



Appeal Decision

Site visit conducted on 2 November 1999

by B J Sims BSc CEng MICE MRTPI

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

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APPEAL DISMISSED

Date of Decision

02 DEC 1999

Appeal Ref: T/APP/X5210/A/99/1027179/P5

- 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 brought by Holly Lodge Pension Scheme against Camden Council.
- The site is located at 11 Murray Street, London NW1.
- The application (ref: PE9900304/R1), dated 22 April 1999, was refused on 22 June 1999.
- The development proposed is the "change of use, and minor external alterations to the ground and lower ground floors, from retail to residential".

Decision: The appeal is dismissed.

Procedural Matters

1. The Council were not represented at the site visit but agreed that the inspection be completed in the presence only of the Appellant.
2. There is reference in the representations to the prospect of an application being made for a certificate of lawful use of the appeal premises as offices, but that is not a matter for consideration in connection with this appeal.

Development Plan and Other Provisions

3. The development plan includes the Borough Plan of 1987 but the Unitary Development Plan (UDP) is close to adoption with certain modifications to the deposit version, and those of its policies on which the Council rely in this case carry due weight.
4. The appeal property is the last of a row of shops with accommodation above, forming part of a terrace within the Camden Square Conservation Area (CA). S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA90) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. That is echoed in policy EN33 of the UDP which carries forward the aim of policy UD18 of the Borough Plan that development should be of high quality in terms of design, materials and execution.
5. The frontage which includes the appeal premises is a designated Neighbourhood Centre (NC) subject to policy SH14 of the UDP. In its proposed modified form, policy SH14 permits changes from retail to non-retail use if the proposal would not be detrimental to retail character, function, vitality and viability of a NC, nor detrimental to local amenity, environment or transport conditions. The essential aim to protect NCs is long established in policy SH15 of the Borough Plan. However, the Murray Street NC was only specifically designated on publication of the deposit draft UDP in 1993.

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6. Policies TR16 and TR18 of the UDP relate to parking standards. Murray Street is defined as a "heavily parked" area, where the number of units resulting from the subdivision of a building should be limited to the number of floors of accommodation, in order to prevent an increase in on-street parking.
7. Policy HG12 of the UDP, consistent with HG13 and HG19 of the Borough Plan, generally promotes the creation of new housing by conversion of surplus non-residential units, subject to compliance with the objectives of other policies, including the provision of acceptable accommodation to standards set out in supplementary planning guidance (SPG). Policy SHG7 of the UDP seeks to ensure good quality design in all residential conversion schemes. Published SPG includes the provision that windows to basement habitable rooms should not be obstructed by walls or structures above a 30 degree line drawn from 2m above floor level.

Main Issues

8. In the light of the foregoing, the main issues are:
 - the effect on the character and appearance of the Camden Square CA,
 - the effect on the retail function the Murray Street NC,
 - the availability of car parking space, and
 - the living conditions of occupiers especially with regard to natural light reaching the basement rooms.

Appraisal

Camden Square CA

9. There would be no significant alterations to the appearance of the building. In particular, the street elevations above the level of the largely concealed basement would remain the same, so that the visual effect on the street scene and the CA generally would be neutral. The character and appearance of the Camden Square CA would thus be preserved in accordance with the PLBCAA90 and policy EN33.

Murray Street NC

10. The appeal premises are vacant but have previously been in office use for some time. However, there is no evidence of that use being authorised, and so representations relating to expressions of interest in the premises for commercial use are not directly germane to this case.
11. More significantly, the development would result in the loss of a shop unit from the NC, where the retail content is already seriously depleted and out of balance with food and service uses. The fact that alternative local shops exist in Agar Grove, York Way and Brecknock Road is not itself a reason to justify the potential for retail activity in the Murray Street NC being further reduced, contrary to the aim of policy SH14 to protect its retail function.
12. I note that the property was advertised as "secondary shop/office and basement premises" from July 1999, and several established local estate agents have said that the premises would be difficult to let at a reasonable rent for retail use, due a lack of local demand.

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However, these are largely unsupported assertions and, in my opinion, the premises have not been on offer for a sufficiently long period for the lack of interest claimed to amount to a substantial consideration in favour of the proposed change of use.

Car Parking

13. The development would not include parking provision to Council standards. At the same time Murray Street is categorised as "heavily parked" and as there would be no increase in the number of units of accommodation in the building, which would remain at the present two, it would comply with policy TR18. Moreover, the established retail use would already generate some on-street parking, especially during the day, so there would be little or no increase in parking demand due to the change of use in any event.

Lighting

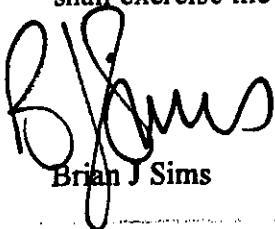
14. The basement would not meet the Council's lighting requirements. In particular, the view from the rear window would be partly obscured below the 30 degree line by the property's own rear ground floor extension. However, the proposed change of use incorporates new additional lighting features to maximise natural illumination. Moreover, the habitable basement accommodation would be bedrooms, and intending occupiers would be free to decide whether they would satisfy their personal requirements. In my view, therefore, the non-compliance with lighting standards, and any resultant conflict with the UDP, whilst material, would not be greatly significant in this case.

Other Matters

15. I have taken into account all the other points raised in connection with the appeal. These include the contribution the proposed dwelling would make to the local housing stock and the fact that historically the premises were residential. I have also noted that Council officers appeared initially to favour the change of use; but it is fundamental that this appeal be decided on an entirely new assessment of the case. As to matters of valuation, these are not material planning considerations.

Conclusions

16. I do not consider that the loss of the shop would be detrimental to the character of the Camden Square CA itself. Thus, given the neutral visual effect, the development would preserve both the character and the appearance of the CA, in accordance with the PLBCAA90 and policy EN33.
17. However, notwithstanding the lack of harm to the CA, and also with respect to car parking, the unacceptable loss of a retail unit, without justification in terms of policy SH14, is the overriding consideration in my judgement. The substandard natural lighting to the basement, whilst alone not warranting dismissal, adds some additional weight to the case against the development.
18. For the reasons given above I conclude that the appeal should not, on balance, succeed and I shall exercise the powers transferred to me accordingly.


Brian J Sims