



Appeal Decision

Site visit made on 14 March 2018

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2018

Appeal Ref: APP/X5210/W/17/3190654

Ruskin House, 40-41 Museum Street, London WC1A 1LT

- 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 Jon Curtis of IDM Properties Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/4154/P, dated 19 July 2017, was refused by notice dated 15 November 2017.
 - The development proposed is the change of use of first and third floor to permit B1 and D1 uses.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on employment land within the Borough.

Reasons

3. The appellant seeks a flexible option for the first and third floors of Ruskin House so they may change use from B1 (business) to D1 (non-residential institutions). The appellant confirms that he wishes to use the premises for a medical use such as a doctor's surgery or a dental practice.
4. The National Planning Policy Framework (the Framework) states that there is a presumption in favour of sustainable development. However, the Framework also states that Local Plans should be based upon and reflect the presumption in favour of sustainable development with clear policies that will guide how the presumption should be applied locally. Accordingly, in accordance with paragraph 216 of the Framework, I afford the policies in the London Borough of Camden Local Plan adopted on 3 July 2017 (the Local Plan), significant weight in my decision.
5. Policy E1 of the Local Plan seeks to maintain a stock of premises that are suitable for a variety of business activities, for firms of differing sizes and available on a range of terms and conditions. Policy E2 of the Local Plan seeks to resist the development of business premises for non-business use unless it can be demonstrated that the possibility of retaining, reusing or redeveloping the site for a similar or alternative type and size of business has been fully explored over an appropriate period of time. The supporting text to Policy E2 confirms this to be a period of 2 years.

6. The appellant argues that the cellular nature of the premises is not suited to modern office demands which are required to be open plan with raised floors and air conditioning. However, the second floor of the building is currently occupied by a firm of solicitors and it is clear that in the past, the other floors have been occupied under a B1 use. Moreover, the appellant's written statement confirms that should a flexible option be acceptable, "no internal alterations [are] required to prevent a resumption of B1 if the D1 was to be implemented". I therefore give little weight to the argument that the premises are unsuitable for a B1 use.
7. Moreover, I have not been provided with any substantive evidence that the current adopted Local Plan policies have placed undue pressure on health uses finding suitable premises. Furthermore, while the appellant states that the use would be flexible, it is clear that should a D1 use be forthcoming, it is likely that the B1 use could be lost for a considerable period of time.
8. In addition, while the marketing campaign for the building did not attract any offers for a B1 use, the period of time undertaken was for a matter of months, and not the two years¹ required by the Council. The appellant has therefore failed to demonstrate that it is not possible to use the premises for a business use as required by adopted Local Plan policies.
9. Thus, the proposal is in conflict with Policies E1 and E2 of the Local Plan which seek, amongst other things, to maintain a stock of premises that are suitable for a variety of business activities, for firms of differing sizes and available on a range of terms and conditions.

Other Matters

10. The appellant refers to case law² which determined that it is not strictly necessary for a development to accord with the Local Plan as a whole. However, as the Council comment, the case referred to also states that it is not unusual for a development plan to pull in different directions. It is a matter of planning judgement bearing in mind the importance of the policies which are complied with or infringed, and the extent of compliance or breach.
11. I also acknowledge the benefits of allowing a D1 use for medical purposes and that the site is close to transport links and areas of employment. However, neither this nor any other material consideration that has been advanced outweighs the conflict with adopted policy I have identified above.

Conclusion

12. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR

¹ Paragraph 5.39 of the Local Plan

² R v Rochdale Metropolitan Borough Council, ex parte Milne (2001)