

Appeal Decision

Site visit made on 20 March 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 19th April 2017

**Appeal Ref: APP/K5600/W/16/3164737
77-79 Southern Row, London W10 5AL**

- 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 A of amberley international ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/16/01875, dated 23 March 2016, was refused by notice dated 7 June 2016.
 - The development proposed is the change of use of the rear building from the approved B1 commercial use to; an office and an apart hotel usage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my site visit the building that is the subject of this appeal was under construction. Whilst the building is not yet complete, it has been granted permission¹ for a B1 use as part of a wider scheme. I have determined the appeal on the basis that it is a change of use of the building from a B1 use to an apart-hotel.

Main Issues

3. The main issues are the effect of the development on the Kensal Employment Zone and whether or not the location of the site is suitable for an apart-hotel.

Reasons

Kensal Employment Zone

4. Policy CF5 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan (CLP) 2015 states that the Council will protect very small and small offices (when either stand alone or as part of a larger business premises) throughout the Borough. This is further emphasised in CF5(i) which relates to development in Employment Zones. CF5(j) states that there be no net loss of business floorspace unless to uses which directly support the function and character of the zone.
5. The approved use of the existing building is to contain six small or very small offices. The building is located within the Kensal Employment Zone (KEZ). The appellant argues that the office space is currently vacant and has little prospect

¹ LPA Ref PP/13/05416

of being let for its approved use. However, from the observations I made during my site visit, the building is still under construction and therefore it stands to reason that the offices would be currently vacant.

6. I have had regard to the supporting evidence from Copper Hive, dated 2 February 2016, which states that as there is a significant amount of commercial space available in the area supply exceeds demand and there is no interest in the building's commercial space. However, there is no evidence supporting this statement. For example, there is no indication how many existing vacant commercial properties there are in the area; how long the offices have marketed; where they have been marketed, etc. Moreover, as I have pointed out above, as the building and offices are not complete, it is reasonable to conclude that this would have a significantly harmful effect on their marketability. Therefore, based on the evidence before me, I am not convinced that it has been satisfactorily demonstrated that there is no demand for the approved offices nor that there is no reasonable prospect of the offices being used for that purpose.
7. Notwithstanding the above, CF5(j) does not require there to be a demonstrable lack of need for the offices, only that the replacement use supports the function and character of the zone. The proposed use would include two offices at basement level. However, these would be used in association with the overall apart-hotel use and wider enterprise and therefore I do not find that they would be stand-alone B1 uses.
8. The appellant argues that the apart-hotel use would provide accommodation for both tourists and business users/employees. Although the use could accommodate business users/employees, I am not persuaded that it would be directly aimed towards this or indeed that such a use would directly support the function and character of the KEZ.
9. The proposed use would employ up to 25 employees. Based on the appellant's own evidence the existing use could accommodate between 16 and 47 employees. Therefore, I do not agree that there is a comparison between potential employment levels of the proposed use and the existing. It seems to me that the potential employment capacity of the existing use, up to 47 employees, is significantly greater than that proposed.
10. I find therefore that the proposed development would result in the unacceptable loss of office space, which would undermine the Council's objective of protecting very small and small offices in the KEZ. As such, it would fail to comply with Policy CF5 of the CLP.

Location

11. Policy CF8 of the CLP states that the Council will ensure that the visitor economy is supported through appropriate hotel provision. It goes on to state that it will require new hotels to be located within, or immediately adjoining, the borough's higher order town centres, and in particular Knightsbridge, South Kensington, Kensington High Street, King's Road (East), Brompton Cross and Notting Hill Gate and within the Earl's Court Exhibition Centre Strategic Site. The appeal site is not located within, or immediately adjoins, any of these locations. Therefore it clearly conflicts with Policy CF8.

12. In addition, Policy 4.5 of The London Plan The Spatial Development Strategy for London Consolidated with Alterations Since 2011(the LP) seeks to achieve 40,000 additional hotel bedrooms by 2036, ensuring that new visitor accommodation is in appropriate locations, including in town centres and opportunity and intensification areas, where there is good public transport access to central London and international and national transport termini.
13. In acknowledging the appeal site does not fall within any of the locations stated in Policy CF8, the appellant argues that it is located close to the commercial area which centres on Portobello Road, which is a major tourist location within central London. The appeal site has a PTAL of 3. I acknowledge that locations within the vicinity of the site are better served by public transport. However, whilst the opposite side of the road has a PTAL of 4, this could be because it is closer to a mode of public transport than the appeal site. It does not necessarily mean that public transport services are immediately available on the opposite side of the road, or 100m to the west. I note that there are bus services in the locality that provide links to the wider area. However, based on the evidence before me, I am not persuaded that the appeal site should be considered as having good public transport links.
14. The appellant contends that there are no specific policies concerning apart-hotels and that their locational preferences are not considered to be entirely relevant to the apart-hotel concept. Whilst such uses lack some of the facilities of traditional hotels, I do not accept that they are fundamentally materially different and therefore, in this instance, should not be considered differently for the purposes of assessing the planning merits of this appeal.
15. I find therefore that the location of the proposed development would undermine the Council's, and the LP's, objective of focusing visitor accommodation towards appropriate identified locations, as embodied in Policies CF5 and CF8 of the CLP and Policy 4.5 of the LP.

Conclusion

16. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR