



Appeal Decision

Site visit made on 9 July 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2024

Appeal Ref: APP/W5780/W/24/3336546

Summit House, 13 High Street, Wanstead, LONDON, E11 2AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr John McDonagh against the decision of the Council of the London Borough of Redbridge.
 - The application Ref is 1948/23.
 - The development proposed is Change of use from office to 6no. self-contained flats. Alterations to fenestrations.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The Under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), planning permission is granted for the change of use from commercial, business and service (use class E) to dwellinghouses (use class C3) subject to certain limitations and conditions.
3. However, Paragraph MA.2 sets out that development under Class MA is permitted subject to an application to the local planning authority for a determination as to whether prior approval is required in relation to the conditions set out in Paragraph MA.2(2). One of these conditions are MA.2(2)(f) relates to the provision of adequate natural light in all habitable rooms.
4. Although there is no dispute that the other criteria of Class MA are satisfied, paragraph W.(2)(bc) requires, in relation to Classes G, M, MA, N, O, PA or Q, the floor plan to indicate the total floor space in square metres of each dwellinghouse as well as the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses. Whilst I have a section drawing of proposed apartment 6, and was able to go into this area, no other elevations were provided with the application or to me as part of the appeal.
5. There is no statutory obligation to decide a prior approval appeal on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004 as the principle of the development is established through the grant of permission by the GPDO. As such, the provisions of Part 3, Class MA of the GPDO do not require regard to be had to the development plan. Nevertheless, the development plan policies may still be relevant in prior approval appeals, but only insofar as they

relate to the relevant matters, and only as evidence to support, rather than being the basis of, the planning judgement to be made.

Main Issues

6. The main issues are:

- whether the proposed development would provide adequate living conditions for future occupiers within apartments with particular regard to natural light; and
- whether the proposed development provides appropriate mitigation for the effect upon Epping Forest Special Area of Conservation (the SAC).

Reasons

Living conditions

7. The appeal site relates to Summit House, which is a vacant mid-terrace building located between the High Street and Wellington Passage. The property is extended to the rear, and this currently comprises a flat roof two storey building which appears linked by a pitched roof structure creating a narrow 3m gap (shown as courtyard on drawings) currently painted white up to the third floor on the frontage building. This area is enclosed at ground floor level on four sides by the host building and a close boarded fence. On the rear of the main building within this gap are air conditioning units and basement lightwell. The second floor is enclosed on three sides by the host building, and it is envisaged that this would be replicated for the additional floors. The outside area of the adjacent site is used for car parking, and there is a small rear outrigger on No 11 High Street in close proximity to the courtyard.
8. The Council's main concerns in respect of the proposed development is the provision of natural light to apartments 1, 3, 4 and 5 specifically within the bedrooms. The bedrooms within the proposed apartments 1, 3, 4 and 5 would all be stacked above each other. The proposed bedroom windows would face the rear of the host building, which is four floors.
9. The building extending from the rear of the adjoining property at No 15 High Street, and the remainder of the terraces facing High Street are all four storeys at the rear. Due to their height and position they have the effect of physically enclosing the small courtyard at the appeal site. Due to the height and orientation of these buildings relative to the proposed windows to bedrooms, they also have the potential to affect natural light throughout the entirety of the day, across the year and restrict views of the sky to the proposed bedroom windows.
10. With regards to natural light for future occupiers of the development, only limited information has been provided. In particular, no proposed sections or elevation drawings have been submitted. Although I appreciate such reports can be costly, no daylight and sunlight assessment has been submitted to demonstrate that future occupiers of the room would benefit from acceptable levels of natural light. Even though the appellant contends that white paint would increase light reflection, this would not alter that natural light could still be substantially impeded throughout the day and I have not been provided with any specific evidence which explains the effectiveness of this or how it would need to be maintained to continue to have the intended effects.

11. I have also been referred to the Building Research Establishment, Average Daylight Factor (ADF). I have not been provided with any evidence the proposal would meet the ADF requirements for bedrooms. The appellant also contends that the bedrooms would achieve the recommended lux levels for at least half of the daylight hours across more than 50% of the rooms. I have no substantive evidence to be certain how this conclusion has been derived.
12. Even though they are bedrooms, it is not inevitable that future occupiers would not spend a reasonable amount of time during the day. Whilst upper floors may be less enclosed, the bedroom window to apartment 1, which is shown with an additional glazed canopy would most likely have a very constrained and limited gloomy outlook as result of limited sunlight caused by the overshadowing of what would be very tall surrounding walls on three sides. This would be exacerbated with the adjacent fence, parking areas and external plant, and I am of the view that natural daylight would be very limited.
13. Whilst the apertures that would allow light to enter the bedrooms would be sufficient in size for natural light to enter the internal living spaces, I have no doubt that the surrounding tall walls would limit the levels of light within apartments 3 and 4. The existing glazed wall to the office on the first floor is not an indicator that the bedroom served by the window would be suitable given the increased building on the site that has been proposed.
14. The provision of a rooflight to apartment 5 alongside the bi-fold doors would allow more light into this unit and it would have less development above it and would not be as enclosed. However, although the Council raises no concerns regarding apartments 2 and 6, these elements do not justify other parts of the development.
15. Overall for the reasons given above I am unable to conclude that the all the bedrooms would receive sufficient natural light, particularly given the requirements within Part 3, paragraph W.2 (bc). I therefore conclude that the proposed development would not provide adequate living conditions for future occupiers with regards to natural light. Insofar as they are material to this decision, the proposal would conflict with Policies LP26 and LP29 of the Redbridge Local Plan 2015-2030 adopted 2018 (the RLP). These require development to provide high standards of accommodation.

Epping Forest SAC

16. The appeal site is located within 6.2km of the Epping Forest Special Area of Conservation (SAC) which is a European designated site under the Habitats Regulations. Article 3(1) of the GPDO imposes a condition requiring that development which is likely to have a significant effect on a Habitats Site must not begin until the developer has received written notification of the approval of the local planning authority under Regulation 77 of the Conservation of Habitats and Species Regulations 2017. Since I am dismissing the appeal for other reasons there is no need for me to consider this matter further.

Other Matters

17. In the exercise of planning functions, the statutory test set out in s72 of the Planning (Listed Building and Conservation Areas) Act 1990 is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas (the CA). The site is located

within the Wanstead Village CA. From my observation its special interest is derived from the relationship between the quality of the buildings their relationship with each other and the nearby green spaces creating. The Council has not indicated that the proposal would harm to it. I have no reason to find otherwise and conclude that the significance of the heritage assets would be preserved.

18. The appellant is also critical of the Council's handling of the application and has referred to various matters including a lack of cooperation, feedback from officers or site visit. In any event Section H of the completed appeal form confirms that a costs application has not been made and my remit is solely to determine this appeal.

Conclusion

19. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

K Williams

INSPECTOR