
Appeal Decision

Site visit made on 8 December 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 30 December 2016

Appeal Ref: APP/K5600/C/16/3152398

First, second and third floors, 151 Freston Road, London W10 6TH

- The appeal is made by Benedict Andersen under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: E/15/01441) issued by The Royal Borough of Kensington and Chelsea on 2 June 2016.
 - The breach of planning control alleged in the notice is "the change of use of first, second and third floors (964 sq m) of the building from B1 office accommodation to C3 residential use".
 - The requirements of the notice are as follows: -
 - "1. Cease the use and occupation of the first, second and third floors of the premises as residential accommodation.
 - 2. Remove all beds and mattresses from each of the units."
 - The period for compliance with these requirements is four months.
 - The appeal is proceeding on the ground set out in section 174(2)(a).
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

2. The premises are "medium sized offices" within the Freston Road/Latimer Road Employment Zone, as defined in the Royal Borough of Kensington and Chelsea Consolidated Local Plan, and the main issue in deciding whether planning permission should be granted for their change of use to residential use is the effect on the function and character of the employment zone.
 3. Policy CF5 of the Local Plan deals with the location of business uses. One of its objectives is to "protect and promote employment zones for a range of small and medium business activities which directly support the function and character of the zone". To deliver this objective, the policy indicates that in employment zones (i) medium sized offices will be protected, (ii) no net loss of business floor space will be permitted except where it is replaced by uses that directly support the function and character of the employment zone and (iii) residential uses will be resisted.
 4. This appeal follows on from the dismissal on 11 August 2016 of an appeal against the Council's decision to refuse planning permission for the same
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change of use (appeal ref: APP/K5600/W/16/3148979). The inspector dealing with that appeal considered that the change of use would result in the loss of office space as defined by Policy CF5; she stated that the evidence before her did not demonstrate that there is no reasonable prospect of the site being used for employment purposes; she did not agree that the office space could be considered surplus in view of the high demand for office premises; and she considered on the basis of the information submitted that the change of use had diminished the range of office premises in the area to the detriment of the character and function of the employment zone.

5. The information submitted in the current appeal is the same as that which was considered in the previous appeal and there has been no change in any relevant circumstances. I have no reason to disagree with the conclusions reached by the previous inspector about the harm that the change of use would do to the function and character of the Freston Road/Latimer Road Employment Zone, contrary to Policy CF5.
6. Like the previous inspector, I also spent some time observing the area and looking at other developments. There is a mixture of uses in the locality. I accept that the change of use has contributed towards the supply of housing here, that the accommodation is in an accessible location and that it meets the applicable housing standards. In addition, resistance to residential uses in the employment zone, which is a feature of Policy CF5, was not given by the Council as a reason for the issue of the enforcement notice. However, in the absence of evidence that the Council do not have an adequate supply of housing to meet current needs, I do not consider that these considerations are sufficient to outweigh the loss of office space and the effect this has on the function and character of the employment zone.
7. For the above reasons, the appeal has been dismissed, the enforcement notice has been upheld and planning permission has been refused.

D.A.Hainsworth

INSPECTOR