



Appeal Decision

Site visit made on 4 February 2013

by Elizabeth Hill BSc(Hons), BPhil, MRTPI

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

Decision date: 4 March 2013

Appeal Ref: APP/X5210/A/12/2184317

The Black Cap PH, 171 Camden High Street, London NW1 7JY

- 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 S Cox (Faucet Inn Ltd) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2012/1444/P, dated 9 March 2012, was refused by notice dated 16 May 2012.
 - The development proposed is the demolition of the first floor metal staircase and platform; change of use of first, second and third floors from bar/restaurant and ancillary accommodation to form three 1-bed flats and one 2-bed maisonette; alterations to the south east elevation at first and second floor levels to close up four existing window openings and two door openings; installation of second floor balcony on rear elevation; use of existing flat roofs at first and third floor levels as private amenity space; and formation of refuse and cycle store at ground floor level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the proposed development on:
 - 1) space to serve the needs of a specific and local community;
 - 2) the living conditions of future occupiers in terms of noise and disturbance; and,
 - 3) sustainable transport in the local area.

Reasons

Community needs

3. The proposed changes would take place to premises on Camden High Street. The Council and local people say that the Black Cap serves the needs of a specific and local community, in this case, the Lesbian, Gay, Bisexual and Transgender (LGBT) community, although representations say that the public house is also welcoming to the wider community in Camden. The upstairs area of the public house, which is a bar where food is also served, would be lost as it would be converted to residential accommodation. There would also be alterations to the downstairs cabaret and bar area. However, changes to the ground floor porch would give extra accommodation to what would become an extended cabaret/ bar area on the ground floor. This would continue to serve food with the kitchen being moved from the second floor to the

basement. Although bar floorspace would be lost at the first floor level, the ground floor area would be increased using the current porch area. The appellant estimates the total loss of floorspace for internal public house use would only be about 31m². The proposal would mean that there would be only one community space instead of two. However, the current first floor bar is not accessible to people with disabilities and the downstairs area would be a large space within which there might be flexibility of use, depending on the way in which it is fitted out and used at different times of the day/week.

4. The current ground and first floors are different in nature with the first floor being a more traditional bar area. The Council's view is that the ground floor should be viewed as a sui generis use (cabaret/dance bar) but the difference between this and an A4 use with live music are matters of fact and degree and there have been no formal Council determinations on the current use of the ground floor. Both the ground and first floor at present are capable of being used as bar areas and both are accessed from the same front door. The proposed alterations would potentially allow more light into the ground floor as the large front window would become part of the bar area. This would provide a different atmosphere to the front of the ground floor from the dark interior which exists at present. The appellant intends different uses during different times of the day/week which might accommodate informal community use. The upstairs bar currently includes an outdoor terrace, which would be lost as part of the change of use, but there would also be improvements for people using the public house in terms of improved facilities for those with disabilities, when there are none at present, and improvements to emergency access.
5. Policy DP15 states that the Council will resist the loss of local pubs that provide facilities used by the community unless it can be shown that alternative provision can be made elsewhere or that the premises are no longer viable. However, paragraph 15.7 says that the community role relates, for example to: providing evening classes, clubs, meetings or performances. In any event, in this case the pub would not be lost to the community. The meetings referred to by local people appear to relate to the use of informal meeting space provided by the upstairs bar, which could take place in the altered downstairs bar. Performances would be able to continue as usual in the ground floor bar. Whilst the LGBT and wider community say that the premises hold a special attachment them, the facility would not be lost. In any event, changes in the premises' target market, which could result in the loss of a meeting place for the LGBT community, could be made at any time without the need for planning permission.
6. Camden Core Strategy (2010) (CS) policy CS3 promotes appropriate development in Camden town centre, including homes, food, drink, entertainment and community facilities, policy CS7 seeks to promote successful centres and policy CS10 seeks to protect community uses. Camden Development Policy (DP) DP12 supports strong centres through the management of town centre uses and protecting community and leisure uses. In addition, both the National Planning Policy Framework (the Framework) and policy DP2 seek to boost housing and make best use of the Borough's capacity for housing. The proposed development would strike a balance between maintaining an important community asset and boosting housing locally.

7. Therefore the proposed development would preserve space to serve the needs of a specific and local community and would be in accordance with CS policies CS3, CS7 and CS10 and DP policies DP12 and DP15.

Living conditions

8. Two noise surveys have been produced by the appellants, which included a series of proposed mitigation measures in respect of the development. The studies showed that the noise from sources external to the building would be higher than those allowed by policy DP28 but these were capable of mitigation through the use of various noise insulation measures. A suitably-worded condition could be imposed to ensure that the Council had control over a noise insulation scheme to control noise from outside the building. The building is also noted in the Camden Town Conservation Area (CA) Appraisal and Management Strategy as being one which contributes positively to the CA, particularly with its ornate front elevation. The suggested condition would also ensure that the proposed insulation measures preserved the character and appearance of the CA.
9. In terms of noise generated within the building, measurements were taken on the second floor of the building over the current first floor bar on a busy Friday evening. It was noted club style music with a high volume bass beat was being played but that the overall music volume was lower than a pub/club with a dance floor. The proposal would mean that the first floor flats would be directly above the cabaret/ dance floor /bar area on the ground floor. However, the noise survey did not measure the effect of noise from the ground floor, such as amplified music and vocals, on the first floor as it was in use as a bar at the time, despite having accepted that noise levels would be greater than those measured on the second floor. Therefore the impact of noise and vibration from the ground floor activities on the new residential use at the first floor level has not been adequately assessed. As such, it would not comply with policies DP26, which seeks to manage the impact of development on occupiers and neighbours, and DP28, which seeks to manage noise and vibration.
10. Therefore the proposed development would be harmful to the living conditions of future occupiers in terms of noise and disturbance and would be contrary to policy CS5 of the CS, which seeks to manage the impact of growth and development, and policies DP26 and DP28 of the DP.

Parking and congestion

11. The site is within a controlled parking zone and policies CS11 of the CS and DP18 of the DP seek to secure car free housing in order to promote sustainable means of transport and reduce travel by car. The site is within easy walking distance of Camden Town tube station and bus routes and cycle parking would be provided as part of the scheme. The Council would normally require a planning obligation to secure car free housing on the site, as set out in policy DP18. However, the appellants have not provided a planning obligation as part of the appeal and have raised the possibility of this matter being covered by a suitably-worded planning condition.
12. Since there is no submitted evidence that there is already a limit on the number of permits available and that new residents would not be able to obtain a permit as of right, a control would be necessary. A condition might not be appropriate in these circumstances since it would seek to use planning controls

to remove rights granted under other legislation, which might be considered unreasonable. In such circumstances, a planning obligation would be necessary. As one has not been provided with the appeal documents, the proposal would not make provision for car free housing.

13. Therefore the proposed development would be harmful since it would not contribute to sustainable travel and would be contrary to policies CS11 and CS19 of the CS and policy DP18 of the DP which seek to ensure sustainable patterns of travel, the implementation of the CS and limiting the availability of car parking.

Conclusions

14. Whilst the proposed development would preserve space to serve the needs of a specific and local community, this would be outweighed by the harm to the living conditions of future occupiers of the proposed residential accommodation, in terms of noise and disturbance, and through the failure to ensure sustainable patterns of travel.
15. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

E A Hill

INSPECTOR