



Appeal Decision

Site visit made on 9 January 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th January 2023

Appeal Ref: APP/Y5420/W/22/3305205

Commercial unit 1, Altitude Point, Hampden Road, Hornsey, London N8 0EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Hopkins and Ziv (Meridian South Developments LLP) against the Council of the London Borough of Haringey.
 - The application Ref HGY/2022/0525, is dated 20 January 2022.
 - The development proposed is change of use of vacant commercial space to form two self-contained flats of use class C3.
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Decision

1. The appeal is dismissed and planning permission for change of use of vacant commercial space to form two self-contained flats of use class C3 is refused.

Background and Main Issue

2. Following the submission of the appeal against non-determination, the Council has clarified the decision it would have taken on the application if it had been determined within the statutory time period. The Council would have refused the development for the following reasons:
 - i) *The proposed development by reason of the location of the windows of habitable rooms in close proximity with the adjacent pedestrian walk and car park, would give rise to an unacceptable level of overlooking/loss of privacy to the detriment of the living amenity of future occupants of the residential premises. As such, the proposal is contrary to Policy D6 of the London Plan 2021, Policy SP2 of the Haringey Local Plan 2017 and Policies DM2 and DM12 of the Haringey Development Management DPD 2017.*
 - ii) *The proposed development by the absence of a sunlight and daylight study would result in inadequate levels of daylight and sunlight that is required for the habitable rooms of the flats, therefore resulting in unsatisfactory internal living conditions to the detriment of future occupants of the residential premises. No daylight and sunlight studies have been undertaken to assess the levels of daylight and sunlight within the proposed residential units. As such, the proposal is contrary to Policy D6 of the London Plan 2021, Policy SP2 of the Haringey Local Plan 2017 and Policies DM2 and DM12 of the Haringey Development Management DPD.*

3. Therefore, the main issue is whether appropriate living conditions would be provided for the future occupiers of the proposed flats with particular reference to privacy, daylight and sunlight.

Reasons

4. The appeal site is located within an area of mixed character. There are many residential properties nearby but also commercial buildings, places of worship and Hornsey train station. Commercial unit 1 is a vacant ground floor property situated on a corner position within one of two recently developed multi-storey building blocks. The unit is located within the block known as Altitude Point with the opposing block known as Magnus Heights. In the space between the building blocks there is the vehicular access into the development, a carpark and footpaths. Further footpaths run around the perimeter of the blocks. Next to the side elevation of commercial unit 1 there is a landscaped space. The upper storeys of both blocks contain many flats. The lowest floor in both blocks contains a mixture of spaces but includes vacant commercial space such as the appeal unit, lobby areas, storage and parking.
5. The only windows proposed to serve the flat 1 bedrooms would be immediately next to a footpath running alongside the carpark at the front of the unit. Although the plans show low hedges would be planted in front of these windows, given their height, those shown on the plans would not prevent views into the bedrooms from the footpath and carpark. Given the number of flats within Altitude Point, the size of the car park and that the footpath provides the route between the entrance to the development from the road and the building lobby, I have no reason to conclude that footfall beside these windows would not be considerable. Therefore, views into these bedrooms from the footpath and nearest parts of the carpark would be both readily available and likely to occur often.
6. The recess of the glazed doors behind the amenity spaces of both flats 1 and 2 would provide for some separation of the rooms from the footpath and landscaped space. However, it would be only a modest set-back, and the internal spaces would remain closely situated beside places people would be passing-by. The footpath which runs alongside these amenity spaces and beside the side and rear elevation of the unit forms part of a perimeter route around Altitude Point which, again, I would expect to be well used. Therefore, given the availability of the views into the flats and the frequency at which it would be likely to occur the future occupants of the flats would be provided with inadequate privacy.
7. Although the appellant has stated that obscured glazing would be utilised this is not shown on the plans sought for approval. It has also been put to me that other privacy measures could be deployed and secured via condition, such as louvred windows. However, I have little information on the design of such a proposal or how extensively features such as louvres would be utilised. It has not been shown to me that such additional privacy measures would amount to only a minor modification to the scheme, that further consultation on such amendments should not take place, or that they would not result in other adverse effects.
8. Each flat would be served by windows or glazed doors within more than one elevation which would permit sunlight and daylight to enter the flats and at different times of the day. Although the sliding doors within each flat would be

recessed they would be large and contain a significant expanse of glazing. Therefore, they would maximise light entry into the flats. Each bedroom would be served by a dedicated window or glazed door whilst the living, dining and kitchen space would be open plan in nature which would assist in ensuring that both daylight and sunlight entry into the flats would not be hindered very much by dividing walls and doors. Therefore, I find that the levels of sunlight and daylight which would enter each flat would be acceptable. In turn, the absence of a sunlight or daylight study is not determinative and, furthermore, it has not been shown to me that such studies are a necessary requirement in order to comply with the development plan.

9. Nevertheless, I have identified that the future occupants of the flats would not be provided with adequate levels of privacy which would be contrary to Policy D6 of the London Plan (2021), Policy SP2 of Haringey's Local Plan Strategic Policies Document (as amended, 2017) and Policy DM12 of Haringey's Development Management Development Plan Document (2017, DPD). In summary, and amongst other matters, these policies require housing development to be of a high quality and provide acceptable levels of privacy for its occupants. I find that Policy DM2 of the DPD, which focuses upon the accessibility and safety of development, is largely irrelevant to the specific harm which I have identified and, therefore, the proposal would not conflict with it.

Other Matters

10. I note the content of the marketing report and its separate review, and the consensus therein that commercial interest in the occupation of the unit is low. In developing the currently vacant unit, the proposal would make use of previously developed land whilst also contributing to housing supply. However, in providing only two flats, this contribution would be very modest and neither this contribution nor the re-use of the unit is sufficient to outweigh the harm I have identified in the main issue.
11. The degree of accessibility that the development would have to public transport options may be acceptable, as may the cycle parking, refuse and recycling storage provisions. Furthermore, the external changes proposed would be sympathetic to the host building, the internal and external space standards would be met whilst no unacceptably adverse effects upon the living conditions of existing neighbouring occupiers would result. However, the absence of harm in relation to these matters is neutral in the planning balance and does not outweigh the harm I have identified in respect of the privacy of the future occupiers.
12. The appellant has put to me that the existing unit would be too large for a single flat, hence the two proposed. Regardless of whether this is the case or not, I must assess the scheme on the basis of the plans submitted and I have identified that the specific design proposed in this case would fail to provide adequate living conditions for future occupiers. Furthermore, and whilst I acknowledge that the scheme has been amended several times, it has not been shown to me that the appeal scheme is the only option to develop the unit.

Conclusion

13. Whilst I have concluded that the future occupants of the flats would receive adequate levels of daylight and sunlight, I have identified that they would not

be provided with sufficient privacy or, thereby, acceptable living conditions overall. The development would therefore conflict with the development plan and there are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. The appeal is therefore dismissed and planning permission is refused.

H Jones

INSPECTOR