save for a shared circulation space, stairwell, and cycle store. Unit 2 would occupy the first floor. Neither unit would be provided with any outdoor amenity space.
7. Policy D6 of the London Plan (2021) states that a minimum of 5sqm of private outdoor amenity space should be provided for each 1-2 person dwelling. This is consistent with Standard 26 of the Mayor of London's Housing Supplementary Planning Guidance (2016) (SPG). In addition, Policy H5 of The Royal Greenwich Local Plan Core Strategy with Detailed Policies (2014) (CS) states that flats should be provided with a good-sized balcony, a terrace, or enclosed communal garden.
8. The proposal includes no outdoor amenity space for either flat. Thus the proposal is contrary to the requirements of Policy D6 of the London Plan and Policy H5 of the CS, as well as the guidance contained within the Mayor of London's Housing SPG.
9. I am aware that the supporting text¹ of CS Policy H5 states that "there may be scope for a lower level of private amenity in some locations, for example, in developments adjacent to public open space or on conversion schemes where site constraints may affect the ability to provide the desired level of amenity space". I acknowledge the appellant's comments that the site is constrained and does not allow for the provision of any private amenity space, and the appeal site is situated close to public spaces such as Greenwich Park, Cutty Sark Gardens and the river.
10. However, in this case the proposal would provide a significantly lower level of outdoor amenity space than the policy requirement, through the provision of no outdoor amenity space at all. Thus, I do not consider that the constrained nature of the site, or the location in relation to public parks, to be sufficient factors that outweigh the clear conflict with the relevant policies arising from the provision of no private amenity space for this proposal. This assessment is consistent with the findings of a previous Inspector when dismissing an appeal² at this site.
11. I also note the appellant's comments that the generous size of the internal areas, including the new basement area, compensates for the lack of external amenity space, however I again consider that this does not outweigh the clear conflict with the aforementioned policies, as private outdoor amenity space

¹ Paragraph 4.1.32

² APP/E5330/W/22/3292535

offers alternative benefits that cannot be provided within additional internal space.

12. I therefore conclude that the provision of no outdoor amenity space, or a good-sized balcony, terrace or enclosed communal garden, would result in unsatisfactory living conditions for future occupiers of these residential units. The proposal would therefore conflict with Policy D6 of the London Plan, and Policy H5 of The Royal Greenwich Local Plan Core Strategy with Detailed Policies.
13. Furthermore, the proposal conflicts with the Mayor of London Housing SPG where it states that new development should provide the required levels of private outdoor amenity space. The proposal would also be contrary to paragraph 135(f) of the Framework, which seeks to ensure a high standard of amenity for future users.

Other material considerations

14. The appellant draws my attention to a prior approval³ issued for the change of use of the appeal property from B1 (Offices) to C3 (Residential) for 2 self-contained flats, as a valid fallback position.
15. The prior approval was issued on 19 July 2021, is therefore extant and can be implemented. Furthermore, at section 7.0 of their Appeal Statement the appellant states that "...there is a consent that is capable of being implemented, and is likely to be implemented in the event that this application is refused". On this basis, and with no evidence to the contrary, I consider that there is a greater than theoretical possibility that the prior approval would be implemented, should this appeal be dismissed. Therefore, a viable fallback scheme exists.
16. Comparing the current appeal proposal and the fallback scheme, both proposals would result in the conversion of this building into two 1x bedroom flats; neither scheme would provide any private outdoor amenity space for future occupiers. However, the current appeal proposal includes the provision of a basement extension, which would provide more internal floor space and an overall improvement in living conditions for future occupiers of the appeal proposal, in comparison to the fallback scheme.
17. I note that the Council have drawn my attention to previous Inspectors' decisions⁴ at the appeal site, and within the most recent of these (PINS ref: 3292535) the Inspector attributed little weight to the extant prior approval in their determination of that appeal. However, the proposal before that Inspector was significantly different to the appeal proposal before me, insofar as the previous appeal scheme proposed a loft conversion that included a new roof, with increased ridge height, new dormer windows and rooflights.
18. As a consequence, the previous Inspector found that the appeal proposal would, in addition to not providing any outdoor amenity space for future occupiers, have a harmful impact upon the living conditions of occupiers of neighbouring properties and fail to preserve the character and appearance of the conservation area and setting of nearby heritage assets. That Inspector concluded that the fallback position did not justify allowing a more harmful form of development than what had already been permitted, and therefore the

³ Royal Borough of Greenwich Ref: 21/1907/PN2

⁴ APP/E5330/W/22/3292535 and APP/E5330/W/20/3255724

fallback position did not weigh in favour of the proposed development in that appeal.

19. In respect of the other appeal (PINs Ref: 3255724) referred to by the Council, again this was for a different scheme for conversion to three flats, involving partial demolition and reconstruction. The Inspector concluded that the proposal would result in harm to the living conditions of occupiers of neighbouring properties and fail to preserve the character and appearance of the conservation area and the setting of nearby heritage assets, in addition to the harm arising from the lack of outdoor amenity space for future occupiers. Again, this previous appeal decision is therefore not directly comparable to the current appeal proposal.
20. As such, the positions of the previous Inspectors are considerably different to the appeal before me, as the single harm arising from the current appeal proposal is the unsatisfactory living conditions for future occupiers arising from the absence of any outdoor amenity space, and this harm is similar to the harm that would arise from the fallback scheme.
21. Notwithstanding all this, whilst I have earlier stated that the additional basement accommodation proposed within this appeal scheme does not, in itself, overcome the harm arising from the provision of no outdoor amenity space, it would still result in improved living conditions for future occupiers in comparison to the fallback scheme. As such the current appeal proposal would provide an improved development in comparison to the fallback scheme.
22. The fallback scheme would result in a lower standard of living conditions for future occupiers, in comparison to the current appeal proposal. I give very significant weight to the better living conditions in this proposal. These are material considerations which justify a decision otherwise than in accordance with the development plan.

Other matters

23. The appeal site is located in the West Greenwich Conservation Area and Maritime Greenwich World Heritage Site buffer zone. It is also located within the setting of the designated heritage assets at numbers 199 – 213 (odds) Greenwich High Road, which are Grade II listed buildings. Furthermore, there are several non-designated heritage assets, which consist of the locally listed buildings at numbers 189 - 195 (odds) Greenwich High Road.
24. As such, I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) to have special regard to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which they possess. Also, I have a statutory duty under section 72(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the West Greenwich Conservation Area.
25. The appeal proposal does seek to make some minor external alterations to the building by way of new openings and alterations to existing openings. However, I agree with the Council that these alterations would not harm the West Greenwich Conservation Area and Maritime Greenwich World Heritage Site buffer zone. Nor would it harm the settings of nearby statutory and locally listed buildings.

Conditions

26. The Council has provided a list of suggested planning conditions, which I have considered against the tests in the Framework, and advice contained in the Planning Practice Guidance.
27. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2).
28. A pre-commencement condition has been included which requires the submission of a construction management plan (3). This pre-commencement condition is necessary to prevent any adverse impact on pedestrian and highway safety, and to protect the living conditions of occupiers of nearby properties during the construction phase.
29. A pre-commencement condition has been attached which requires the submission of a scheme to ensure the development is car free (4). This condition is required to promote sustainable transport and reduce the need for car travel in a sustainable location close to public transport links and amenities. A further pre-commencement condition has been attached which requires the stopping up of the highway land to the front of the site (5). This condition is necessary to ensure the land identified for the storage of refuse and recycling facilities can be provided.
30. A condition requiring the bins storage and recycle facilities to be provided in accordance with the details shown on the approved plans prior to first occupation has been attached (6). This condition is necessary in the interest of visual amenity and to ensure satisfactory bin and refuse storage facilities are provided. Furthermore, a condition requiring cycle storage facilities, as shown on the approved plans, to be provided within the development prior to first occupation has been included to support the use of sustainable modes of transport (7). A condition requiring the use of matching materials is necessary to safeguard the character and appearance of the area (8).
31. Finally, in order to safeguard the structural integrity of the host building, and surrounding properties, a condition has been added requiring the development to be undertaken in accordance with the details included within the Basement Impact Assessment submitted with the application (9).

Planning balance and conclusion

32. I find that the provision of no outdoor amenity space would result in unsatisfactory living conditions for future occupiers. However, I attach very significant weight to the appellant's fallback position which would result in a scheme that would not provide any outdoor amenity space, and less internal space, resulting in a lower standard of accommodation, in comparison to the appeal proposal.
33. Consequently, in this case the fallback position is a material consideration which outweighs the conflict with the development plan. Accordingly, and having regard to all other matters, the appeal is allowed.

R Major

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans:
 - 0940 / 01E Location Plan
 - 0940 / 15F
 - 0940 / 16F
3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) loading and unloading of plant and materials;
 - ii) measures to control the emission of dust and dirt during construction;
 - iii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
4. No development shall take place, including any works of demolition, until a scheme, to ensure that all future occupiers of the approved development cannot apply for, or obtain, an on-street parking permit to park a vehicle on the surrounding public highway, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to the occupation of the development hereby approved and shall be retained and operated for the lifetime of the development.
5. No development shall take place, including any works of demolition, until a scheme for the stopping-up of the area to the front of the site, as outlined by the blue dotted line on drawing No. 0940/15F, has been submitted to the local planning authority and approved in writing. The scheme shall be implemented prior to the occupation of the development hereby approved and shall be retained and operated for the lifetime of the development.
6. Prior to the occupation of the development, the refuse and recycling facilities, as shown on drawing No. 0940 / 15F, shall be provided and made available for use. The refuse and recycling facilities shall be retained for their intended purpose thereafter.
7. Prior to the occupation of the development, the cycle storage area, as shown on drawing No. 0940 / 15F, shall be provided and made available for use for the parking of at least 2 bicycles. The cycle storage area shall be retained for its intended purpose thereafter.
8. Unless otherwise stated on the approved plans, the materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.
9. The basement hereby approved shall be constructed and implemented in accordance with the construction details in the Basement Impact Assessment produced by Contaminated Land Solutions (Ref. 1755-BIA-1-C dated 29th September 2021 – Revision C).

*****END OF CONDITIONS*****