



Appeal Decision

Site visit made on 9 December 2024

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/X5210/W/24/3352179

Ground Floor Unit, 16 Rochester Mews, London NW1 9JB

- 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 Steve Burney of Camden Commercial Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2023/5456/P.
 - The development proposed is change of use and conversion of redundant commercial unit to create 3 flats, amenity space, access, bin and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The first reason for refusal cited on the Decision Notice dated 14 May 2024 refers to policy H6 (Managing the impact of development). This is a typing error and should refer to policy A1. I have used this as the basis for my decision.
3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have sought comments from both parties in this regard and this has informed my decision.
4. The Council has undertaken consultation on an emerging Draft Local Plan under Regulation 18 of the Town and Country Planning (Local Planning) (England) (Regulations) 2012. Given its stage of preparation, in accordance with paragraph 49 of the Framework, I give it limited weight.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the site and surrounding area;
 - whether future occupiers would be likely to experience acceptable living conditions with particular reference to layout, outlook, sunlight, daylight and privacy;
 - whether the proposal would secure appropriate contributions towards affordable housing; and
 - the effect on the availability of on-street parking.

Reasons

Character and appearance

6. The appeal site is a ground floor unit within a modern four-storey building located on Rochester Mews. The ground floor is currently in use as employment space (Class E). The internal space as existing is a large room with a small boxed off area used as an office and is accessed via a roller shutter vehicle door. A separate door provides access to the residential flats above. The building is brick built on the first two floors with dark grey cladding to the third and fourth floors. On the higher floors windows are full height, however on the ground floor windows have a horizontal emphasis.
7. Rochester Mews is a cobbled lane with a mix of commercial and residential uses and residential car parking bays. The roads surrounding the appeal site comprise a mix of styles of residential developments. Along Rochester Road there are examples of modern blocks of flats with balconies, which are partially covered. These properties have full length windows, some of which overlook the pavement with small, enclosed areas separating them from the public domain. The dwellings which face onto Camden Road also have covered terraces and small enclosed garden spaces to the rear.
8. The fenestration detailing of the wider building transitions from the high, thin horizontal windows on the ground floor to a mix of square windows with one full length window on the first floor, to full length on the higher floors. The different window proportions reflect the changes between building materials. To the side elevation a series of full-length windows would be installed to replace the high, thin horizontal windows. The proportions of the proposed windows do not respond appropriately to the existing pattern of windows on the side elevation of the property. The window arrangement and their proportions would give the ground floor a cluttered appearance in comparison to the rest of the building and the immediate neighbouring dwellings.
9. Although there are examples elsewhere in the area of full-length windows, the appeal site is part of a larger mixed-use building. The existing fenestration details have been designed to reflect the ground floor unit's use as a commercial property, therefore deliberately contrasting with the appearance of the residential floors above.
10. I note that the appellant puts forward that window details could be dealt with through an appropriately worded condition. However this in turn could have implications for the living conditions of future occupiers, which I will turn to shortly.
11. The proposal would cause limited harm to the character and appearance of the site and surrounding area. It would therefore conflict with policy D1 of the London Borough of Camden Local Plan (2017) (LP), which seeks amongst other things to secure high quality design in development.

Living conditions

Layout and outlook

12. The terrace of flat 1 (western flat) would face onto Rochester Road. Both bedrooms would be served by full height windows, but these would face onto the access road serving the small parking area. The main living area would have large

bi-folding doors but setback from the main elevation of the building in order to create a covered outdoor terrace area. This room would be dual aspect but only from the existing high-level, thin, horizontal window retained in the side elevation. The main outlook from the living room would be across Rochester Mews towards the tall commercial building opposite.

13. Flat 2 (central flat) would have a covered terrace and associated setback bi-folding doors which would face onto the parking area to the rear of 12 Rochester Mews. This flat would have a lounge area closest to the terrace with the bathroom and kitchen area located to the rear of the flat. The bedrooms to this flat, although served by relatively large fenestration, would only have an outlook onto this elevation, and the flat would therefore have a single aspect overlooking the parking area. This is not considered acceptable. In addition, it would not allow for appropriate cross ventilation, particularly in the warmer months.
14. The courtyard and terrace of flat 3 (eastern flat) would back onto the small rear garden of the dwellings which face onto Camden Road. The kitchen area would be located to the rear corner of the flat. Both bedrooms would be served by full height windows and the flat would be dual aspect, but their outlook would be to a parking area. The outlook from the main living area of Flat 3 would be onto the fence of the rear gardens of existing dwellings. The flat would include two rooflights over the hall and lounge area, however there would be no outlook from these.
15. Although passing vehicle traffic to the parking area would be limited, there is no pavement or other defensible space between the road and the building elevation, which would mean vehicles would pass directly in front of these windows. Whilst there are pavements on Rochester Road, the outlook of flat 1 would primarily be the large clad wall of the opposite commercial building and cars would also pass directly in front of its terrace. There would be some reduction in harm to the outlook from the lounge areas of flats 1 and 2 through the associated terraces. Nevertheless, the bedrooms of all three flats would have an unacceptable outlook onto the access road.
16. The proposal would therefore create unacceptable living conditions for future occupiers with regard to layout and outlook.

Sunlight and daylight

17. The appellant has not submitted a sunlight or daylight report with the application. It is likely that due to the orientation of the host building and proximity and height of nearby buildings that some rooms may have inadequate levels of sunlight and daylight. This is likely to mean that the habitable rooms particularly the kitchen areas would be dark and gloomy. Therefore, in the absence of a sunlight or daylight report I do not have sufficient details to be satisfied that acceptable living conditions would be provided in respect of sunlight and daylight.

Privacy

18. The proposed windows to all the bedrooms would be full height. The bedrooms would face directly onto the access road and parking area with no defensible space. This would mean that the bedrooms would be fully accessible to being viewed into by passers-by. This would provide unacceptable levels of privacy for future occupiers. Although there are examples on Rochester Road of full height windows at the ground floor level directly looking onto the pavement, the majority

of these are enclosed by railings which provides some degree of defensible space and separation from the public domain. This would not be the case with the bedroom windows as proposed.

19. The appellant contends that the bedroom spaces would be predominantly used at night when blinds and curtains are shut. However, bedrooms are often used for a variety of purposes including home working, studying and children's play and therefore may be used at other times of the day.
20. The appellant has suggested that a condition could be imposed to require final details of window designs and the lower part could be fitted with obscured glazing. However, this would not satisfactorily resolve the issues of privacy at the top part of these windows. This would also further reduce outlook from these windows.

Overall

21. Overall, the future occupiers would not experience acceptable living conditions with particular reference to layout, outlook, sunlight, daylight and privacy. The proposal thereby conflicts with policies D1 and A1 of the LP which seek amongst other things to provide a high standard of accommodation and ensure the amenity of communities, occupiers and neighbours is protected.

Affordable housing

22. Policy H4 of the LP includes a target of providing 5,300 additional affordable homes by 2030/31. In order to achieve this a contribution to affordable housing is required from all developments that provide one or more additional homes and provide a total addition to residential floorspace of 100sqm GIA or more.
23. I have been provided with a signed and dated s106 Agreement in which the developer obligates to pay £38,592 towards the provision of affordable housing in the Borough either on or prior to the implementation date of development. The level of contribution is based on the formula set out in Policy H4 which sets a sliding scale linked to the gross quantum of additional floor space proposed. 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 addressed the requirements of the development plan in relation to affordable housing.
24. I therefore conclude that the proposal would make adequate provision for affordable housing. Consequently, the proposal would not conflict with Policy H4 of the LP which seeks to maximise the supply of affordable housing.

Parking

25. The appeal site is located within a Controlled Parking Zone where there is significant parking pressure. The proposal makes no provision for on-site parking. The proposal would increase the number of residents living in the area and subsequently increase pressure for resident car park spaces.
26. Policy T2 of the LP, amongst other things requires that all new development in the Borough to be car-free. The policy includes a list of measures by which this will be achieved including not issuing car 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 such permits.

27. The appellant has submitted a signed and dated S106 Agreement which includes obligations to prevent future occupiers being granted a Residents Parking Permit or buy a contract to park within any car park owned, controlled or licensed by the Council. The 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. I am therefore satisfied that the measures would be necessary and in accordance with the development plan. This is acceptable in this location due to the provisions of s16 of the Greater London Council (General Powers) Act 1974.
28. Taking this into account, the proposal would comply with the relevant development plan policies in respect of parking and car free development. Therefore, the proposal would not conflict with policy T2 of the LP which seeks amongst other things to ensure that all new developments are car-free.

Other Matters

29. The Rochester Conservation Area (the CA) boundary runs partially down the opposite side of Rochester Road and excludes the large commercial building opposite the appeal site. The Council has not raised any concerns in relation to the setting of the CA. The significance of the CA is derived from the elegant terraces which retain their architectural integrity with Rochester Terrace Gardens at its centre. The proposal would involve limited changes to the elevation which faces onto Rochester Mews, which is the only part of the building which is visible within the setting of the CA. Therefore, I am satisfied that it would not harm the setting of the CA and thereby nor would it harm the character or appearance of the CA.

Planning Balance and Conclusion

30. The proposed development would cause limited harm to the character and appearance of the area and would create significantly unacceptable living conditions for future occupiers. These harms bring the scheme into conflict with the development plan.
31. The Framework is an important material consideration. The Housing Delivery Test (2023) measurement confirms that the Council achieved substantially below its housing requirement over the previous three years, delivering 53% of the housing requirement. In these circumstances footnote 8 and paragraph 11d)ii of the Framework explain that planning permission should be granted unless any adverse impacts of doing so would demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. The policies in the Framework seek to significantly boost the supply of homes and provide affordable housing to meet identified need. The proposal would provide three additional dwellings. A legal agreement has been agreed which will also ensure an appropriate contribution to the supply of affordable housing. Given the substantial shortfall of housing in the borough, three additional dwellings would make a minor but useful contribution to this supply. The appeal site is also within an area of excellent public transport accessibility and would re-use an existing building which is no longer needed for commercial purposes. The Framework supports the re-use of previously developed land, in urban locations with good

access to public transport. These factors also, therefore, weigh in favour of the proposal. The proposal would also deliver wider environmental benefits such as energy efficiency, renewable energy and biodiversity improvements which are supported by national policy. These are modest benefits which weigh in favour of the proposal.

33. However, the creation of high-quality places is fundamental to what the planning and development process should achieve. Although there is support for new housing in this location, and other benefits to the proposal as set out above, the importance of providing appropriate living standards and high-quality design demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply.
34. 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, for the reasons given, the appeal is dismissed.

C Skelly

INSPECTOR