



Appeal Decision

Site visit made on 12 October 2021

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2021

Appeal Ref: APP/X5210/C/20/3265377

Studio Flat, 49 Tottenham Court Road, London, W1T 2EG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Scott Knight (Knights in London Ltd) against an enforcement notice issued by the Council of the London Borough of Camden.
 - The enforcement notice, numbered EN20/0861, was issued on 5 November 2020.
 - The breach of planning control as alleged in the notice is, without planning permission: The use of the Property as 'temporary sleeping accommodation' (as defined by Section 25 of the Greater London (General Powers) Act 1973 and as set out in the 'Explanatory Note' below) for more than 90 nights in the same calendar year in breach of Section 25A (2)(a) and (b) of the Greater London Council (General Powers) Act 1973.
 - The requirements of the notice are: Discontinue the use of the premises as 'temporary sleeping accommodation' as defined at Section 25 of the Greater London Council (General Powers) Act 1973 except to the extent allowed by Section 25A (1) of that Act, which permits the use subject to Conditions, including Conditions set out at Section 25A (2) (a) and (b) which limit use as temporary sleeping accommodation to a maximum of 90 nights in any one calendar year.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue is the effect of the alleged development on the supply of housing.

Reasons

3. The appeal relates to a studio flat above a shop in a four-storey building situated within the commercial area of Tottenham Court Road.
4. The appellant's evidence explains why relocating his business had left him with an over-capacity of office space at the appeal premises. Reasons are also given as to why the appellant decided to utilise the office space for residential accommodation, including the reciprocal benefits of providing such

accommodation to female members of staff. It is further explained that works to enable the residential use began in 2014 and that a member his staff lived at the property between 2015 and 2020.

5. Although the appellant has offered to provide evidence to that effect, the Council acknowledge that the residential use of the studio flat has become lawful and immune from enforcement action due to the passage of time. However, the appellant confirms that since 2020, the self-contained apartment has been operating as a serviced accommodation business. It is that use the enforcement notice seeks to address, rather than the residential use.
6. S25(1) of the Greater London (General Powers) Acts 1973 (GLGP Act) provides that the use as temporary sleeping accommodation of any residential premises involves a material change of use, for which planning permission is required. Temporary sleeping accommodation is defined within the GLGP Act, as sleeping accommodation which is occupied by the same person for less than ninety consecutive nights and which is provided (with or without services) for a consideration arising either by way of trade for money or money's worth, or by reason of the employment of the occupant, whether or not the relationship of landlord and tenant is thereby created.
7. The GLGP Act was amended by the Deregulation Act 2015 so as to introduce s25A, which provides that the use as temporary sleeping accommodation does not constitute a change of use (for which planning permission would be required) if certain conditions are met¹. The first condition is that the sum of (a) the number of nights as use as temporary sleeping accommodation and (b) the number of nights (if any) of each previous use as temporary sleeping accommodation in the same calendar year does not exceed ninety. The second condition is that the person or at least one of the persons who provided the sleeping accommodation was liable to pay Council Tax in respect of the premises.
8. The Council alleges that there has been a breach of the first condition in that the 90-night allowance has been exceeded by the use of the studio flat as a holiday let. Evidence is provided of listings on Booking.com and Knights of London. The appellant has not sought to argue otherwise or make an appeal under ground (c) that there has not been a breach of planning control. Nor is it argued that the serviced accommodation business should be allowed to continue; the appellant's case is essentially restricted to why that use has come about.
9. Consequently, the alleged change of use to temporary sleeping accommodation results in the loss of permanent residential accommodation comprising a studio flat. That is contrary to Policy H1 of the Camden Local Plan Adoption Version June 2017 (CLP), which aims to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing. The alleged use is also in conflict with CLP Policy H3 which aims to ensure that existing housing continues to meet the needs of existing and future households by measures which include resisting development that would involve a net loss of residential floorspace and protecting housing from permanent conversion to short-stay accommodation intended for occupation for periods of less than 90 days.

¹ The conditions are set out in subsections (2) and (3) of section 25A

Other Matters

10. The appeal site falls within the Charlotte Street Conservation Area. As the alleged matters do not relate to external works and relate to the internal use of part of the building, I am satisfied that the character and appearance of the Conservation Area as a whole, is preserved.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Richard S Jones

INSPECTOR