



Appeal Decision

Site visit made on 19 February 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th February 2024

Appeal Ref: APP/E5900/W/23/3328584

31 Temple Street, Tower Hamlets, London E2 6QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Kay against the decision of the London Borough of Tower Hamlets.
 - The application Ref PA/23/00578.
 - The development proposed is described in the application form as “it is proposed to change the current occupancy for office (A1) to residential for private rental. This will include upgrading the building fabric and front and rear facades to meet the requirements for this occupancy.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that the numbering of paragraphs has changed. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.
3. The Council has referred to the appeal in its decision notice as *change of use of existing office (Class E) to allow for the creation of 1 no. (3-bed) self-contained residential unit (Class C3) and external alterations to front and rear elevations at ground floor as well removal of existing rear outbuilding with installation of balustrades*. This is more accurate than the description in the banner heading above. It also reflects the description used by the appellant in their appeal form. I have determined the appeal on that basis.

Main Issues

4. The main issues are:
 - (i) the effect of the proposed development on employment provision;
 - (ii) whether the proposed development would provide acceptable living conditions for future occupants, with regard to outlook, sunlight, daylight, the provision of internal space and private amenity space; and
 - (iii) whether the proposal would preserve or enhance the character or appearance of the Old Bethnal Green Road Conservation Area (CA).

Reasons

Employment

5. The proposal would result in reduced employment space outside any of the Council's designated employment locations. In these circumstances, Policy D.EMP3 of the Tower Hamlets Local Plan 2031, January 2020 (THLP) says, amongst other things, that the loss of viable employment floorspace should not result unless evidence of active marketing over a continuous period of 24 months is carried out. There is no dispute that this has not been done.
6. Notwithstanding the above, as an alternative to this, the policy says that it must be robustly demonstrated that the site is genuinely unsuitable for continued employment use due to its condition. It adds that restoration options for a continued employment use must be demonstrably unviable. Moreover, any such alternative use would be required to outweigh the benefits of the employment use.
7. The appeal site is registered as a workshop premises with office at ground and basement level. It is submitted that the property was last used as an office in July 2007 and has therefore been vacant for a number of years, leading to a rundown appearance. However, at my visit I observed that although some of the windows were in need of attention, generally, the building appeared in good order. Therefore, in the absence of any evidence to the contrary it is unlikely that restoration options or requirements would be extensive or unviable. Moreover, the lack of implementation of a 2018 planning permission or proposed business development in the intervening period does not in itself demonstrate that the appeal site is not suitable for an employment use.
8. The importance of housing provision in the Borough is acknowledged, as is the promotion of making efficient use of land and buildings as set out in the Framework. In this respect, it is submitted that the sustainable location is primarily residential, with minimal traffic and may not be ideal for a business. In addition, the appellant claims that there has been a shift towards home working that has resulted in a decreased demand for office space. However, the aforementioned submissions make generalised assertions over the suitability of the appeal site for a continued employment use. It is not robust or compelling to demonstrate the employment use is no longer beneficial.
9. Additionally, Policy D.EMP3 of the THLP places particular importance to the retention of employment space. Furthermore, in this respect, paragraph 85 of the Framework says that significant weight should be placed on the need to support economic growth and productivity. For the above reasons, the benefits of an additional residential unit would not outweigh the conflict I have found to the development plan.
10. Therefore, I conclude on this main issue that the proposal would have an unacceptable effect on employment provision. As such, there would be conflict with policy D.EMP3 of the THLP.

Living conditions

11. Outlook from the basement bedrooms identified on the plans as 2 and 3 would be positioned beneath a generous lightwell within the appeal building. This, along with outlook from the proposed ground floor would represent a suitable arrangement. However, bedroom 1 would have very limited outlook and would

- rely on a small opening in the ceiling to reduce its sense of enclosure. Together with the narrow and enclosed basement arrangement, the scheme would not provide an acceptable outlook for future occupiers in respect of bedroom 1.
12. Whilst there may be a similar arrangement at No 33, with a building control approval, I have not been provided with these details. Furthermore, the Council has not been able to identify any planning permission at this address for these works. In respect of outlook, I have therefore given alterations to this nearby property very limited weight in my overall assessment. In any case, I have assessed the appeal based on my own observations.
 13. The proposal would enable some daylight and sunlight to reach parts of the basement. At my visit, I observed this to be the case, though did note that much of the central basement area to the appeal building was gloomy at around 11am. In this respect, whilst the submitted images of No 33 are acknowledged, I observed that additional pavement lights were positioned on the street outside that property. This is materially different to the proposal. In any case, Policy D.H3 of the THLP requires development to meet London Plan 2021 (LP) space and accessibility standards. Good design of space includes the provision of sufficient daylight and sunlight, which Policy D6 of the LP supports.
 14. In that context, the proposal would provide adequate ventilation. However, the scheme is not supported by any technical report that could demonstrate compliance with accepted day/sunlight standards. Therefore, in the absence of such a report and for the above reasons, the proposal fails to demonstrate that adequate levels of daylight and sunlight would be achieved within the proposed basement.
 15. The scheme would provide basement floor to ceiling heights marginally below nationally described space standards for habitable accommodation. It would be approximately 36cm below expected standards set out in Policy D6 of the LP and Policy D.H3 of the THLP. Whilst there may be similarities between the appeal building and No 33, I have not been provided with any details of its floor to ceiling heights. Moreover, the submitted photographs show an exposed beam arrangement. At my visit, the basement ceiling height gave the sense of being oppressively low. Notwithstanding the proposed open vents, natural ventilation and secondary means of escape, the proposal would result in a poor internal living space in this respect.
 16. The available space to the rear of the property would be restricted and is of an unusual shape. Even if the outbuilding were to be retained, thus reducing the space slightly, it is evident that it could be made attractive and usable for future occupants. The proposed private amenity space would be acceptable. However, this would not outweigh the harm I have identified above.
 17. Therefore, I conclude on this main issue that the proposed development would harmfully affect the living conditions of future occupants, with regard to outlook, sunlight, daylight and the provision of internal space. Consequently, the proposed development would conflict with policies S.H1 and D.H3 of the THLP, which, together in this respect, promote high standards of quality and design in housing.
 18. I have been provided with little evidence to demonstrate there would be conflict with Policy D.H2 of the THLP or policies H4, H6 and H10 of the LP.

Character and appearance

19. The appeal site is within the Old Bethnal Green Road Conservation Area (CA). There is a statutory duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the CA, where great weight is given to its conservation. The significance of the CA derives from its late 19th century residential, commercial and semi industrial developments.
20. The part of the CA the appeal site lies within includes a terraced row of 3 storey buildings with architecturally detailed shopfront appearances to their ground floors. These unlisted buildings are identified in the Council's CA Character Appraisal and Management Guidelines (2007) as having a positive effect on the CA.
21. The proposal would include a number of small, floor level windows beneath the main shopfront window panes. These would be of a similar design and appearance to other examples along the terrace. They would not be a focus of the building's frontage or appear out of place.
22. The main shopfront window would be altered to include additional higher level panes. My attention has been drawn to a previous planning permission at the appeal site for window alterations, though that design retained the tall window feature. The proposed panes would disrupt the attractive vertical emphasis of the tall shopfront window detailing. This detailing is found within the majority of buildings on this terrace.
23. Although the entirety of the shopfront would not be lost, as the Council put it, this window design would not be appropriate, despite the acceptable use of timber framing. Notwithstanding this, had I been minded to allow the appeal, suitable window detailing could have been secured by the use of an appropriately worded condition.
24. Despite its partially rundown appearance, it is likely that the existing rear elevation fenestration or its design could be retained. Furthermore, it is acknowledged that the proposed rear window arrangement and inclusion of balustrades would differ from its current appearance and construction. However, the proposed detailing broadly reflects the existing theme of a grand fenestration opening with small spandrel panels. These alterations, together with the proposed balustrades would preserve the rear elevation appearance of the appeal building.
25. The small outbuilding to the rear of the appeal site would be removed to facilitate side by side refuse storage. This building is attractive and possibly of some heritage value. Additionally, it could conceivably continue to be used for some storage/waste management purposes. To this end, it has not been demonstrated that the removal of the outbuilding is entirely necessary. However, had I been minded to allow the appeal, the retention of the outbuilding and a waste management plan could have been secured using an appropriately worded condition.
26. Therefore, I conclude on this main issue that the proposal would preserve the character or appearance of the CA. Consequently, there would be no conflict with policies S.DH1 or S.DH2 of the THLP or policies D1, D4 or D5 of the LP. Collectively and in this respect, these policies seek to promote good design and preserve character and distinctiveness.

Conclusion

27. Bringing together my conclusions on the main issues, I have found that the proposal would not harmfully affect the character or appearance of the CA. However, this does not outweigh the identified harm I have found to the conflict with the development plan in respect of the living conditions of future occupants and employment provision.
28. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development fails to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR