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## Appeal Decision

Site visit made on 4 November 2019

**by C L Humphrey BA (Hons) DipTP MRTPI**

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

**Decision date: 29<sup>th</sup> November 2019**

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**Appeal Ref: APP/X5210/W/19/3233988**

**4 Lambolle Place, London NW3 4PD**

- 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 Ian Dodds against the decision of the Council of the London Borough of Camden.
  - The application Ref 2018/5190/P, dated 22 October 2018, was refused by notice dated 15 May 2019.
  - The development proposed is change of use of ground floor from B2 general industrial use to sui generis live-work use, with associated external alterations including construction of front boundary timber gates and brick pillars.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The effect of the appeal proposal on:
  - a) the supply of employment premises in the borough;
  - b) the promotion of sustainable transport; and
  - c) the living conditions of future occupiers of the proposed development, with particular regard to outlook, light and layout.

### Reasons

#### *Supply of employment premises*

3. The supporting text at paragraph 5.5 of the 'Economy and Jobs' section of the Camden Local Plan (LP) makes it clear that, throughout the section, the terms 'business' and 'employment' refer to offices, research and development and light industry (Use Class B1); general industrial uses (Use Class B2); storage and distribution (warehousing) (Use Class B8); and other unclassified uses of similar nature, such as depots or building merchants (classed as Sui Generis).
4. Live-work units are not specifically referred to in the LP definition of what constitutes business and employment uses. Given they constitute a mixed residential and employment use, and that the proportion of these uses will vary from case to case, I see no reason to take a different view.

5. Paragraph 5.53 of the LP recognises that combined live/work units can provide a valuable contribution to the range of business premises. It goes on to state that the Council will allow live/work developments where they do not result in the loss of sites that are suitable for continued business use or the loss of permanent housing. This flexible approach is consistent with the aims of paragraph 81 of the National Planning Policy Framework (Framework).
6. LP Policy E1 seeks, among other things, to safeguard 'existing employment sites and premises in the borough that meet the needs of industry and other employers.' To this end, LP Policy E2 seeks to 'resist development of business premises and sites for non-business use' unless it is demonstrated that 'the site or building is no longer suitable for its existing business use and 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'.
7. The appeal proposal would result in the loss of the existing business use at the appeal premises, namely a B2 general industrial unit, and its replacement with a sui generis live-work use. The appellant states that he and his wife would live in the premises, using the 'work' space as an office to run their property letting and property management businesses.
8. I saw at my site visit that a car repair garage is currently operating at the site and there are similar businesses adjacent and in the immediate vicinity. There are also neighbouring residential uses, and I note representations from some residents who support the appeal proposal and refer to noise and disturbance from the car repair garage, obstruction of access and problems with on-street parking. Nevertheless, at the time of my site visit, which took place late morning on a weekday, the prevailing acoustic environment in this mixed-use area was not noticeably noisy and traffic was light. Obstruction and the enforcement of on-street parking restrictions are matters for other legislative regimes. Having travelled to and from the site by public transport, I see no reason why the site is not 'well-suited' to the existing employment use in terms of commuting. Overall, whilst the appeal proposal would support two small local businesses, I have no substantive evidence that the building is no longer suitable for its existing business use.
9. Furthermore, whilst I note the appellant's assertion that the proposed live-work unit would generate between 2 and 4 jobs, compared to the 2 existing jobs provided by the car repair garage, the proposed 'work' element would be approximately 8.5sqm. This would amount to a very small proportion of the overall floorspace of around 66sqm which would limit the employment generating potential of the premises. Based on the evidence before me, it has not been demonstrated that the possibility of retaining, reusing or redeveloping the appeal premises for business use has been fully explored over an appropriate time period.
10. Under permitted development rights<sup>1</sup>, the use of the premises could change from Class B2 to Class B1, thus generating the type of jobs which may well be similar to those arising from the proposed live-work unit. However, in such circumstances the entire unit would be retained in business use and so it is likely that more jobs would be generated than through the appeal scheme.

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<sup>1</sup> Schedule 2, Part 3, Class I of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

11. I note that planning permission (2012/1578/P) was granted in May 2012 for the change of use from offices (Class B1a) to live/work accommodation at ground floor level at 21A Lambolle Place. I do not have full details of this case. However, based on the evidence before me, it would appear that the proposed 'work' element in that case was larger than is proposed in the appeal scheme. Moreover, the permission was granted under a different development plan regime. In any event, I must determine the appeal on the basis of the individual circumstances of the case and the evidence before me.
12. For the reasons set out above, I conclude that the appeal proposal would have a harmful effect on the supply of employment premises in the borough, contrary to the economic development aims of LP Policies E1 and E2.

#### *Sustainable transport*

13. The site is reasonably well connected to public transport, shops and services. LP Policy T2 requires all new developments in the borough to be car-free. Whilst the proposal may result in a reduction in vehicular movements associated with the site, I nevertheless have no evidence to demonstrate that the proposed on-site car parking is necessary for disabled people or essential operational servicing needs.
14. I therefore conclude that the appeal proposal would fail to promote sustainable transport and so would not accord with the design and sustainable transport aims of LP Policies A1, T1 and T2 and the Camden Planning Guidance: Transport Supplementary Planning Document.

#### *Living conditions*

15. The proposed living accommodation would have a fairly deep floorplan and be single-aspect. However, the submitted layout indicates that the bathroom and kitchen would be positioned to the rear of the unit, with the habitable living space and bedroom situated towards the front served by sizeable windows.
16. For the foregoing reasons, I conclude that the appeal proposal would not have a harmful effect on the living conditions of future occupiers of the proposed development, with particular regard to outlook, light and layout. Therefore, it would accord with the design and amenity protection aims of LP Policies A1 and D1 and Policy 3.5 of the London Plan.

#### *Other matters*

17. The appeal site is in Belsize Park Conservation Area (CA). As such, I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Camden Belsize Conservation Area Statement identifies Nos 1 – 8 Lambolle Place as a group of buildings that makes a positive contribution to the CA. The Council's delegated report expresses reservations about the design of the proposed fenestration but considers this could be dealt with by condition. Based on the evidence before me and my observations on site I see no reason to take a different view, and conclude the appeal scheme would preserve the character and appearance of the CA. However, a finding of no harm in this regard is a neutral matter.

### **Planning Obligation**

18. The appellant has submitted a Unilateral Undertaking (UU) planning obligation which would secure the payment of a monitoring fee, permit free development and a financial contribution to highway works. If I were to allow the appeal, I would need to consider the UU against the relevant statutory tests. However, as I have found conflict with the development plan in relation to the first and second main issues, I have not addressed this matter further.

### **Conclusion**

19. The policies which are most important for determining the appeal are not out-of-date. I have found conflict with the development plan, and there are no material considerations which indicate that the decision should be taken otherwise than in accordance with it.

20. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*CL Humphrey*

INSPECTOR