



Appeal Decision

Site visit made on 3 June 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/H5960/W/23/3333484 26 Trinity Road, London SW17 7RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ben Mackereth, MAC Sharp, against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref. is 2023/2638.
 - The application sought planning permission for '*Alterations including erection of a mansard roof extension and extension over the back addition to create an additional floor of accommodation with roof terrace and 1.7m high screen surround above; Erection of single storey side/rear extension; Replacement shopfront; Partial change of use of ground floor from shop (Class E) to residential (Class C3) in connection with the conversion of the property into 3 x 1-bedroom flats*' without complying with a condition attached to planning permission Ref. 2021/4131, dated 23 December 2021.
 - The condition in dispute is No. 2 which states that: '*The development shall be carried out in accordance with the reports, specifications and drawings detailed [10182A00002, 10182A05004 Rev. A, 10182A05003 Rev. B, 10182A03001 Rev. A, 10182A03002 Rev. B, 10182A04002 Rev. B; Fire Design Review – Planning Application Stage (26 Trinity Road SW17 7RE)]*'.
 - The reason given for the condition is: '*To ensure a satisfactory standard of development and to allow the Local Planning Authority to review any potential changes to the scheme*'.
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Decision

1. The appeal is allowed and planning permission is granted for Alterations including erection of a mansard roof extension and extension over the back addition to create an additional floor of accommodation with roof terrace and 1.7m high screen surround above; Erection of single storey side/rear extension; Replacement shopfront; Partial change of use of ground floor from shop (Class E) to residential (Class C3) in connection with the conversion of the property into 3 x 1-bedroom flats at 26 Trinity Road, London SW17 7RE in accordance with the application Ref. 2023/2638, without compliance with condition number 2 (as subsequently varied by permission Ref. 2022/0386 dated 12 April 2022) previously imposed on planning permission Ref. 2021/4131 dated 23 December 2021 and subject to the condition that the development shall be carried out in accordance with the following approved plans: Drawing Nos. 10182A00001; 10182A03001 Rev. D & 10182A04002 Rev. E.

Preliminary Matter

2. For purposes of clarification, the variation of condition number 2 in paragraph 1 above is to include amended plans to allow alterations for a reduction in the size of the commercial unit; an enlarged rooflight, and a reassignment of part of the commercial area to the rear ground floor flat.

Main Issues

3. The main issues are (i) the effect of development as now proposed on the sustainability, vitality and viability of the local shopping area, and (ii) the adequacy of the living conditions for occupiers of the ground floor flat as regards outlook.

Reasons

4. The appeal application seeks a variation of the approved plans for the change of use of a back room to the commercial frontage space to provide increased living space to the ground floor flat in the form of a study/office. The development has already been carried out and this leaves a commercial area with a floorspace of 25.6sqm compared to the 37sqm which, although not entirely clear from the appeal documents, appears to have been approved under permission Ref. 2022/0386.
5. On the first issue, I have noted the Council's concerns that this smaller size would be insufficient to provide a sustainable commercial frontage considered essential to maintain the vitality and viability of the Trinity Road part of the local shopping centre. Having noted the relevant Council policies, I can understand the Council's reluctance to concede a further reduction of floorspace for commercial frontage use of the building in favour of the increase in size of the ground floor flat.
6. However, since the submission of the appeal documentation, including the appellant's 'Final Comments', the competing suppositions of the appeal parties have been superseded by the reality of the floorspace being occupied by a coffee shop/takeaway unit. The appellant has confirmed that the occupiers are an established business with another outlet in Balham and have signed a ten year lease. This information was also sent to the Council as part of the appeal process. During the time of my visit to the building and its surroundings the premises remained busy, although I acknowledge that such a brief observation period (about three quarters of an hour) merits only very limited weight in my decision on the appeal.
7. Bearing in mind the recent introduction of this business use appropriate to a shopping centre, together with the fringe location and the presence of a number of vacant units, I consider that in this case a pragmatic approach is appropriate to the application of Policies LP41 & Policy LP42 of the Wandsworth Local Plan 2023-2038 (2023) (The Local Plan'), especially as the grounds of appeal have cited half a dozen or so retail units of a similarly modest size in this part of Trinity Road. And in the final analysis a smaller commercial floorspace is far better than a vacant frontage.
8. The second issue dovetails with the first in that the remaining area of former commercial space has now been designated as a study/office for the ground floor flat. I note that before the addition of this room the flat already met minimum space standards and consider that the additional living area would

further improve the overall standard of accommodation. Moreover, the latter is clearly of a high standard in terms of the quality of construction and fitting out.

9. The daylight/sunlight required under BRE standards has been met by the enlarged rooflight and the Council's objection relates solely to the absence of outlook. However, as the appellant points out, the flat as originally laid out is fit for purpose and fully compliant with the relevant guidance in all other respects, whilst the additional room is likely to be regarded by future occupiers as an improvement to the overall living accommodation.
10. I additionally accept the appellant's view that other residential conversions of nearby properties have included vertical glazing, but with an outlook so limited that to all intents and purposes the window does no more than let in daylight. I therefore conclude on this issue that there would be no harmful conflict with Local Plan Policies LP1, LP2 & LP27 and Policies D3 and D6 of the London Plan 2021.
11. As I have concluded in the appellant's favour on both main issues I shall allow the appeal and vary condition no. 2 to require compliance with the amended plans used to complete the development, and which is now in use. The Council has also suggested a number of conditions from the original permission, but the development has already been completed and some of these are clearly no longer relevant, with the position on others less straightforward. As there is no detailed evidence in the appeal on this matter, I consider it more appropriate and indeed less confusing to draw the attention of the appeal parties to the fact that the original permission remains intact with the conditions (other than as varied) enforceable in the event of non-compliance.

Martin Andrews

INSPECTOR