
Appeal Decision

Site visit made on 17 January 2017

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 3 February 2017

Appeal Ref: APP/X5210/W/16/3160883

Flat Basement, 122 Drummond Street, London NW1 2HN

- 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 Mrs Julia Pyper against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/3964/P, dated 15 July 2016, was refused by notice dated 12 September 2016.
 - The development proposed is a change of use at basement level only from class A1 retail to short let accommodation use class C1.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use at basement level only from class A1 retail to short let accommodation use class C1 at Flat Basement, 122 Drummond Street, London NW1 2HN in accordance with the terms of the application, Ref 2016/3964/P, dated 15 July 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan and PP-02.
 - 3) The development hereby permitted shall not be occupied by the same person or persons for a period in excess of 90 consecutive nights during any one calendar year or by the same person or persons in excess of a total of 90 nights during any one calendar year.

Main Issues

2. The main issues are :
 - i. the effect of the proposal on the character, function, vitality and viability of the Drummond Street Neighbourhood Centre; and
 - ii. whether the development would contribute to parking stress and congestion in the surrounding area.

Reasons

Effect on the Neighbourhood Centre

3. The appeal site is situated in a street of terraced properties, many with shops, restaurants and other commercial uses at ground floor. The appeal site has a
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basement. Parts of Drummond Street, including the appeal site are designated as being a Neighbourhood Centre. Although the distribution of commercial uses along the street is intermittent it was busy at the time of my mid-week late morning site visit. I also observed that there were no vacant commercial premises in the vicinity of the site, illustrating that the Neighbourhood Centre is currently viable with a range of specialist ethnic restaurants and shops.

4. I understand that the basement the subject of the appeal was previously part of the ground floor shop and was used for ancillary retail storage purposes until 2010. The only access to the basement is via an external staircase situated behind the metal boundary railings which was granted planning permission in April 2013. Following the grant of planning permission the internal staircase was removed and therefore there is no longer a physical link between the basement and the rest of the building, including the ground floor retail unit.
5. Given the physical separation of the basement from the ground floor and the continued use of the ground floor for retail purposes it is clear to me that the vacancy of the basement has not prejudiced the viability or continuing operation of the ground floor use.
6. In Neighbourhood Centres the Council will resist schemes that would result in less than half of ground floor premises from being in retail use or in more than three consecutive premises being in non-retail use. Other factors such as shop vacancy and the prospects of achieving an alternative occupier will also be taken into account.
7. Since the current proposal does not relate to a ground floor, but rather a basement, the proposal would have no effect on the ground floor take-up of retail use in the Neighbourhood Centre. Moreover, it would not result in the ground floors of three consecutive premises being in non-retail use. As such, I do not consider that the proposal would result in the loss of a ground floor retail unit undermining the provision of shopping services. Consequently, there would be no harm to the overall character, function, vitality or viability of the retail centre.
8. Evidence submitted with the appeal suggests that it would be almost impossible to let the externally accessed basement as a retail unit because such a use requires visual and physical linkages between shoppers and the shop itself. In this case, there would be no visibility to the unit and access to the street is poor. On the basis of my own observations on site and the evidence before me I agree with these conclusions.
9. I have noted that the Council has also relied on its emerging Local Plan which specifies that any proposed C1 uses are only acceptable at upper floors in a Neighbourhood Centre. However, this is not part of the adopted development plan and carries little weight in the determination of the current appeal.
10. I have also noted that the LPA considers that the proposal would not cause harm to the tourism objectives of the development plan. Nonetheless, this is outweighed by its concern that the development would detrimentally impact the overall vitality and viability of the Neighbourhood Centre.
11. On this issue I conclude that the development would not have a harmful effect on the character, function, vitality and viability of the Drummond Street Neighbourhood Centre. Consequently, I find no conflict with the Council's

objective of supporting appropriate retail provision in Policy CS7 of the Camden Core Strategy 2010-2025 (the CS) and Policies DP12 and DP14 of the Camden Development Policies 2010-2025 (DP). Although the LPA has identified other development plan policies in its Delegated Report, including Camden's Planning Guidance CP5 (2015), these are not identified in the reasons for refusal. Therefore, I conclude that they were not determinative in this case.

Parking stress and congestion

12. The site has a Public Transport Accessibility Level (PTAL) of 6b which indicates a very good level of accessibility to public transport facilities. The proposal shows no provision for on-site car parking or cycle storage. There is clearly a high level of demand for parking space in the area due to its central location and dense pattern of development in the area. Therefore, there are parking restrictions on streets in the vicinity of the appeal site. The site is located in a sustainable location close to local services and facilities, including public transport and as such it is unlikely that those letting the property on a short term basis would need a car. The Council agrees that the site is suitable for zero parking development and states that car-free development should be secured via a planning condition requiring a Section 106 legal agreement to be completed.
13. However, given the nature of the proposal for short term let accommodation I do not consider that the proposal would be likely to give rise to severe residual impacts on parking stress and congestion in the locality. Therefore, in this case I do not consider that a legal agreement for car-free development is necessary in order to mitigate any potential effects of additional car parking stress and congestion in the surrounding area.
14. On this issue I therefore conclude that the development would not contribute to parking stress and congestion in the surrounding area and therefore would not conflict with Policies CS11 and CS19 of the CS and Policy DP18 of the DP.

Conditions

15. The Council has not suggested any conditions. I have specified the approved plans as this provides certainty. In accordance with the details of the development and in order to ensure the property is not used for C3 residential purposes I have imposed a condition limiting the periods of occupation.

Conclusion

16. For the reasons given above and taking account of other matters raised I conclude that the appeal should be allowed.

Alastair Phillips

INSPECTOR