



Appeal Decision

Site visit made on 1 February 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/X5210/W/23/3323926

Warehouse to the rear of 49 Brecknock Road, Camden, London N7 0BT

- 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 Mohammed Riaz against the decision of the Council of the London Borough of Camden.
 - The application Ref 2022/3233/P, dated 26 July 2022, was refused by notice dated 14 February 2023.
 - The development proposed is conversion of warehouse to 2 x 2-bedroom flats, erection of dormers and alterations to fenestration.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form is shown as No 49 Brecknock Road. The appeal site is, however, a building to the rear of this property. Therefore, I have used the address 'warehouse to the rear of 49 Brecknock Road' as listed on the decision notice and the appeal form on the banner heading above. This is the basis on which I have determined the appeal.
3. Both parties refer to windows serving the kitchen and living room being on the western elevation. However, whilst drawing no:49BR/01 proposed ground floor and drawing no: 49BR/BP block plan, shows proposed windows on this elevation, drawing no: 49BR/03 does not show proposed windows in this location. As there is no dispute between the parties who refer to the windows facing the park, which is the western elevation, I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on the building and the character and appearance of the area;
 - whether the proposal would result in the loss of a premises for employment and business use and affect local economic activity;
 - whether the proposal would provide satisfactory living conditions for future occupiers with regard to daylight, sunlight, outlook and privacy;
 - the effect of the proposal on the living conditions of neighbouring occupiers at 49 Brecknock Road with regard to privacy;

- the effect of the proposal on parking and congestion in the surrounding area and whether it would secure car-free housing; and
- whether the proposal would accord with development plan policy in regard to affordable housing.

Reasons

Character and appearance

5. The proposal is located to the rear of 45, 47 and 49 Brecknock Road. These form a row of shops fronting Brecknock Road, with residential properties located at the rear. On the other side of the warehouse is the Torriano estate, a residential area consisting of flats. To the north is Leighton Road comprising of terraced housing and back gardens.
6. The appeal site can be reached in two ways. The first is via a lane which can be accessed by vehicles between 41 and 43 Brecknock Road, with the second route being a narrow passageway located along the side elevation of 49, between this property and 51 Brecknock Road. This second route is wide enough for pedestrians, motorcycles or bicycles.
7. The building on the appeal site is constructed of brick, with a pitched roof and abuts a building to the rear of 47. The opposite elevation forms a boundary with a play area and adjoining sports court which is in the Torriano estate. The building is currently entered through sliding doors on each of the side elevations, adjacent to areas of hardstanding.
8. The proposal seeks to construct two dormer extensions on both the western and eastern roof slopes. These would extend across a substantial part of the roof profile. Although the appellant has drawn my attention to a dormer on the roof of an adjoining building, which I saw when I visited the site, no evidence has been provided as to the circumstances under which the dormer was built. Moreover, the photographic evidence provided shows that it has only one dormer, on one roof slope. It is also located within the grounds of 47 and is partly hidden by the existing roof of the appeal site. This is therefore not directly comparable to the warehouse, and moreover, each case must be considered on its own merits.
9. Instead, the proposed dormers would be on prominent roofscapes, visible both from the rear of properties along Brecknock Road and the rear of some houses along neighbouring Leighton Road, as well as highly visible from the flats at the rear of the Torriano estate. The size and mass of the proposed dormers, particularly when viewed from the front and rear, would appear top heavy and unbalance the building.
10. Even if the site is not in a conservation area, the extensive alterations and fenestration to change what is fundamentally a simple industrial building into something essentially domestic in character would appear incongruous in this location. This would harm the inherent character of the building.
11. Therefore, to conclude, the proposed development would harm the building and the character and appearance of the area. It would not accord with Policy D1 of the Camden Local Plan, 2017, (CLP) and Policy D3 of the Kentish Town Neighbourhood Plan, 2016, (KTNP) which collectively seek to deliver high quality design and respect local context and character.

Employment and business use

12. Policy E1 of the CLP supports small businesses and start-ups of all sizes to create the conditions for economic growth. Moreover, Policy E2 of the CLP seeks to protect premises or sites that are suitable for continued business use by resisting development unless the site or building is no longer suitable for its existing business use and that the possibility of retaining, reusing or redevelopment of the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.
13. Furthermore, Policy SW1 of the KTNP supports the retention and increase of floorspace for the use of small businesses, with the supporting text highlighting the loss of small businesses and offices to residential uses following changes to permitted development rights.¹
14. I have not been presented with any evidence as to the use of the building, although I saw during my visit that it had a vehicle, various car parts and piles of other goods and materials within the building. No evidence has been provided to show that there is no longer a need for the building for a local business and employment use. Although the vehicular access is limited, and it is shared with other properties, there is room for a van to enter and park near to the building for deliveries or the picking up of goods.
15. The Council has commented that the site is suitable for a B8 or alternative business use and there continues to be a need for small employment premises within the borough, particularly as they are expecting population growth up to 2031. Although the appellant considers that such a use is not compatible with adjoining residential uses, the building has previously been used for such purposes and there is no substantive evidence as to why this should not continue. Furthermore, no evidence has been provided of alternative employment space or any marketing evidence to suggest that the site is not suitable for an employment use.
16. Therefore, to conclude on this issue, the proposal would result in the loss of a premises for employment and business use and affect local economic activity. It would not accord with CLP Policies E1 and E2 and Policy SW1 of the KTNP which collectively seek to retain premises for business use within the local area.

Living conditions for future occupiers

17. Both parties refer to the Technical housing standards, 2015, and agree that the proposal would comply with the internal space standards for a two-storey property with two bedrooms, for three people. I have no reason to disagree with this.
18. However, no evidence has been submitted as to whether the proposed development would provide adequate daylight and sunlight for future occupiers. The kitchen/living area on the ground floor of each flat would have fenestration on two elevations. Nevertheless, the appeal site's orientation, and position adjoining the building at No 47 would likely result in it receiving reduced daylight and sunlight levels.

¹ Town and Country (General Permitted Development) (England) Order, 2015.

19. In addition, the two windows for each flat on the west elevation would directly overlook the adjoining basketball court and play area on the Torriano estate. To ensure privacy from the adjoining facilities, it is likely that the occupiers of the flats would have blinds or some other form of covering over the windows. Otherwise, it would be possible for those using the basketball court and play area to look directly into the flats, as there is no boundary between the two sites. Any window covering would in turn reduce daylight and sunlight entering the main living area for each flat. Furthermore, the noise from sport being played would also be intrusive to the future occupiers.
20. The limited windows on the ground floor would provide little outlook as the glazed doorways on flat 1 would be to a small, enclosed garden area, and flat 2 would have views of bins and a cycle store located between a high wooden fence and a brick wall. On the first floor, the position of the eastern upper floor windows, sited close to the adjoining building, would result in a limited and poor outlook for the future occupiers of both flats.
21. Therefore, to conclude on this issue, the development proposal would not provide satisfactory living conditions for the occupiers of the flats with regard to daylight, sunlight, outlook and privacy. It would not accord with CLP Policy A1 which seeks to ensure that the amenity of occupiers is protected.
22. Whilst the Council has referenced CLP Policy C5, this does not directly refer to the Council's main concern expressed in their reason for refusal regarding the lack of provision of satisfactory living conditions.

Neighbouring occupiers

23. The rear of 49 contains residential properties. These overlook a yard which is part of the appeal site, and which currently has rubbish and other goods stored on it. Therefore, the privacy of the occupiers of 49 has already been compromised by the existing use of this area.
24. The yard would be subdivided to create the garden areas for the proposed flats. Whilst there is no indication of the boundary treatment for the garden areas, a fence at an appropriate height, which could be addressed by a suitably worded condition, could result in the occupiers of 49 having more privacy than when the appeal site was in employment use. However, the change to a residential use would likely result in more comings and goings from the use of the passageway along the side of 49. This is because it would provide the only access to flat 1, and the only access to flat 2's garden area. Furthermore, the use of the gardens by the occupiers of both flats, in an area which may not have had any or limited activity on weekends and evenings, would likely result in more noise and movement of people than previously experienced.
25. Therefore, to conclude on this issue, the development would harm the privacy of the occupiers of the adjoining property at 49 Brecknock Road. It would not accord with CLP Policy A1 which seeks to ensure that the amenity of occupiers and neighbours is protected.

Parking and car-free housing

26. Policy T2 of the LP requires all new development to be car-free. The site is also within a Controlled Parking Zone (CA-M)². Whilst the proposal does not include

² The Camden (Parking Places) (General Amendment) (No 1) Traffic Order 2018.

car parking, Policy T2 requires that a legal agreement is signed to ensure that future occupiers of the flats would be aware that they would not be entitled to apply for on-street parking permits.

27. The adjoining streets around the appeal site have few options for parking, as it is either designated residents parking, or limited parking for a few hours. Therefore, if occupiers of the flats had private vehicles which they tried to park locally, it would add to already congested streets within an area with restricted parking.
28. Whilst the appellant states that they would agree to signing a legal agreement if the appeal was successful, a signed agreement has not been submitted. Therefore, from the evidence before me, it has not been demonstrated that the proposed development would be car-free.
29. To conclude on this issue, as there is no signed legal agreement to secure car - free housing, the development would lead to parking and congestion in the surrounding area. Consequently, the proposal would not accord with LP Policy T2 as set out above.

Affordable housing

30. Policy H4 of the LP seeks to maximise the supply of affordable housing. To facilitate this, the Council expects a contribution to affordable housing from all development that provides one or more additional homes and involves a total addition to residential floorspace of 100sqm Gross Internal Area (GIA) or more. As the proposal is for two new homes and would have a floorspace in excess of this amount, Policy H4 applies.
31. However, where the proposed development includes less than an additional ten dwellings, the Council accepts a payment in-lieu of the affordable housing which would be secured by a planning obligation. Whilst the appellant has stated that they would agree to signing a legal agreement if the appeal was allowed, a signed agreement has not been submitted. This means that a contribution to affordable housing has not been provided.
32. Therefore, I conclude that the proposal would not accord with development plan policy regarding affordable housing. It would not comply with LP Policy H4 in terms of maximising the supply of affordable housing, and LP Policy DM1, which amongst other things, uses planning obligations where appropriate to secure facilities and services to meet the needs generated by development, as well as mitigate the impact of development.

Planning Balance

33. Whilst the proposed development would provide two new dwellings of a size which is needed in the area, and there would be some minor economic benefits from the conversion of the building, it would result in the loss of a small business site which would provide employment and generate economic growth for the area. The proposal has not provided a contribution to affordable housing or secured the development as being car-free. Moreover, I have found that the proposal would not provide satisfactory living conditions for its future occupiers, and it would harm the privacy of the residents of the adjoining property. In addition, it would harm the character and appearance of the building and the surrounding area. Therefore, the limited benefits of the

development are not outweighed by the harm and policy conflicts. For these reasons, the appeal should not succeed.

Conclusion

34. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.

35. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR