



Appeal Decision

Site visit made on 9 April 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2024

Appeal Ref: APP/X5210/W/23/3332912

23A Great Queen Street, London WC2B 5BB

- 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 T Maltin against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2022/0524/P.
 - The development proposed is change of use and conversion of building into a single family dwelling house and erection of an additional storey.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has commenced preparation of a new Local Plan. The evidence indicates that the emerging plan is at an early stage of development and therefore carries limited weight in decision-making. Therefore, the adopted development plan is the primary policy consideration in this appeal.
3. A signed and dated legal agreement was submitted as part of the appeal process and this seeks to address the second and third reasons for refusal on the decision notice. I have taken the legal agreement into account in my consideration of the appeal.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the supply of business accommodation;
 - whether the proposal would make adequate provision for affordable housing; and
 - whether the scheme would comply with relevant development plan policies in respect of parking and car-free development.

Reasons

Supply of business accommodation

5. The appeal building comprises office accommodation in modestly sized rooms set over four floors. The building was vacant at the time of my site visit. I observed that the property is in need of general maintenance and repair. However, it is otherwise in reasonable condition. The proposal seeks to change

the use of the appeal building to residential and would therefore result in the loss of a business premises.

6. Amongst other things, Policy E2 of the Camden Local Plan (2017) (LP) seeks to protect premises that are suitable for continued business use, in particular premises for small businesses and services such as the appeal site. As such, Policy E2 of the LP states that the change of use of a business premises to a non-business use, such as that proposed, will be resisted unless it can be demonstrated that (a) the building is no longer suitable for its existing business use and (b) the possibility of retaining, re-using, or redeveloping the site or building for a similar or alternative type and size of business use has been fully explored over an appropriate period of time.
7. The explanatory text to Policy E2 of the LP, which is supported by the Camden Planning Guidance Employment Sites & Business Premises Supplementary Planning Document (January 2021) (SPD) sets out a list of factors that should be taken into account when considering the loss of a business unit. These include the location and condition of the premises as well as the range of unit sizes, particularly suitability for small businesses, and the relationship to nearby land uses. It is also stated that where loss of employment floorspace is proposed, evidence should be submitted of a thorough marketing exercise, sustained over at least two years.
8. The appeal property no longer meets the needs of the appellant's business. However, notwithstanding the need for general maintenance, there is limited evidence before me to indicate that the possibility of retaining, re-using or redeveloping the site for a similar or alternative type and size of business use has been fully explored. Indeed, from the evidence, the appeal property has not been actively marketed for a business use since it was purchased by the appellant in 2019.
9. Given the size and layout of the property as well as its location within a highly accessible part of central London, it would provide suitable accommodation for a variety of business activities. Such businesses would include those seeking a private location without a street-facing presence. Consequently, the proposed development is in clear conflict with Policy E2 of the LP.
10. In support of the proposal, I have been provided with evidence to show that other business premises have been available in the local area during the lifetime of the planning application and appeal. It is also evident that the adjacent property, 23 Queen Street, has to-date been unsuccessfully marketed for business use, and remains vacant. However, I do not have sufficient information before me to establish the full circumstances that have led to the continued vacancy of No 23 or to draw direct comparisons between other available premises and the appeal building in terms of layout, configuration and rent rates amongst other things. Therefore, the availability of other business premises does not overcome the conflict with Policy E2 of the LP.
11. I have been provided with two other appeal decisions where Inspectors have considered the loss of a business use. However, in the case of the appeal at 31-33 High Holborn¹, the Inspector gave weight to evidence of sustained marketing activity to demonstrate there was limited demand for the appeal property that was the subject of the appeal. It is therefore not directly

¹ Appeal Ref: APP/X5210/W/21/3286282, dated 01 April 2022.

comparable to this appeal scheme whereby the property has not been actively marketed for business use. Moreover, the appeal at 40 Parker Street² was considered against a different set of planning policies to the appeal scheme and, therefore, does not include an assessment against Policy E2 of the LP.

12. It has also been suggested to me that Policy E2 of the LP may be out-of-date given the changes in working habits that have occurred as a result of the Covid-19 pandemic, including an increase in homeworking. However, there is no substantive evidence before me to establish the long-term impacts of the pandemic on levels of home working and the demand for office space. Moreover, Policy E2 of the LP does not preclude changes of use of office space where it has been demonstrated that opportunities to retain the business use have been fully explored over an appropriate period of time.
13. I conclude that the proposed development would lead to the loss of business accommodation without proper justification. Consequently, there would be conflict with Policies E1 and E2 of the LP which, taken together and amongst other things, seek to maintain a stock of premises that are suitable for business activities, including small businesses, unless it can be demonstrated the premises are no longer suitable for business use.

Affordable housing

14. Policy H4 of the LP includes a target of providing 5,300 additional affordable homes by 2030/31. In order to achieve this, Policy H4 expects a contribution towards affordable housing to be made from all developments that provide one or more additional homes and involve a total additional residential floorspace of 100sqm (GIA) or more. Where affordable housing cannot practically be provided on site, Policy H4 allows for off-site provision or, exceptionally, a payment in-lieu.
15. I have been provided with a signed and dated S106 Agreement in which the developer obligates to pay £14,100 towards the provision of affordable housing in the Borough prior to the commencement of the development. The level of contribution is based on the formula set out in Policy H4 of the LP which is based on a sliding scale linked to the gross quantum of additional residential floor space proposed. Overall, I am satisfied that the contribution secured by the S106 would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. It addresses the requirements of the development plan in relation to affordable housing.
16. I therefore conclude that the proposal would make adequate provision for affordable housing. Consequently, there would be no conflict with Policy H4 of the LP which seeks to maximise the supply of affordable housing.

Parking and car-free development

17. The appeal site is located within a Controlled Parking Zone where I observed significant parking pressure. The appeal scheme would increase the number of residents living in the area and, therefore, could exacerbate competition for resident's parking spaces.

² Appeal Ref: APP/X5210/A/14/2228526, dated 12 February 2015.

18. Amongst other things, Policy T2 of the LP requires all new developments in the Borough to be car-free. The Policy includes a list of measures by which the Council will achieve this, including through not issuing parking permits in connection with new developments and the use of legal agreements to ensure that future occupants are aware that they are not entitled to parking permits.
19. No car parking spaces are proposed as part of the appeal scheme. However, the absence of on-site parking provision would not necessarily restrict future occupiers from owning and parking a vehicle in off-site car parking spaces.
20. The legal agreement submitted with the appeal documents includes obligations to prevent future occupants of the proposed development from applying for or holding a car parking permit. The legal agreement would ensure that the development was permanently car-free and would not lead to an increase in parking stress and congestion in the surrounding area. It would also ensure that sustainable and active travel modes are prioritised in an area that is well-connected by public transport. I am therefore satisfied that the measures would be necessary and in accordance with the development plan.
21. Taking the above into account, the proposal would comply with relevant development plan policies in respect of parking and car-free development, and there would be no conflict with Policy T2 of the LP which seeks to ensure new developments are car-free. There would also be no conflict with Policy DM1 of the LP insofar as it states that the Council will use planning obligations where appropriate to mitigate the impact of development.

Other Matters

22. The appeal site is located within the Seven Dials Conservation Area (CA) which comprises Seven Dials and land to the north-east. The significance of the CA is derived, in part, from the range and mix of building types and uses, and the street layout, which reveal the evolution of the area over time. The buildings on Great Queen Street are architecturally diverse albeit views are dominated by the Freemasons Hall which is a large stone building. The appeal site is set back behind the street frontage and, therefore, makes a limited contribution to its significance.
23. The proposed development would reflect the broad mix of land uses in the area and would not be visible from Great Queen Street. I note that the Council's Conservation Officer did not object to the proposal but made some observations about the design of the proposed development and its impact on light and sky within the historic Georgian terrace buildings fronting the street. However, the proposed development would be set-back from these buildings and, therefore, would be unlikely to result in material harm through loss of sunlight or daylight. Overall, the character and appearance of the CA would be preserved.
24. The appeal building would provide an additional family home that would contribute towards the national objective to significantly boost the supply of homes, in line with Policy H1 of the LP. The development would also be close to employment, social and leisure opportunities, and future occupants of the proposed dwelling would contribute to the local economy through increased spending. However, the contribution that would be made by a single dwelling would be modest and therefore these benefits carry limited weight in my decision.

25. The financial contribution towards local affordable housing provision also carries weight in support of the proposal. However, in the specific circumstances of this case, the contribution would not outweigh the harm that would be caused through the loss of business premises without proper justification.

Conclusion

26. I have found no conflict would arise in respect of development plan policy relating to affordable housing provision and parking and car-free development. However, the proposal would conflict with development plan policies that resist the change of use of existing business premises. This is sufficient to bring the proposal into conflict with the development plan when read as a whole.
27. The material considerations do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

E Catchside

INSPECTOR