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## Appeal Decision

Site visit made on 20 February 2018

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> March 2018**

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**Appeal Ref: APP/X5210/W/17/3187473**

**148 Camden Street, London NW1 9PA**

- 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 Leo Kaufman against the Council of the London Borough of Camden.
  - The application Ref 2017/2659/P is dated 9 May 2017.
  - The development proposed is change of use from nil use to C1 short let accommodation of under 90 days.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The C1 use proposed is taken to refer to Class C1 of the Use Classes Order which relates to hotels, boarding and guest houses where no significant element of care is provided (and which excludes hostels). There is no restriction imposed on the length of stay in this Use Class, although from the description of the proposal it is clearly intended as being for under 90 days. However, the proposal would be distinct from the short term letting for 90 days per calendar year that the Deregulation Act 2015 permits for a residential house or flat.
4. Since the application was made the Council adopted the London Borough of Camden Local Plan (LP) on 3 July 2017 which comprises the development plan upon which this decision is based.
5. This appeal is against the Council's failure to determine the application. The appellant refers to a subsequent refusal notice dated 6 November 2017. However, having accepted the appeal, jurisdiction for the decision now falls to the Planning Inspectorate. The Council's statement and delegated report indicate the local planning authority's reasons for refusal had a formal decision been made and these inform the main issues in the appeal.

## **Main Issues**

6. Whether the proposal would result in harm due to (i) a net loss of permanent residential floorspace and (ii) the effect on the living conditions of existing occupiers of this property, with particular regard to noise, disturbance and the fear of crime.

## **Background**

7. 148 Camden Street is a four-storey end of terrace property that has been converted into self-contained flats. The proposal relates to a ground floor and lower ground floor extension to the rear. An enforcement notice has been upheld on appeal<sup>1</sup> against the use of this rear extension as a residential maisonette; the terms of which appear to have been complied with through the cessation of occupation by 30 September 2017 and the removal of the toilet from the lower ground floor bathroom area by 30 November 2017.
8. Under ground a) of the previous Section 174 appeal the Inspector had concluded that the residential maisonette did not provide adequate living conditions for existing and future occupiers in relation to internal living space and in that respect was considered substandard.
9. The enforcement notice prevents the accommodation being used as a self-contained dwelling. In upholding the enforcement notice in the appeal the Inspector has deleted the requirement to combine the floor space in these additions to the existing ground floor flat as he had not been convinced that the scheme previously granted planning permission for this was capable of being implemented<sup>2</sup>. The Inspector had also held that permanent removal of the extension was not required to remedy the breach of planning control which was restricted to the effects of its occupation. Although alternative uses were canvassed at the previous appeal hearing these were not issues before the Inspector.

## **Reasons**

### *Loss of residential floorspace*

10. In the section starting at paragraph 3.68 the LP refers to the challenges of meeting housing needs in the Borough and across London and the aim to protect the existing stock against development that would lead to a net loss of residential floorspace and which reduces the number of occupiers of a home. LP Policy H3 thereby seeks to protect all housing floorspace where people live long-term by resisting development that would involve a net loss of residential floorspace and protecting housing from permanent conversion to short-stay accommodation intended for periods of less than 90 days.
11. The fact that the appellant had not originally complied with the consented scheme to provide the second bedroom to the ground floor flat provides little weight to the case made for this accommodation to provide the short term letting unit sought. Neither does the fact that the enforcement notice prevents occupation as a self-contained residential maisonette and that the extension might now have a nil use give any material support to the proposal.

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<sup>1</sup> APP/X5210/C/16/3149980

<sup>2</sup> Council Reference: 2013/3462/P

12. I consider the additions remain part of an existing property with a Class C3 residential use and had been intended to provide a second bedroom to the ground floor flat. The scheme submitted under Council reference 2015/2906/P provides one possible option for re-configuring the internal ground floor layout so that the accommodation in the extensions could remain part of one of the existing flats.
13. In the previous appeal the Inspector had found the planning obligation provided securing car free development to be unenforceable and the appellant considers this prevents the Council approving the 2015/2906/P scheme. However, the provisions of s16 of the Greater London Council (General Powers) Act 1974 are frequently included in the drafting of deeds and case law has since confirmed that this is effective to secure car-free development. Therefore, I do not find there to be an obstacle in this respect to using the rear extensions as an additional part of the existing long-term accommodation.
14. LP Policy E3 allows for visitor accommodation which supports Camden's tourism economy but not at the expense of a loss of that provided for permanent residential use. I consider this proposal would conflict with the aims of LP Policy H3 and conclude that it would cause significant harm by resulting in a net loss of permanent residential floorspace in this part of London.

*Living conditions of existing occupiers*

15. As well as reducing the accommodation available to permanent residents the LP seeks to resist visitor lettings due to this form of occupation increasing the incidence of noise, sometimes at unsociable hours, and generating a high turnover of occupiers that harms community cohesion and increases the fear of crime.
16. I have considered the appellant's case that the lettings of 30-90 days sought would not likely result in a nature of accommodation that would harm the living conditions of the occupants of the existing permanent flats. Reference is made to an appeal at Finchley Road NW3 6ND where an Inspector allowed a change from a nil use to a mixture of C1 and C3 uses in the same building and found there to be no obvious difference in the comings and goings of long and short-term residents. However, I do not have the full details of that case, or of the other appeals and planning permissions referred to, and must consider this appeal on its own merits and on the basis of the subsequently adopted LP.
17. It would not be practical for the Council to enforce the lengths of stay proposed. Short-term lettings would be for varying reasons and would not be compatible with the more stable use of the remainder of No 148 as permanent residential accommodation. The extensions are to the back of the property with no rooms either above or below. Nevertheless, occupiers would share the main ground floor entrance and I consider that the more transitory nature of the C1 short let accommodation proposed would risk an incidence of noise, activity and movements at unsociable hours. Furthermore, the more frequent succession of different occupiers would detract from the feeling of cohesion and security currently offered to the other permanent residents.
18. This proposal would have a materially harmful effect on the living conditions of current and future permanent residents of No 148 and conflict with the aim of LP Policy A1 to manage the impact of development to protect the quality of life of existing occupiers.

## **Conclusion**

19. I have considered the representations of interested parties, made both to the application and the appeal, in support of this proposal providing much needed short-term accommodation. Whilst this proposal would meet such a need this would not outweigh the harm found over a net loss of permanent residential floorspace and to the living conditions of long-term occupiers of this property.
20. For the reasons set out I conclude that the appeal should be dismissed and permission refused.

*Jonathan Price*

INSPECTOR