



---

# Appeal Decision

Site visit made on 15 October 2012

**by Peter J Golder Dip TP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 November 2012**

---

**Appeal Ref: APP/X5210/A/12/2175149**  
**3-5 Charles Place, London NW1 2HW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Euston Trust Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2011/5759/P, dated 27 January 2012, was refused by notice dated 27 March 2012.
  - The development proposed is conversion of former mixed use building into 9 flats.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The Council have confirmed that reason for refusal No 10 is withdrawn.
3. An obligation has been entered into to provide a contribution to public open space, a designated residents parking bay, a residents parking permit and a sustainability plan in respect of the incorporation of measures in the fabric of the building and their subsequent management. The obligation responds to the Council's concerns at reasons for refusal Nos 7, 8 and 9. I return to these matters later in my decision.
4. Having regard to the above the main issues in this appeal are:
  - Whether the proposal would result in an unacceptable loss of business premises.
  - The impact of the proposal upon the character and appearance of Charles Place.
  - The effects upon the living conditions of residents in Starcross Street.
  - Whether the development would provide an appropriate mix of residential units offering an acceptable standard of accommodation.

## Reasons

### *Loss of business premises*

5. The employment policies (CS8 and DP13) of the adopted Camden Core Strategy 2010 (CS) and Development Policies 2010-2015 (DP) place a particular emphasis upon retaining land and buildings which are suitable for

- business use. Camden Planning Guidance 5 (CPG5) sets out the information necessary to demonstrate that the loss of premises might be acceptable.
6. It appears that the appeal premises have a long established commercial use; the first floor rooms with shared kitchen and bathroom amounting to an unauthorised residential occupation. To my mind the property is well located to provide small scale employment opportunities and I note that permission was granted in February 2008 for renovation to form three discrete Class B8/B1 units. The subsequent recession and level of investment required are cited as the reasons for this development not proceeding.
  7. The premises became vacant in May 2006 and a period of marketing for six months followed. Information in respect of the extent and nature of that marketing campaign is scant and there is no evidence of any concerted effort to dispose of the property for employment related uses since its conclusion ie 5/6 years ago. The marketing exercise carried out appears to fall well short of even the minimum requirements set out in CPG5 which are designed to support the decision making process required of policies CS8 and DP13. Further there is no evidence to support the view that bringing the buildings into employment use is not viable or that it cannot be "lightly" renovated.
  8. I note that the planning application generated some interest from a person considering the use of the premises for commercial purposes. The extent to which this may reflect potential demand is questionable and largely unsubstantiated. Consequently I do not attach a great deal of weight to the approach as reflecting a potentially wider interest.
  9. Nonetheless, the thrust of the Council's policy is that employment uses should not be lost unless there is a clear and convincing case for doing so in accordance with the guidance at CPG5. No such demonstration is offered in support of the appeal proposal and I find it unacceptable for that reason.

#### *Character and Appearance*

10. The existing building, especially the elevation to Charles Place, has a distinct industrial appearance; the form of the building along with the variety of scales, designs and type of opening heavily reflecting its former employment use. Notwithstanding its somewhat run-down appearance it is a building which presently sits well within the small scale context of Charles Place and its traditional functions.
11. For all intents and purposes the principal elevation would appear completely new, its design seemingly significantly influenced by maximising the extent of internal accommodation rather than achieving a satisfactory external appearance and one which takes full and proper account of its context. It would have all of the appearance of a formally proportioned shell with a random and dominant pattern of window and door openings, together with a substantial and overly dominant pitched and hipped roof and poorly portioned dormers.
12. In summary the proposed works do not comprise a satisfactorily composed design in themselves and take little if any reference from the prevailing features and characteristics of the existing building. These would be virtually subsumed by the overtly large scale residential appearance of the building as proposed. The former industrial character and appearance of the building would be almost wholly diminished along with the context within which it sits.

For these reasons the proposal fails to satisfy the requirements of policy DP24 of the DP, which among other matters requires alterations to be of the highest standard of design, to have regard to their context and the character and proportions of the existing building. Consequently, notwithstanding comparisons made with the 2007 scheme, I find the proposal would have a harmful effect upon the character and appearance of Charles Place and is therefore unacceptable.

#### *Living Conditions*

13. The windows on the north-west elevation would serve the living rooms of proposed flats 7 and 8 on the first floor level. They would allow direct views over the rear gardens of the dwellings in Starcross Street to the windows on the rear elevations of these properties. The Council puts these distances at 6m and 12m respectively; these figures are not disputed. These separation distances fall well below the 18m minimum between windows of habitable rooms considered to be good practice in Camden Planning Guidance 6 (CPG6).
14. I note what is said about these windows being existing and permission not being required to open them up. However I agree with the Council that these are an integral part of the proposal to use the building for residential purposes and come within the scope of the works for which permission is required.
15. From what I saw during my inspection, the proposed arrangement is one which could give rise to an unacceptable degree of overlooking and consequential loss of privacy for those living in the properties in Starcross Street immediately backing onto the appeal site. However the living area of both proposed flats would have windows in other elevations. In these circumstances I consider that the use of non-opening obscured glazed units here, in accordance with the guidance in CPG6, would be appropriate and substantially mitigate any likely adverse effects. This is a matter which could be dealt with by condition attached to any grant of planning permission. In these circumstances any conflict with the provisions of policies CS5 and DP26 would be minimal and not of such substance as to act against the proposal.

#### *The mix and standard of residential accommodation*

16. The proposal is for 9 flats, either studio or one bedroom units designed essentially for one person. Policies CS6 and DP5 aim to create mixed and inclusive communities by providing a range of homes of different sizes. The DP, in its dwelling size priority table, highlights the greatest need being for homes of two-bedrooms or more. Two bedroom homes are still regarded as falling within the category of "small" as defined in the DP.
17. The Council recognises the need to be flexible in assessing development proposals against its priority objectives; in particular taking account of the specific circumstances applying to a site, especially where this involves the re-use of an existing building. Whilst the nature of the site is unlikely to be suitable for larger family sized units, I find no cogent argument advanced as to why the development could not successfully and viably accommodate some two-bedroom units. To do so would go a long way towards satisfying the dual policy objectives of contributing to the stock of dwellings identified as of greatest priority and to widen the mix of unit sizes within the development. In these respects the proposal, while contributing to housing need, would not

match up to the strong imperative at policies CS6 and DP5 and is therefore unacceptable.

18. The basement flats would rely upon natural light provided solely by high level light-box type windows located above ceiling level and from windows set in narrow light wells along the north-west elevation. Little sunlight would reach either of the flats and the amount of natural daylight would likely be limited and of poor quality. The light wells would be enclosed and any outlook severely curtailed and oppressive. The proposed arrangement is extremely contrived. By any reasonable measure the standard of accommodation would be poor and one which would be likely to rely significantly upon artificial light on anything but the brightest days. In short the basement flats would not provide accommodation of the highest quality as required by policies CS6 and DP26 or be likely to satisfy the criteria at Camden Planning Guidance 2 (CPG2)
19. CPG2 advises that habitable rooms in the roof space should have a minimum room height of 2.3m over at least 50% of the floor area, discounting any floor area with a floor to ceiling height less than 1.5m. The Council, in applying this guidance, concludes that these flats would not be able to provide the minimum 32sqm of floor space with an acceptable floor to ceiling height. While initial assessment by the appellant puts the figure at 70% no justification for this figure is provided. In these circumstances the conclusion of the Council is to be preferred. Consequently based upon the guidance in CPG2 I consider the two flats in the roof space would not comply with the requirement of policy DP26 to provide an acceptable standard of accommodation in terms of its internal arrangements.

#### *Conclusions on main issues*

20. The appeal proposal fails on a number of counts. Firstly it does not satisfactorily demonstrate that the premises are no longer capable of or are required to contribute towards the employment needs of the Borough. Secondly the scheme would be harmful to the character and appearance of Charles Place and thirdly, the proposal would not provide an adequate mix of dwellings or result in residential accommodation of an acceptable standard. Taken together these considerations amount to a compelling case to turn away the proposal.
21. In reaching this conclusion I have had regard to the particular limitations and specific circumstances of the appeal premises and the need to make the best possible use of the building. However I find nothing which points to a clear and convincing case for concluding that this appeal should not be determined other than in accordance with the provisions of the development plan. For the reasons above those provisions overwhelmingly suggest that the proposal is unacceptable and that this appeal should be dismissed. In as much as they relate to this appeal the Council's planning policies and associated guidance are up-to-date and consistent with the core principles of the National Planning Policy Framework.

#### **Other Matters**

22. The contents of the obligation entered into are uncontested. However as I have decided that the appeal should be dismissed for the substantive reasons above it is not necessary for me to consider whether the obligation meets the

tests at paragraph 204 of the National Planning Policy Framework or regulation 122 of the CIL Regulations.

23. Reason for refusal No 6 relates to the failure to provide a Basement Impact Assessment (BIA) in accordance with policy DP27. BIAs are usually submitted in concert with a planning application. In this instance excavation would relate solely to the external light wells for the basement windows in the north-west elevation. Given the modest degree of excavation involved I am content that, had I decided permission should be granted, this is a matter which could have been satisfactorily dealt with by an appropriately framed condition.

### **Conclusion**

24. In coming to my decision in respect of this appeal I have had regard to all matters raised in the representations made. However I find nothing sufficiently compelling in the planning merits of the scheme to outweigh the harmful and unacceptable aspects of the development which lead me to the view that the appeal should be dismissed.

*Peter J Golder*

INSPECTOR