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## Appeal Decision

Site visit made on 12 August 2019

**by Paul Thompson DipTRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> October 2019**

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**Appeal Ref: APP/X5210/W/19/3230302**

**21 South End Road, London NW3 2PT**

- 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 Mr Kamran Raza against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/6087/P, dated 12 December 2018, was refused by notice dated 28 February 2019.
  - The development proposed is retrospective change of use from A1 to A2.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council's Decision Notice and the appellant's Appeal Form describe the proposal as "change of use of ground and part rear 1st floor level from retail (Use Class A1) to create self-contained office (Use Class B1a) and installation of associated door to rear flank elevation to provide access via Maryon Mews". As this more accurately reflects the proposed development I have dealt with the appeal on this basis.

### Main Issues

3. The main issues are the effect of the proposed development on the living conditions of the occupiers of the existing flat within the appeal building; and the fear of and potential for crime.

### Reasons

#### *Living conditions*

4. The appeal site is located within South End Road, which incorporates a mix of commercial and residential uses. It is occupied by built development from the street frontage to the rear where it adjoins Maryon Mews, a primarily residential street. The floorspace for the proposed development would be situated towards the rear of the building.
5. Whilst deliveries are taken within Maryon Mews, it strikes me that its character differs somewhat to the hustle and bustle of South End Road. The transition to this discreet residential street was very evident. In light of this, the residential environment surrounding the appeal site would be more susceptible to change.

6. The passageway is narrow and enclosed to either side by the appeal building and a boundary fence. It is also directly aligned with windows serving the flat. There would therefore be a direct loss of privacy, as the occupants of the flat could be observed by the users of the proposed development from an uncomfortably close distance within the passageway. The narrow nature of the passageway and the proximity of the proposed development with the door and windows of the flat would also intensify the effects of any noise and disturbance caused by persons entering and exiting the proposed development by the passageway. The communal access arrangements of the proposed development would therefore result in a significant and unacceptable change to the residential environment around the flat, which would be harmful to the living conditions of its occupants.
7. The appellant has compared the proposed communal access arrangements with those of flatted developments. However, as that would not entail a mixture of residential and commercial uses, it would not be comparable with the proposed development. Similarly, the proposed development is for floorspace that has previously been used for storage in connection with the retail use at ground floor and was accessed through the building. This would not therefore be considered an active use, whereas the proposal is for an active use with access taken from the passageway.
8. The appellant has suggested that planning conditions would mitigate the effects of the proposed development. Whilst a restriction to operating hours could mitigate noise and disturbance that could be caused at unsociable hours, it would not mitigate against harm during the hours of operation. Similarly, restricting the number of users and tying the proposed development to the retail premises would not make the proposed development acceptable, as the passageway would remain in use for the proposed development. For these reasons, a management plan that would draw all these matters together with the servicing and deliveries arrangements for the proposed development would also be ineffectual.
9. For the reasons outlined above, I conclude that the proposed development would lead to unacceptable harm being caused to the living conditions of the occupiers of the existing flat within the appeal building in respect of noise and disturbance and the protection of their privacy. The proposal would not therefore accord with Policy A1 of the Camden Local Plan (Adopted Version June 2017) (the LP), which seeks to protect the quality of life of occupiers and neighbours, including in relation to privacy and from noise.

### *Crime*

10. Maryon Mews is accessed from two points on South End Road, each of which restricts access through gates with coded control panels and call features to properties. The rear of the site is secured to Maryon Mews by two lockable doors, one serving the storage space at the rear of the retail use at ground floor and the other serves a passageway, which leads to the external door of the residential flat at first and second floor. The external door to the passageway in Maryon Mews and the passageway itself also incorporate lighting.
11. Whilst the proposed development would lead to the passageway being shared by different uses, there is nothing to suggest that these security measures would change as a result of the proposed development. With those security

measures still in place, the proposed development would be unlikely to exacerbate the potential for or fear of crime for the occupants of the flat, as the access to the proposed development would be controlled. The proposal would therefore comply with Policy C5 of the LP.

### **Other Matters**

12. The appeal property falls within the Hampstead Conservation Area. I have had regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Given that the proposal includes only minor external works to provide access from the passageway into the building and these are not visually harmful, the proposed development would preserve the character and appearance of the Conservation Area. Hence, the proposal would not conflict with Policies D1 and D2 of the LP or Policy DH2 of the Hampstead Neighbourhood Plan 2018-2036, which is also part of the adopted development plan.
13. In addition, whilst the proposed development could support the function of the retail unit, this would not outweigh the harm I have identified above in respect of the living conditions of the occupiers of the existing flat.

### **Conclusion**

14. Despite my favourable consideration of the effects of the proposal in relation to crime, there would be unacceptable harm caused by the proposal to the living conditions of the occupiers of the existing flat within the appeal building. Accordingly, for the reasons given in respect of that issue, the appeal should be dismissed.

*Paul Thompson*

INSPECTOR