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# Appeal Decision

Site visit made on 13 December 2023

**by P Storey BA (Hons) DipTP MRTPI**

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

**Decision date: 6 February 2024**

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**Appeal Ref: APP/T5150/W/23/3321863**

**Rear of 13-17 Bridge Road, Brent, Wembley HA9 9AB**

- 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 Zulfiqar Usman of Elegance Estates Limited against the decision of the Council of the London Borough of Brent.
  - The application Ref 22/4002, dated 24 November 2022, was refused by notice dated 30 January 2023.
  - The development proposed is change of use from Use Class E to Use Class C3.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023. However, there are no material changes relevant to the substance of the appeal.
3. During my site visit I observed the appeal site was occupied as a residential property. Other than the external amenity area, the layout appeared to broadly accord with the proposed plans. For the avoidance of doubt, I have determined the appeal based on the submitted plans on which the Council made its decision.

## Main Issues

4. The main issues are:
  - whether the proposed development is acceptable having regard to the protection of employment floorspace;
  - whether the proposed development would provide suitable living conditions for future occupiers in respect of outlook, light, floor to ceiling height and provision of external amenity space;
  - whether the proposed development would provide adequate facilities for the storage of cycles and refuse; and
  - whether the proposed development would make adequate provision for urban greening.

## Reasons

### *Protection of employment floorspace*

5. The appeal site is a ground floor unit to the rear of a commercial parade. It is accessible via a rear service lane and via a corridor leading from a door on the commercial street frontage of Bridge Road. Notwithstanding my observations at the site visit, the existing property is treated as an office unit for the purposes of the appeal.
6. There appears no dispute between the main parties that the site should be treated as a Local Employment Site for the purposes of the appeal. Policy BE3 of the Brent Local Plan 2019-2041 – Adopted February 2022 (the BLP) sets out that such sites should only be released for non-employment uses in specific circumstances, among which is criterion a), which permits their release where continued wholly employment use is unviable. The supporting text sets out that such proposals must be supported by evidence the site is vacant and a thorough marketing exercise at realistic prices for the area has been sustained over a 24 month period. It should also demonstrate that consideration is given to alternative layouts and business uses, including smaller premises with short term flexible leases.
7. The appeal is supported by a letter from a marketing agent indicating a lack of interest. Although I am not provided with full marketing particulars, the letter refers only to the full unit being marketed as office space. There is no indication that the property was marketed for other business uses or flexible layouts. Furthermore, at the date of the letter the site had not been marketed for the requisite 24 month period. As such, I am not persuaded that the criteria necessary to demonstrate compliance with Policy BE3 a) have been demonstrated. The proposal would not meet any of the other criteria of Policy BE3 and would therefore conflict with its provisions.
8. The appellant refers to other factors that weigh against the continued use for employment purposes, including its unsuitability for particular uses, saturation of the commercial property market in the immediate area, and disagreement with the Council regarding the provision of access from Bridge Road. However, I am not presented with any sufficiently advanced arguments to alter my previous findings in relation to the development plan.
9. For the reasons given above, the proposal would result in the unjustified loss of employment floorspace which would harm the borough's objectives to meet employment needs, and conflict with Policies DMP1 and BE3 of the BLP which together seek, in relation to this matter, to resist the loss of local employment sites for non-employment purposes other than in certain circumstances, and to ensure development is of an appropriate use.

### *Living conditions*

10. Due to the position of the unit within the building, its outlook would be single aspect. The main windows serving the lounge and bedroom would face out over the service lane serving the neighbouring commercial units. The lane is relatively narrow and is roughly surfaced, and at the time of my visit several cars and vans were haphazardly parked along its length. In addition, I observed vans and delivery vehicles passing and sometimes stopping very close to the windows of the appeal site, which directly abut the service lane.

There was also some congestion due to the regular vehicle movements, narrow nature of the lane and unrestricted parking.

11. The windows themselves are large enough to provide a reasonable amount of outlook. However, due to the nature of the area they overlook, the outlook is of poor quality and would not deliver positive living conditions for occupants. Whilst I note there are other residential properties facing the rear service lane, I am required to determine the appeal proposal on its own merits. In any event, comparisons to the first floor residential unit above the appeal property are limited due to the elevated nature of the neighbouring unit, and the significantly different standard of outlook the appeal site would deliver in relation to the service lane. Moreover, the kitchen would be provided with no outlook and although the study is served by a rooflight, this would provide only views of the sky. Accordingly, prospective occupiers would be provided with a poor overall standard of outlook.
12. The Council does not explicitly state whether its concerns in terms of light relate to daylight or sunlight, nor am I provided with any technical assessments relating to these matters. Notwithstanding matters of outlook, based on the details available and my observations at my visit, the windows serving the lounge, bedroom and the skylight serving the study would provide adequate daylight and sunlight for occupiers. Because it would not be served by any windows, the kitchen would be afforded no direct daylight or sunlight and this would lead to a gloomy and unsatisfactory environment for occupiers. However, relatively minor internal changes could be undertaken to incorporate the kitchen into a more open plan living area that would, in all likelihood, provide a reasonable amount of daylight and sunlight to the kitchen. These changes could be incorporated without affecting the wider layout of the unit. As such, the proposal has the potential to provide adequate levels of daylight and sunlight.
13. Policy D6 of the LP requires the minimum floor to ceiling height for each dwelling to be 2.5m for at least 75 per cent of its gross internal area. Additional details have been submitted by the appellant advising that 55% of the gross internal area would meet the 2.5m target. The appellant advises that this percentage would increase if the study was discounted, or if the floor area meeting the 2.5m requirement was measured against the minimum floor area required by the development plan for a unit of this size.
14. Nevertheless, I must assess the proposal against the submitted plans which demonstrate some significant shortfalls against the development plan requirement, notably including the bedroom area which falls significantly below the 2.5m height requirement. The proposal as a whole would therefore deliver an unsatisfactory living environment for occupiers.
15. The external amenity space would be provided in an external alcove set between projecting offshoots to the rear of the commercial units. It would not be directly adjacent to the appeal property and to access this space occupants would be required to walk from the door of the lounge room, along the service lane and beyond the neighbouring ground floor unit. The amenity space would be a narrow, linear area physically unrelated to the residential unit, directly adjacent to the service lane and set amongst the surrounding commercial activity. Although I am provided with no substantive details regarding the provision of daylight for the amenity space, it would appear unduly enclosed by

the existing structures of neighbouring units and poorly related to the property it would serve. The space would therefore be of inadequate quality and would not provide practical or functional amenity space to satisfy its proposed residents' needs. It would also fail to meet the space standards set by BLP Policy BH13.

16. I acknowledge that the internal floor area exceeds the minimum requirements set by the development plan. However, given the shortfalls against other measures, this would not mitigate the identified issues concerning amenity space. I also note the proposal would meet the minimum amenity space requirements set by Policy D6 of the LP. However, Policy D6 is clear that it should only be applied where there are no higher standards in the borough development plan. Given that there are higher standards in the borough development plan, compliance with the LP, and other factors including the proximity to local facilities for leisure and recreation, would not overcome the harm identified in respect of external amenity space.
17. For the reasons given above, although I have identified no specific harm with regard to light, the proposal would fail to provide suitable outlook, floor to ceiling heights or external amenity space and would therefore deliver harmful living conditions for future occupiers. Accordingly, it would conflict with Policy D6 of the LP and Policies DMP1 and BH13 of the BLP, which together seek, in relation to this matter, for housing development to be of high quality design, with comfortable and functional layouts that are fit for purpose, and meet specific standards in terms of, among other factors, floor to ceiling heights and external amenity space.

#### *Cycle and refuse storage*

18. The Council's concerns relate to the proposed refuse and cycle storage being in the same position as the approved storage for the upper floor flat, and the potential conflicts with this arrangement. Although I am provided with no substantive details regarding the approved details for the upper floor flat, the appellant does not appear to dispute that the proposal would involve storage in the same place. As such, I can understand the Council's concern. Nevertheless, the submitted plans indicate several areas within the appellant's control, including in the vicinity of the proposed amenity space, where refuse and cycle storage could potentially be sited. Given the limited size of the unit and the resulting amount of storage required, the appellant's suggestion that this could be addressed through a condition in the event of the appeal being allowed appears reasonable.
19. I therefore find the proposal would be capable of delivering suitable cycle and refuse storage and would comply with Policy T5 of the LP and Policies DMP1 and BT2 of the BLP, which together seek, in respect of this issue, for development to be provided with the necessary infrastructure and to promote sustainable transport.

#### *Urban greening*

20. Policy BH4 of the BLP requires all minor developments of less than 10 dwellings to deliver an Urban Greening Factor (UGF) of 0.4. The Council considers that the UGF should be calculated against the site area as a whole. However, the appellant sets out that it would not be possible to deliver a UGF of 0.4 against this baseline, given the site area and its nature. Instead, the appellant has

sought to calculate the UGF based only on the proposed amenity area, whereby a UGF of 0.4 could be delivered.

21. The supporting text to BLP Policy BH4 advises that the purpose of the policy is to make up for the loss of green infrastructure where this might be lost, or supporting its re-introduction where sites may now have none. Policy BH4 also refers to Policy G5 of the LP, which states that the UGF should be based on specific factors set out in the policy but tailored to local circumstances.
22. In this case, the proposed development would primarily comprise conversion works to an existing building rather than construction of new development. It would not result in the loss of any green infrastructure and would support its introduction where there is currently none on site. This would therefore support the objectives of the BLP.
23. Notwithstanding my conclusions on the provision of amenity space, the proposal would deliver an improvement to the current provision of green space on site. I am provided with limited substantive evidence that it would not be possible to achieve a UGF of 0.4 based on the full site area, but I am mindful that the nature of the development and the specific circumstances of the site would make this challenging. As such, bearing in mind the objectives of the development plan, I am satisfied in this instance that the proposal would deliver an acceptable UGF and accord with Policy BH4 of the BLP, the aims of which have been previously set out.

### **Other Matters**

24. The proposal would provide an additional dwelling in a sustainable location which would make a small contribution to the borough's housing stock and accord with the Framework's objective to boost the supply of homes. Whilst these benefits carry a small amount of weight in favour of the proposal, they would not outweigh the harm previously identified.

### **Conclusion**

25. Although I have identified no specific harm in respect of the issues relating to cycle storage, refuse storage and urban greening, for the reasons given above the proposal would conflict with the development plan as a whole. There are no material considerations that would lead me to a decision other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

*P Storey*

INSPECTOR