



Appeal Decision

Site visit made on 17 January 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024.

Appeal Ref: APP/L5810/W/23/3322202

141 Sheen Lane, East Sheen, London SW14 8LR

- 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 Nasir Yar against the decision of the Council of the London Borough of Richmond upon Thames.
 - The application Ref: 22/0738/FUL dated 4 March 2022, was refused by notice dated 17 November 2022.
 - The development proposed is use of the rear of the existing shop (Class E) as a self-contained studio flat (Class C3), insertion of rooflight, and insertion of two windows on the side elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2023. Although some of the paragraph numbering has changed, I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. It is not therefore necessary to seek the views of the Appellant or the Council on the revised Framework.
3. I am advised that the appeal site is subject to an Article 4 Direction which has removed permitted development rights for the change of use from Class E (commercial, business and service uses) to Class C3 uses (dwelling houses).

Main Issues

4. The main issues in this appeal are:
 - a) whether the proposal would provide satisfactory living conditions for future occupants;
 - b) whether the proposal meets the Council's requirements for affordable housing and
 - c) whether the proposal would be a sustainable form of development.

Reasons

Issue a) Living Conditions

5. The appeal property is an end of terrace building comprising a commercial use at ground floor and two flats above, on the east side of Sheen Lane (B351) just to the south of the junction with the Upper Richmond Road (A205). The surrounding area is mixed in character and appearance with retail and commercial uses together with office and residential uses. There is a narrow side passageway along the side of the property which provides access to the side of the appeal property, as well as to other premises. To the immediate south is a five storey, purpose-built office block, which has a flank elevation onto the passageway.
6. The proposal would convert unused surplus commercial space into a studio flat. Two new windows would be created in the flank elevation facing onto the side passageway together with a large glazed rooflight towards the rear of the building. There is no issue with the principle of the proposal.
7. Although the large roof light and addition of windows to the side would enable adequate levels of natural light to the unit, I share the Council's concerns about the poor outlook from the unit. The principal windows serving the main habitable space would face onto the narrow side passageway and the flank wall of the much taller office building. The rooflight would primarily provide light and the outlook would be towards the sky. I therefore consider that the internal environment would be very oppressive with a very restricted outlook and this would not create satisfactory living conditions for future occupants.
8. I therefore conclude that the proposal would not provide satisfactory living conditions for future occupants with particular regard to outlook. This would conflict with Policy D6 of the London Plan, Policy LP35 of the Council's Local Plan as well as the Framework, and in particular paragraph 135f), all of which amongst other matters seek to protect the amenities of existing and future occupants.
9. The Appellant has drawn my attention to two permitted residential developments, one an appeal decision under the reference: APP/H5960/A/12/2172065 in a neighbouring Borough and one a permission, also in a neighbouring Borough. The nature of the living conditions were raised in both proposals and the Appellant considers that they are comparable, in terms of the outlook offered, to that proposed in this appeal. Each proposal must be considered on its individual merits but in so far as the information has been made available to me, I have taken these other developments into account. However, neither seems to me to be directly comparable in terms of the number and arrangement of windows and the outlook offered to future residents, and they do not persuade me to a different view in respect of the proposal before me.

Issue b) Affordable Housing

10. The Appellant has accepted that an affordable housing contribution is required to comply with the requirements of Policy LP 36 of the Local Plan and the Council's Affordable Housing Supplementary Planning Document (SPD). The

amount to be paid however has not been settled and there is no legal agreement before me to provide for a contribution.

11. I have taken into account the approach to affordable housing under the Framework but acknowledge the local circumstances may justify a different approach. In this case the Appellant is not seeking to contest the principle of the Council's requirement but has not made the contribution sought.
12. The proposal therefore fails to provide a policy-compliant level of affordable housing and this conflicts with Policy LP 36 of the Local Plan and the SPD in this regard. However, as the principle of a contribution is not at issue and were no other matters of concern, and planning permission were to be granted, I consider that this matter could have been satisfactorily resolved between the parties.

Issue c) Sustainability

13. Policy LP20 of the Local Plan seeks to promote and encourage development to be fully resilient to the future impacts of climate change in order to minimise the vulnerability of people and property. Policy LP22 of the Local Plan seeks for development to achieve the highest standards of sustainable design and construction to mitigate the likely effects of climate change, including with respect to water consumption. The required information is sought to accompany the planning application, and this was not undertaken in this case.
14. I fully appreciate that these matters should properly be fully addressed at the outset and at the application stage, which was not undertaken in this instance. However, as this relates to a conversion of existing space, and were no other matters of concern and planning permission were to be granted I consider that, in the particular circumstances of this case, these matters could have been addressed by the imposition of appropriate conditions, to be satisfied at a very early stage of the development, in order to satisfy the requirements of Policies SI 2 and SI 5 of the London Plan and Policies LP20 and LP22 of the Local Plan, as well as the Sustainable Construction Checklist SPD.

Other Considerations

15. The appeal site lies within the Sheen Lane, Mortlake Conservation Area. The significance of the Conservation Area relates to its late 19th century and early 20th century development of parades of shops, marking the rapid development of this local area from its previous largely rural form. Notwithstanding later shopfronts, many of these parades are largely unaltered and retain their original features. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out in respect of development within Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
16. Given that the proposal relates to a change of use to residential, which would be in keeping with the surrounding mix of land uses and the physical alterations would be relatively small scale in relation to the property, I am satisfied that there would be no harm to the character and appearance of the Conservation Area; its character and appearance would be preserved. The Council has also raised no concern in this regard.

17. Were no other matters of concern and planning permission were to be granted, I agree that conditions could be imposed regarding soundproofing to protect the amenities of existing and future occupants, including in respect of neighbouring flats.

Planning Balance and Conclusion

18. The proposal would provide an additional, small residential unit in a generally accessible location with nearby shops and services and public transport links. Furthermore, I consider that two of the reasons for refusal, relating to affordable housing contribution and sustainability issues would have been capable of being resolved, had there been no other issues of concern and planning permission were to be granted.
19. However, the proposal would not provide a satisfactory living environment for future residents and as a result the social role of sustainable development would not be achieved. This harm would outweigh the modest benefits of the provision of an additional small residential unit.
20. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR