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# Appeal Decision

Site visit made on 30 June 2020

**by J Bowyer BSc(Hons) MSc MRTPI**

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

**Decision date: 2<sup>nd</sup> July 2020**

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**Appeal Ref: APP/X5210/W/19/3243214**  
**341 Gray's Inn Road, London WC1X 8PX**

- 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 Omer Barut against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/2538/P, dated 14 May 2019, was refused by notice dated 7 August 2019.
  - The development proposed is described as 'retrospective planning application for change of use from C3 residential use to 9 x C1 Air BnB accommodation with self-serve kitchen'.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. At my visit, I saw that the proposed change of use has already taken place, and I have determined the appeal on that basis.
3. The description of development in the banner heading above is taken from the planning application form. However, the Council's decision notice and the appeal form describe the development as 'change of use from residential use (Class C3) to 9 x short term let units (retrospective application)'. I have dealt with the appeal on the basis of this simplified description.
4. I note that there is a separate appeal on the site relating to an Enforcement Notice<sup>1</sup>. However, this is not a matter which is before me as part of this appeal, and it has not influenced my decision.

## Main Issues

5. The main issues are:
  - i) the effect of the proposal on the supply of housing; and
  - ii) the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

## Reasons

### *Supply of Housing*

6. The appeal site contains a 4-storey building located close to the junction of Gray's Inn Road with Euston Road. There is a restaurant at ground floor level,

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<sup>1</sup> Appeal reference APP/X5210/C/20/3248056

but the appeal relates to the upper floors of the building which are accessed via a separate door from the street. At my visit, I saw 2 double bedrooms, one single bedroom and a shared bathroom at each of the first, second and third floor levels. Tea and coffee making facilities are provided within each room, but there is no kitchen. A mezzanine level between the ground and first floor levels provides a laundry room. The appellant advises that the 9 bedrooms are individually let via online bookings as short-term accommodation.

7. Policy H1 of the Camden Local Plan 2017 (CLP) relates to maximising housing supply and outlines that the Council regards self-contained housing as the priority land-use of the Local Plan. To ensure that the needs of existing and future households are met, CLP Policy H3 states that existing housing will be protected from permanent conversion to short-stay accommodation intended for occupation for periods of less than 90 days. CLP Policy 7 further requires development to contribute positively to the creation of mixed, inclusive and sustainable communities and to reduce mismatches between housing needs and supply through securing a range of homes of different sizes.
8. No floorplans have been provided to show the internal layout of the building prior to the appeal development having been carried out. The appellant advises that the property was formerly used as 3 one-bedroom flats, rather than a single 3-storey residential house for a single family as was indicated on the application form. The Council have not offered any substantive evidence to the contrary, and I note copies of letters addressed to Flats 1, 2 and 3 within the building dating to between May 2019 and August 2019, including from the Council's Electoral Services department. However, these cover a short period of time, and from the limited information before me I am unable to say with any certainty whether there was formerly a single dwelling or 3 flats on the site, nor the size of these.
9. Accordingly, I can draw no firm conclusion on the effect of the proposal on the provision of 2-bedroom and 3-bedroom market dwellings which CLP Policy H7 identifies as being of particularly high priority. However, whether the reduction would be by one or 3 dwellings, the loss of permanent residential accommodation would be in direct conflict with CLP Policy H3, and would detrimentally affect the provision of a range of homes of different sizes which is the objective of CLP Policy H7.
10. Moreover, even if I were to agree with the appellant that the site formerly accommodated 3 flats, CLP Policy H3 additionally states that the Council will resist development that would involve the net loss of 2 or more homes other than in specified circumstances, none of which are applicable here. Consequently, there would be further conflict with CLP Policy H3.
11. The appellant advises that the previous accommodation did not meet current housing standards and has pointed to shortfalls in internal floorspace. However, the lack of compliance with standards which would be relevant to new development does not mean that existing accommodation would automatically be unsuitable for permanent residential occupation. I saw that the existing layout provides for rooms of functional shape, and while spaces are not necessarily spacious, I see no reason from the information before me that it would not be possible to provide facilities required for day-to-day living.
12. I accept that the location of the site close to a busy road and above commercial units, together with the lack of outdoor space may limit the attractiveness of

the site to larger households with children. However, one-bedroom flats as the appellant suggests were formerly on the site, would be less likely to be occupied by children. Moreover, a lack of private outdoor space or provision of residential space above commercial uses are not uncommon characteristics of dwellings in London, and I have no substantive evidence that the site is unacceptably impacted by noise or air quality so as to make it unfit for permanent residential use, nor that management of rodents would be impossible. I am not therefore satisfied that the site is unsuitable for housing such that the permanent residential accommodation would be expendable.

13. While there may have been a fairly frequent turnover of former residents of the site, the length of lettings would be dependent on the owner and occupiers' choices, and does not mean the building was not occupied as a main residence. In any case, future owners may wish to occupy the site permanently.
14. I acknowledge that the proposal would support the visitor economy in Camden and London which is encouraged by CLP Policy E3 and by Policy 4.5 of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 which seeks additional bedspaces. It would also specifically contribute to the provision of accommodation in an accessible location close to transport interchanges. Be that as it may, CLP Policy E3 includes a requirement that tourism development and visitor accommodation does not lead to the loss of permanent residential accommodation, and the development would therefore additionally conflict with this policy.
15. I therefore conclude on this main issue that the proposal would lead to the loss of permanent residential accommodation, reducing the supply of homes within the borough. Accordingly, there would be conflict with Policies H3, H7 and E3 of the CLP. Even taken together, the benefits of the proposal, including taking accommodation described by the appellant as 'low quality' out of permanent residential use and support to the visitor economy would not outweigh the harm caused by the loss of housing.

### *Living Conditions*

16. At paragraph 3.71, the CLP notes that visitor lettings can increase incidences of noise, sometimes at unsociable hours. Given that the 9 bedrooms on the site are available individually on short-term lets, the proposal is likely to result in an increase in comings and goings to the site in comparison to use for permanent residential accommodation, whether as one or 3 flats. I also acknowledge that visitors may keep different hours to permanent residents, with an increased likelihood of being out in the evening and returning late.
17. However, the site is close to a busy junction with Euston Road and this part of Gray's Inn Road carries 4 lanes of traffic, resulting in traffic passing close to the building. The site is also located on a lively street frontage, with a number of restaurants and other late night uses nearby including Scala nightclub.
18. It is not clear from the evidence before me and my visit whether or not there are residential uses within neighbouring buildings which would be more sensitive to noise or disturbance. However, access to the development is directly from Gray's Inn Road and this entrance is not shared by any other residential occupiers. In any case, given the context of background noise levels noted above, I find that additional comings and goings are unlikely to result in a significant increase in the incidence of noise or disturbance so as to impact

appreciably on any neighbouring occupiers. Moreover, the fairly small size of the individual rooms and lack of communal space mean that once occupiers are inside the building, it is unlikely that larger groups would congregate, reducing the likelihood of noise and disturbance.

19. Even if I were to find that neighbouring buildings included residential uses, for these reasons I conclude on this main issue that the development would not result in unacceptable harm to the living conditions of neighbouring occupiers. As a consequence, I find no conflict with Policies A1 or A4 of the CLP which seek protection for the amenity of neighbours, and advise that development likely to generate unacceptable noise impacts will not be permitted.

### **Other Matters**

20. The Council initially suggested that a legal agreement would be required to prevent occupiers of the development from securing a parking permit, but later advised this would no longer be sought. As I am dismissing the appeal for other reasons, it is not necessary for me to further consider whether there is a need to restrict on-street parking by occupiers or the appropriate mechanism to secure this, as this would not alter the overall outcome of the appeal.
21. The appeal site is within the Kings Cross Conservation Area (CA). I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of this area in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would not alter the external appearance of the building, and I am satisfied that the character and appearance of the CA would be preserved. However, this is a neutral factor which weighs neither for nor against the development.
22. I have also taken into account matters raised by interested parties, but these do not alter my conclusions on the main issues.

### **Conclusion**

23. Although I have found that the proposal would not cause unacceptable harm to the living conditions of neighbouring occupiers, this does not outweigh the harm that I have found would be caused to the supply of housing within the borough. The proposal would conflict with the development plan when it is read as a whole, and there are no material considerations which indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

*J Bowyer*

INSPECTOR