



# Appeal Decision

Site visit made on 27 April 2005

By Sue Glover BA MCD MRTPI

an Inspector appointed by the First Secretary of State

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Date 15 JUL 2005

**Appeal Ref: APP/X5210/A/04/1171257**

**3-11 Eyre Street Hill, London, EC1R 5ET**

- 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 and Mrs D Singh against the decision of the Council of the London Borough of Camden.
- The application (Ref. 2004/3301/P), dated July 2004, was refused by notice dated 7 October 2004.
- The development proposed is the change of use from industrial (Class B1c) and warehousing (Class B8) for the creation of 6 residential flats (Class C3) comprising of 4 x 2 bedroom, 1 x 3 bedroom, and 1 x 4 bedroom units and 8 studio workshops (Class B1) with an associated roof extension.

**Summary of Decision: The appeal is dismissed.**

## Procedural Matters

1. I note that the application form sent to the Council by the appellant is that relating to a previous application. I understand that the application (Ref. 2004/3301P), the subject of this appeal, was dated July 2004, and refused by notice dated 7 October 2004. I have therefore adopted the description provided by the Council on the decision notice.
2. The appellants refer to the residential use of part of the building as a lawful use. They refer to Council Tax documents dating back to 1996, although I do not have a copy of these. At my site visit it appeared that part of the building was in current use as a dwelling. However, I do not have the information at my disposal, or indeed the authority to determine, whether the residential use is lawful.

## Main Issues

3. I consider the main issues are firstly, the effect of the proposed conversion on the retention of employment sites; secondly, the effect of the proposed extension of the north elevation of the building on the character and appearance of the Hatton Garden Conservation Area; and thirdly, the need for off-street parking.

## Planning Policy

4. The development plan includes the *London Borough of Camden Unitary Development Plan* (UDP), adopted in 2000. UDP Policy EC3 seeks to retain premises suitable for continued employment use. A change of use to a non-employment use will only be permitted where the buildings are considered unsuitable for continued use on the grounds of accessibility, size, location or condition. Regard will be had to the supply, variety and choice of sites for employment.
5. UDP Policy EN22 indicates that extensions should relate to the form, proportions and character of the building and its setting. Regard should be had to the historic pattern of

development in the area. In addition, extensions should be subordinate to the original building. Policy EN24 indicates that inappropriate alterations and extensions at roof level will be resisted. Regard will be had, amongst other matters, to the prominence of the roof, and to the characteristics of the roof and those of neighbouring buildings. Policy EN31 seeks to ensure that development in conservation areas preserves or enhances their special character or appearance, and is of high quality in terms of design, materials and execution.

6. UDP Policy TR17 indicates that where it is not practicable to comply with the Council's parking standards, consideration will be given to designating development car-free if it is located within an area with parking stress and within a controlled parking zone. Policy TR16 states that the Council will encourage car-free housing developments in locations which are easily accessible by public transport, where there is a range of amenities, and within a controlled parking zone.
7. The Council's Supplementary Planning Guidance (SPG) is dated July 2002. It sets out guidelines for the internal arrangements of living accommodation, for "car-capped" housing, and for education contributions from residential developments. I understand that the SPG has been subject to public consultation and adopted by the Council, but also that it has not been prepared wholly in accordance with current government guidance. Proposals for "car-capped" housing are not clearly cross-referenced to development plan policies or proposals. I am therefore able to place only limited weight to this section of the SPG.
8. The requirement for educational contributions relates to UDP Policy RE6. This policy indicates that in appropriate circumstances where the need arises directly from the development, the Council will seek contributions for, amongst other matters, educational facilities. I am therefore able to place significant weight on this section of the SPG.

## Reasons

### *The effect of the proposed conversion on the retention of employment sites*

9. The proposal is for employment use on the first 3 floors of this 5 storey building, creating 8 studio workshops with a total floorspace of 975 sqm. The top 2 floors would be converted and the proposed roof extension built to provide 6 flats of varying sizes, with a similar total floorspace.
10. It appears to me that the building is suitable for continued employment use, in respect of its accessibility, size, location and condition, in accordance with UDP Policy EC3. I note that both parties agree that the building remains in a good structural condition and is capable of conversion to both residential units and/or into smaller employment units. I saw during my site visit that the building is clearly in need of significant refurbishment and repairs, but this would be necessary whatever its future use. It is sited in a central and accessible position close to public transport, and to Hatton Garden. There are a number of employment sites, and mixed uses, in close proximity.
11. UDP Policy EC3 states that regard must be had to the supply, variety and choice of sites which are suitable for employment use. I note that the Hatton Garden Development Manager observed that the site could not be marketed without refurbishment into smaller B1 units. The Council considers that the existing warehouse/industrial floorspace can be subdivided into smaller units without planning permission and that the existing building could therefore still contribute to the regeneration of the area without the proposed scheme.

The Council also states in a letter that the provision of floorspace for use as jewellery workshops would be particularly welcomed. There is also some general information in the sections of the UDP provided to me about the need for good quality employment sites in the Borough. In the absence of any further marketing evidence about employment need, I have no convincing evidence to show that this particular building would not meet a demand for employment use. Moreover, given my assessment that the building remains suitable for continued use for such purposes, the only exceptional reason for allowing a departure from the retention requirement of Policy EC3 is not met.

12. I am informed that a change to residential use was previously granted by the Council in 1995. The Council states that the appeal proposal falls to be considered under current policies which, in relation to employment use, have changed materially in the meantime. I note that the appellant disagrees with this assertion stating that the adopted development plan at that time also had similar policies to protect employment uses. Whilst I have no details of previous policies to be able to assess the degree of material change, I accept that the previous permission is a material consideration. However, I have also assessed the appeal proposal against the current development plan policies and in the light of its particular characteristics. In this case, the previous planning permission does not outweigh my findings that there is a need to retain employment sites in the locality.
13. I have also taken into account national and regional policy guidance that encourages more housing in urban areas by reusing existing buildings and land. However, this matter also does not outweigh my findings on the first issue. I therefore conclude that the conversion of the top 2 floors of the appeal building to flats would result in the loss of a significant amount of employment floorspace, contrary to UDP Policy EC3.

*The effect of the proposed extension to the north elevation of the building on the character and appearance of the Hatton Garden Conservation Area*

14. I note that the principle of the roof extension is accepted by the Council, and that there are other similar roof extensions nearby. I understand that the issue of concern by the Council is the effect of the extension to the lift-shaft and stairwell as seen from the north. At my site visit, I saw that the north elevation of the building is an expansive and stark area of brickwork exposed to view above the adjoining public house. Given that the public house is a much lower building and that beyond it to the north is an open parking area, the north elevation is clearly visible and prominent from the street.
15. However, I consider that the scale of the proposed extension to the lift-shaft and stairwell is quite limited and would not be significant in the context of the scale of the building's north elevation, or in relation to other roof extensions nearby. In my view, the proposed roof extension would at least preserve the character and appearance of the Hatton Garden Conservation Area, and would therefore comply with UDP Policies EN22, EN24 and EN31.

*The need for off-street parking*

16. The objective of *Planning Policy Guidance Note 13: Transport* (PPG13) is to reduce the use of the private car and to encourage more sustainable forms of transport, such as public transport, walking and cycling. I noted at my site visit that the appeal site is centrally located, and easily accessible by public transport, walking and cycling and close to a range of local facilities. It lies within an area of parking restraint. Paragraph 51 of *Planning Policy Guidance Note 3: Housing* (PPG3) states that housing developments should be

allowed with limited or no off-street car parking in areas with good public transport accessibility and where effective on-street parking control is present. I note also that these objectives are similar to those of UDP Policy TR16, which encourages car-free housing developments in such locations. In my view, the position of the appeal site would be likely to encourage both residents and businesses alike to adopt more sustainable transport means, and I do not therefore consider that additional off-street parking is necessary.

17. I understand that currently there is off-street parking for 2 vehicles on the lower ground floor. The proposed scheme provides 2 parking spaces. There is no convincing evidence to suggest that the proposed uses would be likely to generate more need for parking than the former employment use. I therefore conclude that there is no additional need for off-street parking and that the proposed development therefore complies with UDP Policies TR16 and TR17, and to the relevant parts of PPG13 and PPG3.
18. Section 5.3 of the SPG seeks to control residents in new housing development from being able to obtain residents' permits for use in the controlled parking zones. The primary benefit is not to exacerbate overnight parking stress. The mechanism of control is via a section 106 legal agreement. It recognises that since the UDP does not contain a policy on "car-capped" housing, the Council cannot require such an agreement as part of a planning permission and therefore any agreement has to be freely entered into. In this case, the appellants have provided a unilateral undertaking to inform each new resident of 5 flats that they are not entitled to be granted a permit to park in a resident's parking bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council. However, given the position of the appeal site, the parking controls in place nearby, the historic use of the building as an employment site, and the limited weight attached to this section of the SPG, I do not consider that the unilateral undertaking is in this case a necessary requirement in accordance with the advice in *Circular 1/97, Planning Obligations*.

#### **Other Material Considerations**

19. I am aware that the resident of Apartment 2, 1-10 Summers Street has raised an objection about a likely reduction in light into her apartment with the construction of the proposed roof extension. At my site visit, I was able to see the position of 1 – 10 Summers Street, and its relationship with the appeal building and the proposed roof extension. I noticed that the two buildings are separated by the width of the Eyre Street Hill, and that the proposed roof extension would be set behind the roof parapet, and would appear quite modest in scale from that angle. Given the distance between the two buildings, and the position and design of the proposed roof extension, I do not consider that the effect on daylight, or on late afternoon and evening sunshine received by the apartments in 1-10 Summers Street would be unacceptable, or would materially harm the living conditions of their residents.
20. The Council has requested a condition requiring a unilateral undertaking to secure a financial contribution for the purposes of the provision of educational facilities. I have had regard to the section in the SPG concerning educational contributions from residential developments but the Council has not explained how this bears on this particular proposal. I note that the SPG states that the specific circumstances of each development will always be taken into account. In the absence of such an explanation, I am not convinced that this is clearly necessary. Moreover, based on the advice in Paragraph 13 of *Circular 11/95, The*

*Use of Conditions in Planning Permissions* it is not acceptable to deal with this matter by imposing a condition requiring the appellants to enter into a section 106 agreement.

**Conclusions**

21. Notwithstanding my conclusions on the second and third issues, and in respect of the effect on daylight and sunlight received in Apartment 2, 1-10 Summers Street, I find that the harm I have identified regarding the effect on the retention of employment sites is significant and overriding. For the reasons given above and having regard to all other matters raised, I conclude that the proposal is unacceptable.

**Formal Decision**

22. I dismiss the appeal.

Sue Glover.

INSPECTOR