



Appeal Decision

Site visit made on 5 March 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/V5570/W/23/3328795

36 Upper Street, Islington, London N1 0PN

- 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 Donmez (Safety Estates Limited) against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2022/4020/FUL.
 - The development proposed is the retention and reduction in size of first floor rear extension and change of use of upper floors from retail and ancillary storage space (Use Class E(a)) to a small house of multiple occupation (HMO) with 6 bedrooms for 6 people (Use Class C4).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published in December 2023. I have had regard to this in reaching my decision.
3. I have utilised the description of development from the decision notice in my above heading as this more comprehensively describes the appeal development.
4. The upper floors of the appeal property were at the time of my visit already in residential use. I have however determined the appeal on the submitted plans, which include seeking permission for a reduced size first floor extension.
5. The decision notice made reference to policies from the Islington Core Strategy (2011) and the Islington Development Management Policies (2013). The Council subsequently adopted the Islington Local Plan Strategic and Development Management Policies (SDMP Policies) and this has superseded policies referenced on the decision notice.

Main Issues

6. The main issues are (i) whether the loss of business floor space has been adequately justified and (ii) whether the development would provide satisfactory accommodation for its future occupants with regard to outlook.

Reasons

7. The appeal property comprises of a four-storey building that is in Angel Town Centre and within the Central Activities Zone (CAZ). It forms part of the

primary shopping frontage in Angel Town Centre which contains a range of retail and commercial uses.

8. The appeal proposal relates to the upper floors of the appeal property. The ground floor which would be of a sufficient size to operate as a standalone unit, would continue to provide an active frontage. Although since 2021, the upper floors have been accessed by a separate door to the ground floor, its lawful use falls within Class E(a) with ancillary storage. Policy B3 of the SDMP Policies sets out that proposals that result in the net loss of business floorspace within areas including the CAZ and Town Centres, will be refused unless exceptional circumstances can be demonstrated, including through the submission of evidence demonstrating that the space has been vacant and continuously marketed for a period of at least 24 months.
9. The proposal is not supported by detailed marketing evidence to help demonstrate that there is no demand for the floorspace to remain in a business use. Whilst some limited details have been provided in the form of a marketing brochure and a photograph showing a 'To Let' board, these do not provide evidence of an active marketing campaign for a continuous period or any details or other commentary on the enquiries received and why they were unsuccessful.
10. Although a town centre location can support a diverse range of uses including residential uses and reference has been made to policy support in this regard, this does not represent exceptional circumstances required by Policy B3 of the SDMP Policies to support the reduction in the business floorspace.
11. I therefore conclude, for the reasons set out, that the loss of the business floor space has not been adequately justified. As such, the proposal would conflict with Policies SP4, B3, R1, R2 and R3 of the SDMP Policies, which seek, amongst other matters, to protect existing business floorspace.

Satisfactory Accommodation

12. The Council has confirmed that the proposed bedrooms, in the absence of a sink/kitchen facility from a number of the rooms, would ensure its compliance with the relevant room space standards.
13. One of the bedrooms, identified as 'Room 2', would be served by 2 windows that would face towards the hotel and other buildings on Parkfield Street. Although these views would be at an angle, the neighbouring buildings would be situated in close proximity to this room. Whilst for individual rooms in a House in Multiple Occupation, a single aspect is not an unusual arrangement, the outlook from this room, more immediately would be over rooftops that contain plant and other structures. This would appear obtrusive and not provide an appropriate level of outlook for future occupants.
14. I conclude that the development proposed would not provide satisfactory accommodation for its future occupiers having regard to outlook. Accordingly, it would conflict with Policies H1, H4 and H10 of the SDMP Policies, which seek, amongst other matters, good quality accommodation and amenity for all occupiers. It would also be contrary to Paragraph 130 of the National Planning Policy Framework, which seeks, amongst other matters a high standard of amenity for existing and future users.

Other Matters

15. My attention has been drawn to approvals at neighbouring properties which included residential development on the upper floor(s). I have been provided with limited details and am not aware of the full circumstances of these cases. In relation to 49 Upper Street, from the delegated report provided by the Council, it is evident that marketing information explaining the efforts made to find a commercial tenant were provided. I can confirm that I have considered this appeal on its own merits.
16. The proposal would provide affordable accommodation and whilst this weighs in its favour, it would not however outweigh the harm I have identified in relation to the main issues.
17. Other areas of concern, such as that in relation to noise could be addressed by condition, but this is a neutral matter and not one which weighs in favour of the development.
18. The appeal site is situated in a Conservation Area and within the setting of a listed building. The Council has not raised any concerns in relation to the impact on heritage assets and given the size and position of the development, I have no reason to disagree.

Conclusion

19. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR