

Appeal Decision

Site visit made on 2 July 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2024

Appeal Ref: APP/X5210/W/24/3337805

Unit 22, 3-16 Russell Court, Woburn Place, Camden, London WC1H 0LL

- 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 Steven Howson, Studio Howson, against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2023/2256/P.
 - The development proposed is change of use from an existing self-contained, private dental clinic, with off-street access, in a primarily residential building to a private residential studio apartment.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the appellant's initial appeal submission, they submitted a signed and dated Section 106 agreement to agree that the development would be car free. The Council is satisfied that this would address the fourth reason for refusal relating to parking restrictions and I will cover this matter later.

Main Issues

3. The main issues are:
 - the effect of the proposal on the local economy in terms of the supply of business premises;
 - whether the proposal would encourage sustainable modes of transport with regard to cycle storage provision; and
 - whether the proposal would provide suitable living conditions for future occupants with regard to internal living space.

Reasons

Business use

4. Although not currently in operation, the last use of the property was as a small private dental practice. To support the local economy, Policy E2 of the Camden Local Plan 2017 (CLP) resists the development of business premises and sites for non-business use unless it is demonstrated to the Councils satisfaction that (a)

the site or building is no longer suitable for its existing business use; and (b) that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.

5. The unit has been vacant for some time, is small and does not have a public frontage or direct access from the street. Also, the noise sensitive nature of the residential properties that share the building could limit the type of business that could operate from the premises. Nevertheless, the Council aims to maintain a stock of premises that are suitable for a variety of business activities, this includes start-ups and small enterprises where a smaller premises may be suitable. Further, not all business uses require a street frontage or direct access to operate successfully. It is also not uncommon for buildings to include both business and residential uses with no conflict or harmful impact on living conditions. As such, there is no substantive evidence before me to demonstrate that the property complies with criterion (a) and is no longer suitable for its existing business use.
6. In order to comply with criterion (b) the proposal must be supported with suitable information to demonstrate that the property has been appropriately marketed for sale or lease as a business use. The Camden Planning Guidance Employment Sites and Business Premises 2021 (CPG) sets out the minimum marketing requirements for a business premises which include a visible letting board on the property, continuous marketing over at least 2 years from when the letting board is erected and that the property is marketed online, with reasonable rents and attractive lease terms. Information relating to the marketing of the property has been submitted in support of the proposal. However, there is no substantive evidence to demonstrate that the property has been continually marketed in line with these requirements. Accordingly, it has not been demonstrated that the appellant has met the marketing requirements to suitably demonstrate that the retention of the property as a business unit has been fully explored.
7. For the reasons detailed above the proposal would have a harmful effect on the local economy in terms of the supply of business premises. As such the change of use of the dental surgery would be contrary to Policies E1 and E2 of the Camden Local Plan 2017 (CLP) which resist the development of business premises and sites for non-business and seek to maintain a stock of premises that are suitable for a variety of business activities, for firms of differing sizes.

Sustainable travel

8. No bicycle storage is shown on the submitted plans. As detailed below the property would provide limited internal space and there would be insufficient space for future occupiers to store a bicycle internally. Further, the property would have no private external space where a bicycle could be stored. While public cycle storage may be available in the area there is no evidence before me to demonstrate that this would have sufficient capacity to meet the long terms storage needs of future occupants. While the site is within an accessible and central location, a lack of suitable cycle storage provision would limit the sustainable travel option of future occupants.
9. For the reasons detailed above the proposal would fail to encourage sustainable modes of transport with regard to cycle storage provision. Therefore, the

scheme would be contrary to Policies T1 and DM1 of the CLP which require that development provides for accessible, secure cycle parking facilities and provide the facilities needed for the borough's communities. Moreover, Policy T1 prioritises the needs of cyclists and travel by bicycle.

Living conditions

10. There is a dispute between the parties about the precise floor area of the proposed studio flat. The Nationally Described Space Standards (NDSS) requires that a studio with a shower should have a minimum internal floor area of 37 square metres. The floor area on the submitted plan is considerably below this figure. The NDSS are set to enable a home to become a comfortable place to retreat and this includes a sufficient area of internal floor space.
11. Notwithstanding this, it has been put to me that other properties in the building have an internal floor area that are also below the NDSS, and this accommodation provides adequate living conditions. The appellant has also provided the floor plans of several studios within the building that are below the NDSS.
12. Policy H6 of the CLP expects all self-contained homes to meet the nationally described space standard. However, paragraph 3.144 of the supporting text allows for a flexible approach when applying the NDSS to take in to account the constraints arising from the conversion of existing buildings. The resultant studio would have a similar internal floor area to existing studios within the building. The floor area of these studios reflects the original layout of the building and is a material consideration in my assessment. As the proposal is for the conversion of an existing unit within a building containing units of a similar size the size of the internal living space is accepted in this particular instance.
13. For these reasons, the proposal would provide suitable living conditions for future occupants with regard to internal living space in accordance with Policy H6 of the CLP.

Other Matters

14. The Council's fourth reason for refusal relates to the absence of a legal agreement securing car-free housing. The application site is located within a busy built up area, on-street parking spaces are limited and significantly outnumbered by business and residential units in the area. To encourage the use of sustainable travel, improve air quality and maximise the use of available land Policy T2 of the CLP requires all new developments in the borough to be car free.
15. A signed and dated Section 106 agreement to establish that the proposed dwelling would be car free was submitted in support of the appeal. Like the Council, I am satisfied that this addresses the fourth reason for refusal as it would ensure the development would be car free as required by Policy T2 of the CLP.
16. My attention has been drawn to a planning permission that was granted in 2010¹ for the change of use of a photographic studio in Russell Court to a self-contained flat. At this time the current development plan was at a draft stage and reference was made to it as a material consideration. However, the officers

¹ 2009/4618/P

delegated report correctly noted that, as a matter of law, limited weight should be attached to the policies in the emerging plan. Since that decision was reached the policy framework has been revised, therefore the evidence that has been put before me does not demonstrate the argument that a precedent has been set.

17. Several letters of support have been submitted in relation to the proposal. These highlighted that planning permission was granted several years ago for the change of use of a business premises within the building to a residential unit. It is unclear whether this was in reference to that referred to above, but there is no detail before me of the permission or the circumstances that led to the decision. Hence, I cannot be certain that it forms a direct parallel to the appeal proposal. In any event, I have had regard to the circumstances of the appeal before me and these have led me to arrive at a different conclusion.
18. The representations also drew my attention to a sign advertising the dentist surgery on the exterior of the building. While the removal of prominent signage may have a positive impact on the frontage of the building, I am not satisfied that the change of use of the business premises would be the only mechanism to achieve this.
19. the security of residents of the building. However, there is no substantive evidence before me to demonstrate that customers/clients visiting the business unit pose a security risk to residents or have done so in the past.
20. The appeal site is located within the Bloomsbury Conservation Area (CA). Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The BA Appraisal and Management Strategy 2011 describes Russell Court as magnificent and 'a large-scale, Art Deco 1930s residential block'. The traditional, high quality architecture of the building makes a notable positive contribution to the CA. No external alterations are proposed as part of the change of use and the character and appearance of the CA as a whole would be preserved. I note that the Council raised no objection in this regard either. Nevertheless, a lack of harm in this respect is of neutral weight in my assessment.
21. The Council raised no concerns within their reasons for refusal with regard to the outlook, light and ventilation of future occupants. I find no reason to disagree with this assessment. However, the absence of harm in these respects form neutral factors in my assessment of the appeal, weighing neither for nor against the proposal.

Planning Balance and Conclusion

22. The proposal would provide an additional housing unit, in a suitable location where there is an identified need, including low-cost housing. However, there is no substantive evidence before me to demonstrate that the proposal would be low-cost. The addition of one unit and its future use would only amount to modest social and economic benefits, including to housing supply. The provision of good quality outlook and natural ventilation would be expectations of all new development and, as detailed above, there are material considerations which would allow for an internal living space below the NDSS. These matters would neither weigh in favour nor against the appeal scheme. In such circumstances, the benefits associated with the proposal would not lead me to a different

conclusion on the main issues or outweigh the resultant conflict with the development plan that I have identified.

23. 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.

C Livingstone

INSPECTOR