



Appeal Decision

Site visit made on 15 May 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2024

Appeal Ref: APP/E5330/W/23/3328769

31 Herbert Road, Woolwich, Greenwich SE18 3SZ

- 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 Aptullah Kagantekin against the decision of the Council of the Royal Borough of Greenwich.
- The application Ref is 23/1109/F.
- The development proposed is the change of use of part of ground floor from betting shop (Use Class Sui Generis) and amalgamation with the existing ground floor shop unit to create a single commercial unit (Use Class E), change of use of first-floor from tattoo parlour (Use Class Sui Generis) and office space (Class E) to residential (Use Class C3) together with construction of an additional storey via a mansard roof extension and first floor front extension to provide six (6) new residential units with associate balconies, replacement shopfront and associated external works and alterations (Resubmission).

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted an amended proposed side elevation (drawing number 1474/14) with the appeal documentation. The amended plan shows five high level obscure windows which were not included in the original version of this drawing considered by the Council. My consideration of the amended proposed side elevation could cause prejudice to interested parties by depriving those who should have been consulted on the plan the opportunity of such consultation. For this reason, my decision on the appeal is based only on the drawings submitted with the planning application.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the living conditions of the occupiers of dwellings at 29 Herbert Road, with particular regard to privacy; and
 - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to light.

Reasons

Living conditions – existing occupiers

4. The site comprises a two-storey commercial building within an area containing various shops and other business units, many with residential uses above. A narrow service alley separates the appeal building from 29 Herbert Road (No 29), a three-storey property with flats on the upper floors.
5. Only around 3m separates the appeal site from the building at No 29, with habitable room windows and Juliet balconies in the neighbouring flats facing the side of the appeal property. The appellant refers to the facing windows at No 29 being obscure glazed as approved and built under planning application ref 16/4125/F. However, I observed that the neighbouring upper floor flat windows facing the appeal site are clear glazed and note that there was no condition on the planning permission requiring them to be obscure glazed.
6. The proposal would include side winter gardens for units 2 and 4 at first floor level, with large areas of glazing separating them from the neighbouring building. I acknowledge that there have been no objections to the proposal from residents at No 29. However, due to the significant expanse of proposed windows and the very small separation distance, when using their winter gardens, the occupiers of proposed units 2 and 4 would directly overlook several habitable rooms in the adjacent flats. This would cause a harmful loss of privacy to the occupiers at No 29.
7. The appellant suggests that screen planting could be used to avoid overlooking, but a condition requiring such provision within the proposed winter gardens would not be reasonable.
8. Consequently, I conclude that the proposal would harm the living conditions of the occupiers of dwellings at 29 Herbert Road, with particular regard to privacy. This would be contrary to Policy DH(b) of the Royal Greenwich Local Plan Core Strategy with Detailed Policies 2014 (CSDP) where it requires developments to not cause an unacceptable loss of amenity to adjacent occupiers by reducing the amount of privacy they enjoy.

Living conditions – future occupiers

9. The Daylight and Sunlight Report (Within Development) (DSR) assesses the levels of interior daylight and exposure to sunlight that would be achieved within the proposed flats. This is based on the BRE's "Site layout planning for daylight and sunlight: a guide to good practice" (the BRE guidelines). There is no dispute between the parties that the proposal would meet the BRE guidelines in respect of sunlight.
10. The DSR outlines the minimum illuminance (lux) targets to be exceeded over at least 50% of a horizontal reference plane to achieve sufficient daylight for different types of room. For each proposed habitable room, the DSR sets out the percentage of the reference plane that would meet the lux target, and the median illuminance level. Where the median illuminance figure exceeds the minimum illuminance target, the lux target would be achieved over at least half of the reference plane for that room.
11. There would be large areas of glazing to the living/kitchen/dining rooms (living rooms) in the proposed flats and some units would benefit from being dual

aspect. However, the DSR indicates that most of the habitable rooms in the four first floor units would fail to meet the lux targets. In particular, the living rooms in units 1-4 would fall significantly below the minimum illuminance targets, with the daylight levels in the living rooms of units 1 and 3 being especially poor. In unit 3, there would also be insufficient daylight to the bedroom, the only other habitable room in this proposed single aspect flat.

12. The BRE Guidelines are intended to be used flexibly. However, due to the number of rooms failing to meet the lux targets, the very low levels of daylight to the first floor living rooms, and the poor amount of daylight to both habitable rooms in unit 3, the proposal would fail to provide sufficient daylight for the future occupants of units 1-4.
13. It has been put to me that reducing the recessed balcony sizes and portioning off the kitchens would improve the amount of daylight to habitable rooms. However, such changes would alter the proposed design and layout, and this is not the scheme that is currently before me.
14. The appellant states that the proposal would provide the optimum layout given the site's linear shape with only three elevations and the proximity of the building at No 29. However, there is limited evidence that alternative solutions to provide acceptable living conditions for existing and future occupiers have been explored.
15. The London Housing Supplementary Planning Guidance (SPG) recognises that daylight enhances residents' enjoyment of the interior. For the reasons set out above, the proposal would not provide acceptable levels of daylight for future residents of the proposed first floor flats.
16. Therefore, I conclude that the proposed development would provide unacceptable living conditions for future occupiers, with particular regard to daylight. This would be contrary to Policy D6 of the London Plan 2021 and Policies H5 and DH1 of the CSDP. Together, these seek to ensure that housing is of a high quality design which provides sufficient daylight, amongst other things.

Other Matters

17. The Council did not find harm or development plan conflict in relation to several other matters, including the principle of residential development, the loss of employment use, design, cycle and refuse storage, amount of light to neighbouring properties, space standards, flood risk, parking and highways. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
18. I acknowledge that a third party supports the proposal, but this does not alter the harm that I have found.

Planning Balance and Conclusion

19. The Council accepts that it cannot currently demonstrate a five-year housing land supply as required by the National Planning Policy Framework (the Framework). Its current supply stands at 3.1 years. This represents a significant shortfall and thus paragraph 11(d) of the Framework is engaged.

20. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. The Framework seeks to boost housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of six additional mixed-sized dwellings to the supply of housing, making better use of previously developed land in a location close to shops and public transport. It would contribute towards Greenwich's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute modest weight to this benefit.
22. In contrast, the proposal would result in unacceptable living conditions for existing and future occupiers. The Framework requires decisions to provide a high standard of amenity for existing and future users. I have concluded that the proposal would conflict with Policy D6 of the LP and Policies H5, DH1 and DH(b) of the CSDP. These matters combined carry significant weight against the scheme.
23. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
24. For the reasons given above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Wright

INSPECTOR