



Appeal Decision

Site visit made on 20 December 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/X5210/W/23/3321648

51-52 Tottenham Court Road, London W1T 2EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dome Assets Limited against the Council of the London Borough of Camden.
 - The application Ref is 2022/3320/P.
 - The development proposed is the change of use from office (E(g)(i)) to 3 No. residential dwellings (C3) on the 1st, 2nd and 3rd floors, with associated refuse and cycle storage and external alterations to involve increase in height of the existing ground floor extension and replacement of existing first floor rear extension, installation of new shopfront and amalgamation of retail units into a single ground floor retail unit.
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Decision

1. The appeal is dismissed and planning permission for the change of use from office (E(g)(i)) to 3 No. residential dwellings (C3) on the 1st, 2nd and 3rd floors, with associated refuse and cycle storage and external alterations to involve increase in height of the existing ground floor extension and replacement of existing first floor rear extension, installation of new shopfront and amalgamation of retail units into a single ground floor retail unit is refused.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues in this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.
3. Following the submission of the appeal, the appellant provided a signed planning obligation under section 106 of the Act (the s.106). This deals with matters concerning affordable housing and controls over car-free housing, both matters being the subject of concern to the Council. The Council has confirmed that these matters are now no longer in dispute between the main parties. I have dealt with the appeal on this basis, recognising that the s.106 meets the relevant tests set out at paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
4. The appeal results from the Council's failure to determine the planning application within the prescribed period. As a result, there is no formal decision on the application. However, the Council provided a statement setting out the

reasons why it would have refused planning permission had it been empowered to do so. Whilst noting the resolution on matters the subject of the s.106, I have taken the Council's evidence, along with other evidence before me, to inform the main issues.

Main Issues

5. The main issues are:

- whether satisfactory living conditions would be provided for future occupiers of the first floor flat in respect of the layout and design of the rooms; and
- the effect of the proposed development on business floorspace capacity in the Borough.

Reasons

Living conditions for future occupiers

6. There is no dispute between the main parties regarding the adequacy of the total floorspace proposed in each of the three flats. The Council's concern relates to the adequacy of the arrangement of rooms in the proposed 2-bedroom flat on the first floor, more specifically in respect of the layout of the bedrooms and the kitchen and living room and the outlook therefrom. The proposed double bedroom would be served by rooflights and would have a window overlooking the proposed external terrace. In these respects, I find that the arrangements would be adequate in providing acceptable living conditions for future occupiers who would use that bedroom.
7. The kitchen would be located towards the centre of the first floor flat and would comprise the rear part of an open plan living/dining area. The front part of the flat would be served by two large windows which appeared to me to provide ample light and outlook to the area proposed to be used as a general living space. The fact that this space would have an aspect only to the front of the building would not result in any significant harm to future occupiers and, overall, I would judge the proposed kitchen/living/dining area as adequate to serve the needs of future occupiers.
8. However, the single bedroom in the first-floor flat, whilst having a rooflight, would have no windows providing an external aspect other than via sliding doors opening onto a hallway that would lead to the double bedroom. Furthermore, the room would be exceptionally narrow and, when the sliding doors were closed, the single bedroom would feel cramped and oppressive due to its width and the absence of any meaningful outlook from external windows. As a result, such an arrangement of this space would create unduly harmful living conditions for future occupiers who would use the single bedroom.
9. The appellant suggests that conditions could be attached to secure modification of the proposed first-floor flat such that it would contain only one bedroom were the appeal to be allowed. It is proposed that this could be secured by imposing a condition restricting the use of the proposed single bedroom. However, such a change would be substantially different to the scheme before me. Having regard to The Procedural Guide: Planning Appeals – England (updated 11 January 2024), I am mindful of the advice that the appeal process should not be used to evolve a scheme and it is important that what is

considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. I therefore do not accept in this instance that modifications to the proposal to the extent suggested could reasonably be secured by planning conditions.

10. The underlying purpose of Policies A1 and D1 of the Camden Local Plan (2017) (the Local Plan) is to seek to protect the quality of life of occupiers by, amongst other things, providing a high standard of accommodation in housing. For the reasons I have given, the proposal would not provide satisfactory living conditions for future occupiers in respect of the layout and design of the rooms. Accordingly, the proposal would conflict with Policies A1 and D1 of the Local Plan because it would not provide a high standard of accommodation.

Business floorspace provision

11. Policies E1 and E2 of the Local Plan collectively, in summary, seek to ensure a stock of premises of varying size and cost that are suitable for a variety of business activities is maintained, and that sites and premises that are suitable for continued business use are protected. The Local Plan and the Council's further planning guidance provides details of how the Council would assess compliance with the development plan when proposals involving the loss of business floorspace, including through change of use, are proposed. These considerations include an expectation that the property as existing is marketed on reasonable terms for a period of at least two years, and that the premises would continue to provide suitable space for businesses.
12. The appellant has provided evidence of marketing through appropriate sources along with the outcome and feedback from interest shown by 12 potential future occupiers. Whilst the information I have seen does not expressly demonstrate that the appeal premises have been marketed for a continuous period of two years, the evidence does show inspection of the premises by a range of parties over a lengthy period, the first viewing being recorded in October 2020 and the last being in June 2022. I would judge this to be an appropriate period of time during which the premises has been marketed in accordance with the terms of Local Plan Policy E2.
13. I note that several parties who viewed the premises comment on its condition, particularly the evidence of damp, a matter that I saw evidence of during my site visit. However, there is no suggestion in the feedback provided that the terms on which the premises was advertised for let were unreasonable, nor have I seen substantive evidence from the Council or other parties to indicate this to be the case. I have also not been directed to specific policy requirements that justify the Council's expressed expectation that details of other nearby vacancies in similar accommodation are a pre-requisite for the consideration of the current proposal.
14. Whilst the upper floors of the appeal property appear to have undergone some relatively recent refurbishment, having new floor coverings and glazed partitions, overall, the property internally is in a generally poor condition. Access to the upper floors is constrained due to the poor state of the narrow and uneven staircases, and there is significant evidence of damp to walls and ceilings. While the space is well located its state of repair renders it unsuitable for continued business use. Furthermore, the evidence available to me indicates that the property in its current state has been demonstrated to be unattractive to a range of potential users.

15. I therefore conclude on this main issue that, given the reasonable efforts made to market the property for business use, the lack of interest expressed by potential future business occupiers who viewed the property, and having regard to its current layout and state of repair, the premises does not provide accommodation that would be suitable for continued business use. Accordingly, the proposed development would not result in harm to business floorspace capacity in the Borough. As such, the proposal would not conflict with Policies E1 and E2 of the Local Plan which seek to ensure a stock of premises of varying size and cost that are suitable for a variety of business activities is maintained, and that sites and premises that are suitable for continued business use are protected.

Other Matters

16. The appeal site is located within the Charlotte Street Conservation Area (the CA). However, the Council's Delegated Report indicates that the proposal would not harm the character or appearance of the CA and the proposed alterations to the shopfronts would generally improve the appearance of the properties at ground floor. I have had regard to the comments from the Bloomsbury CAAC. However, whilst recognising my statutory obligations in respect of designated heritage assets, the effect of the proposal on designated heritage assets is not a matter in dispute between the main parties. From my observations during my site visit I see no reason to disagree with the Council's conclusions regarding the effect of the proposal on the character or appearance of the CA.
17. The development would make a positive contribution to the delivery of housing on a small site within an accessible location and these benefits accord with the intentions of the Framework in supporting the Government's objective of significantly boosting the supply of homes. I attribute these benefits moderate weight given the scale of the development. However, while I have not found harm in respect of the effect of the proposal on business floorspace capacity, the benefits arising from a modest increase of three dwellings would not outweigh the harm I have identified in terms of living conditions that would be created for future occupiers of the first floor flat due to the layout and design of the single bedroom.

Conclusion

18. The proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that indicate the decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David English

INSPECTOR