



Appeal Decision

Site visit made on 21 December 2023

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/A5840/W/23/3321766

24 Kings Bench Street, Southwark, London SE1 0QX

- 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 Rob Lynch against the decision of The London Borough of Southwark Council.
 - The application Ref 22/AP/2561, dated 15 July 2022, was refused by notice dated 4 April 2023.
 - The development proposed is the change of use from office (Use Class E) to a single dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Subsequent to the decision made by the Council on the application to which this appeal relates, on 19 December 2023 the Government published the revised National Planning Policy Framework (the Framework). I have asked both main parties for comments with regard to the revised Framework as it relates to their respective cases. Neither party have indicated that it would prejudice their case by making my decision with regard to the revised Framework.

Main Issue

3. The main issues are:
 - The effect on employment floorspace in the London Central Activity Zone (the CAZ), Bankside and Borough District Town Centre (the BBDTC) and Bankside, Borough and London Bridge Opportunity Area (the BBLBOA);
 - The ability to provide the maximum amount of affordable housing contribution; and
 - The provision of suitable levels of secure cycle storage and suitable refuse storage.

Reasons

Employment Floorspace

4. The appeal property is an office (Use Class E) on the first floor of a four storey building in a mix of residential and office uses. From the material before me, the

appeal property appears to have been vacant since March 2020. Access to the appeal property is from an external staircase at the rear of the building. The proposed change of use proposes no external alterations.

5. The appeal property is located within the boundaries of the CAZ, the BBDTC and the BBLBOA. Policy C30 of the Southwark Plan 2019-2036 (2022) (the Local Plan) seeks to protect employment floor space within the CAZ as well as town centres and opportunity areas such as the BBDTC and the BBLBOA. The loss of employment floorspace in these areas would only be allowed in exceptional circumstances, demonstrated by a marketing exercise for two years prior to a planning application.
6. The appellant submitted the planning application that is the subject of this appeal in July 2022, seven months after the marketing for the appeal property in Class E office use appears to have commenced. A marketing statement dated December 2022 was subsequently submitted during the application process detailing the marketing of the appeal property in office use to that date.
7. The appellant has argued that Policy 30 of the Local plan assumes that there is significant demand for employment space that is not there. However, the policy forms part of the recently adopted Local Plan which sets out planning aspirations and policies to 2036, acknowledging the growth in employment in the Council area in the decade prior to its adoption. Policy 30 seeks to establish availability and retention of employment space through that period, except in exceptional circumstances. Notwithstanding the effect of the Covid pandemic on the uptake and occupation of offices in City and Town centres, there is nothing before me to indicate that this policy is out of date.
8. The appellant's marketing statement does not cover the full two years marketing evidence required prior to an application being made for the loss of employment floorspace, as required by Policy 30 of the local plan. As such, I do not find that there is sufficient marketing evidence submitted as required by this policy and that exceptional circumstances for the loss of employment floorspace have not been demonstrated. I find, therefore, that the proposal would result in moderate harm to the availability of employment floorspace in the CAZ, the BBDTC and the BBLBOA.

Affordable Housing

9. As part of their application and in line with Policy P1 of the Local plan the appellant submitted a Financial Viability Appraisal¹ (the FVA), with regard to affordable housing contributions. This concluded that the proposal would not be viable if a financial contribution for affordable housing is required.
10. The Council have set out that they find that the assumptions made in the appellants FVA with regard to, professional fees, marketing costs and developer's profit are high. However, whilst these may be on the higher side of the parameters set out in the Councils Development Viability SPD², I do not find that there are reasons that would make it unreasonable for the appellant to make the assumptions they have in these areas in the FVA.
11. The appellant has, however, provided no elemental build cost schedule as part of the FVA. Without this schedule, there is nothing before me that would

¹ S106 Management: Financial Viability Appraisal - 27 September 2022

² Southwark Council Development Viability Appraisal Supplementary Planning Document (2016)

demonstrate and justify the assumptions in the FVA in this regard. Especially where the FVA includes a 10% allowance for external works and infrastructure included in the FVA, where no external works are indicated on the submitted plans. For these reasons, I find that the FVA does not conclusively establish that the burden of an affordable housing contribution could not be sustained by the proposal, and that, if able to do so, what commuted sum would be payable.

12. The appellant has also stated that the proposal would form a self-build development. However, there is nothing before me that would demonstrate that the self-builder in this instance has registered their interest in self-build on Southwark's Self and Custom Build Register as required by Policy P11 of the Local Plan. Policy P11 also requires that self-build homes are to be occupied by people or groups on Southwark's Self and Custom Build Register. As such, I do not find that the appellant has established that the proposal would meet the requirements of Policy P11 with regard to Self and Custom Build. For this reason, I further find that it is not sufficiently established that the proposal would benefit from the exemption from the affordable housing requirements of Policy P1 of the Local Plan, in relation to self-build housing.
13. Accordingly, I find that the proposal fails to establish or secure appropriate affordable housing provision as part of the development, which renders the proposal in conflict with the requirements of Policies P1 of the Local Plan, Policies H2 and H4 of the London Plan and Section 5 of the Framework, which collectively seek to ensure that housing development, including on small sites, meets housing needs.

Cycle and Refuse Storage

14. As part of their appeal submission, the appellant has submitted further plans and explanations with regard to the provision of suitable levels of secure cycle storage and suitable refuse storage. Whilst this appears to set out how this would meet the requirements of the proposal in these regards, it is not clear how this would affect the existing provisions for the occupiers of existing residential and commercial units in the building.
15. The Council have indicated in their appeal statement that this could be clarified through the attachment of a suitable condition if the appeal was to be allowed and I have no reason to demur from this conclusion. As such, with satisfactory clarifications, as required by a suitable condition, the proposal would not result in any harm with regard to the provision of suitable levels of secure cycle storage and suitable refuse storage. The proposal would, therefore, accord with Policies P53 and P62 of the Local plan, which seek development that has suitable levels of secure cycle storage and suitable refuse storage. Lack of harm in this instance is a neutral factor in my considerations.

Planning Balance and Conclusion

16. According to the Housing Delivery Results 2022 the delivery of new dwellings in the Council area are significantly below the required level. The proposal would result in the public benefit of 1 dwelling with 3 bedrooms. Whilst a single dwelling is a small contribution to the housing shortage, such windfall developments do collectively make a significant contribution to new housing in London.

17. However, with paragraph 11 of the Framework in mind, I find that the moderate adverse impacts of granting permission on the availability of employment floorspace in the CAZ, the BBDTC and the BBLBOA, and the failure to establish or secure appropriate affordable housing provision would demonstrably and significantly outweigh the benefits.

18. The appeal is dismissed.

Victor Callister

INSPECTOR