
Appeal Decision

Site visit made on 10 September 2014

by **C Thomas BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 October 2014

Appeal Ref: APP/X5210/A/14/2221732

Fleet River Bakery, 71 Lincoln's Inn Fields, London, WC2A 3JH

- 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 Jonathon Dalton against the decision of London Borough of Camden.
 - The application Ref.2013/6473/P dated 8 October 2013 was refused by notice dated 10 June 2014.
 - The development proposed is change of use from 4 x 1-bed residential units (Class C3) to 4 x 1 bed hotel rooms (Class C1) at first and second floor levels.
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Procedural matters

1. For clarification, although the application form refers to the change of use of the second and third floors it is apparent that the proposal actually relates to the first and second floors of the host building and accordingly I have adopted the description of development as set out on the Council's decision notice in the relevant bullet point in the heading.
2. The change of use has already taken place and accordingly I shall proceed on the basis that the appeal proposal relates to an application under Section 73A of the Act.

Decision

3. The appeal is dismissed.

Main issue

4. The main issue is whether the proposal would result in an unacceptable loss of permanent residential housing to the detriment of the supply of additional homes in Camden Borough.

Reasons

5. The appeal proposal relates to the use of the first and second floor accommodation in the host building, which consists of four separate studio flats, two on each floor. Planning permission was granted for five self-contained residential units (4x1 bed and 1x3 bed) together with the erection of a mansard roof extension to create additional living accommodation for the third
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floor unit in July 2010 (Ref. 2009/1748/P), (the Original Planning Permission). The construction of the roof extension and the bringing into use of the 3 bed residential unit subsequently took place. However, the Council served an enforcement notice on 2 August 2013, which was not appealed, alleging unauthorised use of the studio flats at 1st and 2nd floor levels as short term residential accommodation, and this became effective on 13 September 2013. I am told the Council subsequently agreed not to seek to prosecute if an application was submitted applying to regularise the situation, which is now the subject of this appeal proposal.

6. The Council aims to make full use of its capacity for housing by, amongst other things, maximising the supply of additional housing to meet or exceed its target, minimising the net loss of existing homes and regarding housing as the priority land use of the Local Development Framework (LDF) as referred to in Policy CS6. Similarly Policy DP2 of Camden Development Policies (2010-2015) (CDP) seeks to maximise the supply of additional homes in the Borough and to minimise the loss of housing, in particular by protecting permanent housing from conversion to short-stay accommodation intended for occupation for periods of less than 90 days. These policies are consistent with the National Planning Policy Framework (NPPF). Against the background of these policies the Appellant has set out three grounds of appeal.
7. I turn then to deal with the first ground of appeal which concerns perceived harm to residential occupiers' living conditions and which is used by the Appellant as part of his case in favour of the continued current use of the units as hotel rooms and against the policy presumption in favour of retaining permanent residential properties. I will address separately each of the matters relating to living conditions which have been raised.
8. A number of noise sources have been identified by the Appellant which in combination it is argued would make permanent occupation of the accommodation unsuitable. In particular, reference is made to the noise disturbance early in the mornings, from about 3am onwards, and late in the evenings particularly from the Shakespeare's Head and Ship public houses nearby. There is nothing in the Appellant's case, however, to persuade me other than that physical measures such as double or triple glazing at the windows could be installed to help reduce the impact of noise on permanent residents of the units to acceptable levels.
9. I have taken into account that the residential unit on the upper floors of the building is higher, has better insulation and has a dual aspect on the mansard level floor so that locally generated noise impacts are just acceptable to the occupiers. I have also taken note of the comments made by some of those who have occupied the 1st and 2nd floor accommodation as short term rented rooms about the noise disturbance they have experienced. None of this convinces me, however, that any harmful effects of noise on the living conditions of potential occupiers could not be reduced to an acceptable level if appropriate measures were taken to reduce its impact.
10. It is also part of the Appellant's case that the effect of light pollution from the offices on the upper floors of Africa House on the opposite side of Twyford Place would be unacceptably harmful to the living conditions of future residential occupiers of the accommodation. Due to the nature of the new

tenant's business it is more than likely that office lights will be on late into the evening and quite possibly all night. The Appellant accepts that blackout blinds could be installed but suggests that some light spill would be inevitable which could have consequences for the ability of occupiers to sleep. However, I am not convinced that the effect of light spill with the use of blackout blinds, if these are thought necessary by the occupiers, would be so harmful, either on its own or in combination with the other factors referred to, as to seriously affect living conditions to the point where occupation of the accommodation on a permanent residential basis would be untenable.

11. An unacceptable level of overlooking of the appeal accommodation from the office windows in Africa House is claimed by the Appellant as another factor which could make permanent residential occupation undesirable. I am aware that the relationship of the windows between the host building and Africa House falls well short of the figure of 18-21m between habitable rooms referred to as "...a useful yardstick for visual privacy .." in the London Plan Housing Supplementary Planning Guidance (paragraph 2.3.30). Nevertheless, given that the windows in Africa House do not in fact service habitable rooms in a dwelling and since the use of blinds or some other physical means could be used at the windows of the residential units, I consider that adequate levels of privacy could be maintained despite the close proximity of the two buildings, which as measured on site is in fact less than 10m.
12. Finally, in relation to the effect on living conditions of potential occupiers, the question of the acceptable size of the units has been raised. Each unit is about 35 sq m in floor area which exceeds the minimum residential space standard of 32 sq m set out in the revised Camden Planning Guidance *CPG 2 Housing* (September 2013). I note that the London Plan recommends Councils to adopt revised minimum space standards and that 37 sq m is recommended for a 1 person 1 bed unit but it seems to me that as the size of the units lies somewhere between the two recommended minimum figures, and is actually greater than that in CPG2, permanent residential occupation would not be inappropriate. What is more, the Council was satisfied when permitting the Original Planning Permission that the size of the 1 bed units would provide a good quality of residential accommodation for future occupiers and I see no change of circumstances which would justify differing from that view.
13. In summary therefore, I have concluded that none of the above perceived harmful effects on living conditions resulting from the current circumstances affecting the property either considered individually or in combination would compromise the permanent residential occupation of the accommodation, which in any event is its permitted use under the Original Planning Permission. Accordingly, I am satisfied that the Council's priority to minimise the net loss of housing should take precedence over these matters.
14. I turn now to consider the second leg of the Appellant's grounds of appeal, that the proposal is an appropriate use within the local area, promoting sustainable economic development and thereby complying with local and national planning policy. Some play is made on the fact that short term rental use of the units has not resulted in any adverse impact on other residents in the area. It is also argued that sustainable economic development is encouraged by the NPPF as well as by the Council's LDF policy CS8.

15. There can be no doubt that the current use as hotel rooms supports the business at Fleet River Bakery both directly and indirectly and also provides some benefit to the local economy partly through providing tourist accommodation in the Holborn area, which is identified for such purposes in policy DP14 of the CDP. Nevertheless, this latter policy expects all visitor accommodation not to harm the balance and mix of uses in the area and there is an explicit statement in the supporting text (paragraph 14.3) that visitor accommodation should not lead to the loss of permanent residential accommodation.
16. Housing provision is the Council's key priority and the NPPF also seeks to increase the supply of housing in sustainable locations. As already stated, Policy DP2 of the CDP seeks to minimise the loss of housing in the Borough by protecting permanent housing from conversion to short stay accommodation intended for occupation of periods less than 90 days. In my judgement, therefore, and notwithstanding the contribution the units currently make to the local economy and by way of providing visitor accommodation, the proposal runs counter to the strong presumption in the approved development plan against the loss of permanent housing in the Borough.
17. The third ground of appeal is that there has been no loss of permanent residential housing at the site because, it is maintained, the accommodation has only been used for short term lets except for a very brief period of occupation by the Appellant while carrying out the works authorised by the Original Planning Permission.
18. The acknowledgement by the Appellant that the accommodation has been used even for a short period as residential housing leads me to conclude that the Original Planning Permission was implemented and the use commenced not only in relation to the larger 3 bed unit on the third and fourth floors of the building but also in relation to the appeal accommodation on the first and second floors. I also note that in the Officer's report relating to the Original Planning Permission reference is made in paragraph 2.1 to a site visit which confirmed that the internal alterations to change the use of the building at first, second and third floor level had already taken place and the units were being occupied for residential purposes, and as such the proposals were retrospective. This also supports the Council's contention that the current appeal proposal would result in loss of permanent residential use of the accommodation.
19. The Appellant also seeks to make the point that in any event, based on figures obtained from the Council, at present there appears to be no acute shortage of similar residential accommodation in the vicinity and where living conditions of occupiers would be satisfactory, unlike the suggested situation with the appeal accommodation. He also argues that were the appeal to be allowed the loss of four units of permanent residential accommodation would be minimal in relation to the size of the housing stock in the Borough. Notwithstanding my conclusion with regard to living conditions at the appeal accommodation, maximising the supply of additional housing to meet or exceed the Council's target and minimising the net loss of existing homes in the Borough is its current policy objective as contained in LDF Policy CS6 and CDP Policy DP2, and I am not convinced by the Appellant's argument that I should give this any less priority in determining this appeal.

20. I have come to the overall conclusion, therefore, that the proposal would result in an unacceptable loss of permanent residential housing to the detriment of the supply of additional homes in Camden Borough and that accordingly it would be contrary to LDF Policy CS6 and CDP Policy DP2.
21. In the event that the appeal is dismissed the Appellant has indicated that a temporary change of use for 18 months would be accepted. In the first instance, however, this would be a matter for consideration by the Council.
22. I have taken into account all other matters raised, including the apparent reason for withholding of enforcement action following the withdrawal of enforcement notice EN10/1016, the views of clients who have regularly used the accommodation as hotel rooms and the support for the proposal of a neighbouring occupier, but for the reasons I have given the appeal has been dismissed.

C Thomas

INSPECTOR