



Appeal Decision

Site visit made on 9 April 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/Y5420/W/23/3330201

Commercial Unit 1, Altitude Point, Hampden Road, Hornsey, London N8 0EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Hopkins and Ziv of Meridian South Developments LLP against the Council of the London Borough of Haringey.
 - The application Ref is HGY/2023/0801.
 - The development proposed is change of use of vacant commercial space to form two self-contained flats of use class C3.
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Decision

1. The appeal is dismissed and planning permission for change of use of vacant commercial space to form two self-contained flats of use class C3 is refused.

Preliminary Matter

2. Since the appeal was submitted the National Planning Policy Framework (the Framework) was updated in December 2023. The main parties have been given the opportunity to comment on the updates to the Framework and these have been taken into consideration.

Background and Main Issues

3. Following the submission of the appeal against non-determination, the Council has clarified the decision it would have taken on the application if it had been determined within the statutory time period. The Council would have refused the development for the following reasons.
 - i. The proposed development by reason of the location of windows of habitable rooms in close proximity with the adjacent pedestrian walk, car park and footpath that runs around the perimeter of the block would give rise to an unacceptable level of overlooking/loss of privacy to the detriment of the living amenity of future occupants of the residential premises. As such, the proposal is contrary to Policy D6 of the London Plan 2021, Policy SP2 of the Haringey Local Plan 2017 and Policies DM1 and DM12 of the Haringey Development Management DPD 2017.
 - ii. The proposed development by reason of its use of obscure glazed windows and integral blinds to the rear, front and side elevation of flats 1 and 2 as a measure to mitigate overlooking/loss of privacy will result in a poor outlook from the habitable room windows to the detriment of the living amenity of future occupants of the residential premises. As such, the

- proposal is contrary to Policy D6 of the London Plan 2021, Policy SP2 of the Haringey Local Plan 2017 and Policies DM1 and DM12 of the Haringey Development Management DPD 2017.
- iii. The proposed development by reason of its poor design and blank façade facing the adjacent pedestrian walk and car park would be detrimental to the character and appearance of the existing main building and the existing streetscape generally. As such, the proposal is contrary to Policy D3 of the London Plan 2021, Policy SP11 of the Haringey Local Plan 2017 and Policy DM1 of the Haringey Development Management DPD 2017.
4. Therefore, the main issues are the effect of the proposal upon the living conditions of the future occupiers of proposed Flats 1 and 2 with regard to overlooking, loss of privacy and outlook; and the effect of the proposal upon the character and appearance of the host building and the surrounding area.

Reasons

Living Conditions

5. The site is located close to Hornsey Train Station and the wider area has a mix of commercial and residential development as well as places of worship. Commercial Unit 1 (Unit 1) is a vacant ground floor property located on the corner position within one of two multi-storey building blocks. The unit is located within the block known as Altitude Point and another block is located opposite it. Between these two buildings is the shared car park as well as the vehicular access and footpaths that pass through and around the wider site. The ground floor of the two properties appears to contain a mix of uses, including commercial units, lobby areas, storage and parking with residential within the upper storeys of the buildings.
6. The two buildings take vehicular and pedestrian access via Hampden Road and this road leads towards Hornsey Train Station. There is a landscaped area between Unit 1 and the pavement as well as stairs that lead towards the walkway over the train tracks.
7. An appeal was recently dismissed on this site for similar development¹. The Inspector in that case determined that the scheme before them would provide inadequate privacy for the future occupiers of the flats.
8. The previous Inspector stated that given the number of flats within Altitude Point, the size of the car park and that the footpath provides the route between the entrance to the development from the road and the building lobby, I have no reason to conclude that the footfall besides the windows would not be considerable. They also concluded that the footpath which forms part of the perimeter route around Altitude Point which runs alongside the proposed flats would be expected to be well used.
9. Given that the location of the site remains the same, nor does the layout for the surrounding area appear to have changed considerably, I see no reason to come to a different conclusion on this matter.

¹ APP/Y5420/W/22/3305205

Flat 1

10. Two of the large windows with integral blinds proposed for Flat 1 would be located next to the footpath between the entrance and the lobby. An existing large window would be replaced by a small high-level window next to these windows. The large windows facing towards the landscaped area next to the flat would be recessed behind defensible space and also have integral blinds and obscure glass within the bedroom. The landscaped area next to the proposed recessed windows is open space which also forms part of the perimeter route around the site.
11. Given the location of the proposed flat, the integral blinds would need to be closed within the three large windows in the shared living space to provide privacy for the occupants from those passing the flat on a regular basis. However, to provide privacy this shared living space would be almost entirely enclosed with only a very limited outlook from the high-level window. In light of the location and modest depth of the recessed window, those passing the flat or using the perimeter route would be able to see into this shared space from this window as well. Considering the occupiers would be likely to spend considerable periods of time within this shared space, this very limited outlook would result in a harmful sense of enclosure when using it. The proposed planting in front of the windows would not provide prevent views into the flat given their modest height.
12. The blinds could be left partially open which the appellant states would provide both privacy and outlook. However, given that people would pass very close to these windows on a regular basis they would still be able to see between the partially open slats and as such this set up would not provide adequate privacy. This would erode the sense of privacy that should be enjoyed within shared living spaces like the living, kitchen or dining areas where the occupiers would spend considerable periods of time.
13. The proposed bedroom would have obscure glass up to around 1.5 metres(m) as well as integral blinds above and would be recessed with defensible space in front of it. This window would face towards the shared landscaped area next to Flat 1. As such, people could socialise as well as frequently pass by close to this window. The depth of the recess in front of the window would be modest and whilst the obscure glass window would limit how much of the room could be seen, if people were standing or passing close to the window, they would be able to see directly into the room, dependent on how tall the individual was.
14. When open the integral blinds above the obscure glass would provide an outlook from the room and given the limited size and use of the room, this would ensure the bedroom would not feel harmfully enclosed. However, if the blinds were left closed to provide privacy, the room would feel harmfully enclosed with a very limited outlook.
15. Overall, the proposed solutions to provide privacy for the occupiers of proposed Flat 1 would create a harmful sense of enclosure within the flat. If the blinds were left open this would then leave the flat overlooked when a person passed the flat or used the landscaped area next to it which would harmfully erode the occupiers' privacy.

Flat 2

16. Proposed Flat 2 is located on the opposite side of the building to the car park and there is a footpath that passes around the flat. Whilst this route is not as direct as that in front of Flat 1 and as such is not likely to be as busy, people can still pass and socialise near to the proposed windows for this flat.
17. Flat 2 is proposed with a shared living area including the living space, kitchen, and bedroom. This area would have a glazed bifold door with integral blinds behind defensible space and this would face towards the landscaped area discussed above. The glazed sliding doors next to the bedroom would be similarly designed but would be located on the rear elevation.
18. The recessed bifold doors with integral blinds that would serve the shared living and kitchen area would be located next to the landscaped area. If the blinds were left open people using the landscaped area or the perimeter route would be able to see into the shared living space leaving the occupiers with limited private space, other than the bedroom given the layout of the flat. The modest depth of the recessed window would not overcome this concern.
19. Accordingly, the blinds would need to be closed to provide privacy when using this living area where the occupiers are likely to spend significant periods of time. Whilst the blinds for the sliding doors next to the bedroom could be left open, given the layout of the flat the occupiers would not be able to see out of this window when using much of the living area. This limited outlook would create a harmful sense of enclosure when using this shared living space. As discussed above, partially leaving the blinds open would still allow some overlooking to occur, especially if people pass by close to these windows which they may do on a regular basis when using this landscaped area or the perimeter route.
20. Whilst there is a path that passes the proposed sliding doors next to the bedroom, it is not an area that is likely to be passed by people on a regular basis for the reasons given above. The partial use of obscure glass would provide some privacy but again if somebody walked past the flat, they would be able to see into the bedroom, although this would be unlikely to occur given the sliding doors location.
21. Overall, the siting and design of the proposed flat would lead to the occupiers being harmfully overlooked and the proposed solutions to provide privacy for the occupiers of proposed Flat 2 would create a harmful sense of enclosure.
22. Given my concerns with the fundamental design of the scheme and the multiple impacts on living conditions, I am not satisfied that suitably worded conditions would overcome them.
23. Therefore, given the layout of the surrounding area and the proposed flats, the proposal would harm the living conditions of the occupiers of proposed Flats 1 and 2 with regard to overlooking, privacy and outlook. Accordingly, the proposal would not accord with Policy D6 of the London Plan that was adopted in 2021, Policy SP2 of the Haringey's Local Plan Strategic Policies Document as amended in 2017 (LP) and Policies DM1 and DM12 of Haringey's Development Management Development Plan Document which was adopted in 2017 (DPD). These seek, amongst other matters, to require housing development to be of a high quality and provide acceptable levels of privacy for its occupants.

Character and Appearance

24. Unit 1 is characterised by large areas of glazing broken up by areas of light-coloured bricks and dark cladding. On the upper storeys of the building the windows and balconies are consistently spaced, whereas the size and location of the windows on the ground floor varies with large areas of the elevations given over to simple brick façades. The building opposite is similarly designed and this consistency is an attractive feature of the surrounding areas streetscape.
25. The proposal would result in the replacement of a large area of glazing with a small high-level window and a brick façade. This would face towards the central car park and would be visible when passing the site from Hampden Road when walking towards or leaving the train station. The other large areas of glazing would be retained around the ground floor of the building and areas of glazing separated by brick façade would not be unusual within this building.
26. Whilst the blinds within the proposed windows could be closed, the windows themselves would still be retained. The recessed windows as well as the additional planting and metal railings would also positively contribute to the visual interest on the ground floor of the building breaking up the bulk of the façade, similar to the balconies on the upper storeys of the building. As such, when the ground floor elevations would be viewed collectively, the proposal would not result in a blank façade and visual interest would be retained on the ground floor. Furthermore, the limited changes to the ground floor would not harmfully detract from the appearance of the building when viewed as a whole.
27. Given the limited changes proposed, the ground floor of Unit 1 would remain generally consistent in appearance with the commercial units on the ground floor of the opposite building. As a result, the positive effect this consistency has upon the appearance of the streetscape would be retained.
28. For the reasons given above the proposal would not harm the character or appearance of the host building or the surrounding area. Accordingly, the proposal would accord with Policy D3 of the London Plan, Policy SP11 of the LP and Policy DM1 of the DPD. These expect developments to be of the highest standard of design that respects its local context and character.

Other Matters

29. A Daylight and Sunlight Review was submitted with the application which concluded that the habitable rooms for both flats would achieve the daylight target considered (self-test review) and that the flats would have a good provision of sunlight. Importantly the Council did not identify the provision of daylight or sunlight as a reason to refuse the application in its Statement of Case.
30. The previous Inspector concluded that the levels of sunlight and daylight which would enter each flat would be acceptable. Whilst the blinds may have to, at times, be closed, the obscure glazing would still allow light into the flats. Furthermore, I have no substantive evidence before me to refute the conclusions of the Daylight and Sunlight Review and as such I see no reason to come to a different conclusion on this matter.

31. The conditions suggested by the Haringey Borough Secure by Design Officer would ensure the flats would be secured to deter crime and the appellant states that the doors and windows would achieve PAS 24 accreditation.
32. I acknowledge the appellant's comments and concerns with the Council's handling of this case and the delays that led to this appeal against the non-determination of the application being submitted. However, in reaching my decision I have been concerned only with the planning merits of the case.

Other Considerations

33. It is not disputed that the site has a Public Transport Access Level value of 5 and is considered to have 'very good' access to public transport provision. The site is also located close to Wood Green which appeared to be well served by services and facilities. Accordingly, the flats would be in a sustainable location for residential development supported by Policy H1 of the London Plan. This is also supported by paragraph 109 of the Framework which states that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
34. It is also not disputed between the parties that the commercial interest in the occupation of the unit is low and the proposal would reuse part of an existing building. Policy H1 of the London Plan supports housing delivery on all suitable and available brownfield sites. Paragraph 124d) of the Framework also supports the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained.
35. The development is proposed to be compliant with Part M of the Building Regulations 2010 providing accessible dwellings. Furthermore, the scheme would provide a parking space and access to a shared disabled space for Flat 1 as well as cycle storage for both.
36. The Council does not dispute that it is subject to the Housing Delivery Test and the appellant states that the Council's delivery of housing over the last three years is substantially below its housing target. The proposal would only deliver two flats, however, in light of the Council's housing land position I attribute moderate weight in favour of the development to the delivery of two, accessible dwellings within a sustainable location with good access to alternative transport solutions that would reuse an existing building.
37. It is also proposed that the development would undertake a fabric first approach to create very good fabric U Values to achieve a 35% reduction in carbon dioxide emissions above Part L1B of the 2013 Building Regulations. Furthermore, the scheme includes additional soft landscaping in front of the windows and these considerations would be a modest benefit in favour of the proposal.
38. There would also be economic benefits during the works to convert Unit 1 as well as after construction from the occupiers of the two flats contributing towards local services and facilities. The future occupiers would also contribute towards the social fabric of the local area. Given the limited scale of the proposal, this attracts limited weight in favour of the scheme.

39. The size of the internal space of the flats would exceed the Technical Housing Standards - Nationally Described Space Standards (2015) for flats of this size and use. Furthermore, in general, and subject to control by appropriate planning conditions the proposal could be made acceptable with regard to fire safety as well as other matters not in dispute. Additionally, the proposal would not harm the character or appearance of the area. However, the absence of harm weighs neither for nor against the development.

Planning Balance

40. The proposal would harm the living conditions of the occupiers of proposed Flats 1 and 2 and would conflict with the relevant policies in the development plan for the reasons given above. Policies D6 of the London Plan, SP2 of the LP and DM1 and DM12 of the DPD require housing developments to be of a high quality and provide acceptable levels of privacy for its occupants. This is consistent with Paragraph 135f) of the Framework which states that development should create places with a high standard of amenity for existing and future users.
41. Consequently, I attribute significant weight to the harm that would arise from this development and the conflict with the development plan.
42. Given that the Council is subject to the Housing Delivery Test paragraph 11d) of the Framework is engaged. This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
43. The policies within the Framework seek to deliver a sufficient supply of homes and use under-utilised buildings in sustainable locations. However, the Framework also seeks to ensure development creates places with a high standard of amenity for existing and future users. For the reasons given above the proposal would conflict with the policies in the Framework that seek to ensure this.
44. Therefore, the adverse impacts of the proposal upon the living conditions of the occupiers of the proposed flats would significantly and demonstrably outweigh the stated benefits of the scheme when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

45. 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. Therefore, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR