

Appeal Decision

Site visit made on 16 May 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 8th June 2017

Appeal Ref: APP/H5390/W/17/3169779

1 Barons Court Mansions, Gledstones Road, London, Hammersmith and Fulham W14 9HZ

- 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 Mrs Linda Febvre against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/05261/FUL, dated 2 December 2016, was refused by notice dated 6 February 2017.
 - The development is described in the application as: "to be able to rent out the flat on a short term basis. The flat has not been "withdrawn" from the rental market to be used in this manner as it has never been rented out long term and will never be rented out as I need the flat for when I am in London (I have a son in university and a daughter who is an on / off patient at the Maudsley Hospital). There is no restriction in the deeds and the Property Management Company have already inspected the flat to ensure that there is smoke alarm, CO alarm, gas certificate etc and also as per Fire Safety Order 2005, a Risk Assessment has been undertaken and the egress methods are highlighted. Security is assured as the highest "security restrictions" on Air BnB have been switched on and I only accept families".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council altered the description of development to read 'change of use from residential (Class C3) into a bed and breakfast accommodation (Class C1)'. This is a more precise and succinct description of development than that used on the application form.

Main Issues

3. The main issues are:
 - The effect of the proposal on permanent residential accommodation in the Borough having regard to the aims and purposes of development plan policies; and
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance.
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Reasons

4. The appeal property is a two bedroom, self-contained unit located in the basement of a 7 storey flatted complex on the junction of Gledstanes Road and Perham Road. The site is located within the Barons Court Conservation Area (BCCA).
5. Policy H1 of the Hammersmith and Fulham Core Strategy (2011) (CS) and Policy DM A1 of the Council's Development Management Local Plan (2013) (LP) states that the Council will seek to exceed the London Plan housing target. In order to achieve this, the Council will, amongst other things, seek to retain existing residential accommodation and resist proposals which would result in a net loss of permanent residential accommodation as a result of redevelopment or change of use without replacement (measured by floor space) including to short stay accommodation. The supporting text to Policy DM A1 states that short stay accommodation (defined as housing let for less than 90 days) is primarily intended for visitors and does not meet the need for additional permanent housing in London and will be resisted. Policy DM B2 of the LP reiterates that permission will not be granted for new visitor accommodation if it leads to the loss of permanent housing.
6. From my observations on site, the appeal property is entirely suitable for permanent occupation. On this basis the change of use from C3 to C1 would result in the loss of permanent residential accommodation conflicting with the development plan in this regard. Whether the property has been or ever will be rented on a long term basis or is owner occupied is not material to this consideration.
7. The appellant states that the property is their home in the UK and that she and her family use it on a regular basis. Given her ties in the UK, the appellant asserts that she has no intentions of selling the flat and the change of use would not therefore lead to the loss of permanent residential accommodation. However, there is no surety that the property would not change hands in the future and such personal circumstances seldom outweigh general planning considerations. Moreover, if the appeal were to succeed, permission would be granted for the unrestricted C1 use of the property thereby resulting in the loss of a permanent residential unit from the housing stock.
8. I therefore conclude that the proposal would lead to the loss of permanent residential accommodation in the Borough conflicting with Policies H1 of the CS and DM A1 and DM B2 of the LP which seek to safeguard this. In my view the change of use of a two bedroom flat from C3 to C1 would not constitute major new visitor accommodation as referred to in Strategic Policy B of the CS and I find no conflict with this policy.

Living conditions

9. The Council argue that as they have dealt with a number of severe noise nuisance issues with this form of short term let, the proposal would lead to unacceptable levels of noise and disturbance for neighbouring residents. However, I am not persuaded that the potential occupation of a two bedroom flat would give rise to a level of noise and disturbance that would be unduly harmful. There is little evidence to suggest that the use of the flat for short term renting up until this point has led to complaints of this nature and the occupier of the adjacent flat has confirmed that they have not experienced

noise and disturbance at any time while the flat has been rented out. Furthermore, the appeal property has its own front door separate to the communal entrance and the use of this could have been conditioned had the appeal succeeded.

10. I therefore conclude that the proposal would not harm the living conditions of the occupiers of neighbouring properties and find no conflict with Policies DM B2, DM H9 and DM H11 of the LP which seek, amongst other things, to control noise generating development and to ensure development does not have a detrimental impact on the local area or general amenities enjoyed by existing surrounding occupiers.

Other Matters

11. I acknowledge that the flat is an accessible location and visiting guests may spend money in the local shops and business thereby contributing to the local economy. It may also be the case that demand for self-catering accommodation in the Borough will not diminish. However these matters are not sufficient to outweigh the harm that I have found above.
12. I note the appellant's preference in relation to the number of guests and lengths of stays and the positive reviews received for the flat. However, this does not alter my findings on the substantive matters before me. It has been suggested that there are other owners who break the 90 day rule thereby increasing security risk and the potential for antisocial behaviour. However, this matter is not material to the appeal before which I have determined on its own merits.
13. The site lies within the BCCA. I note that the Council does not consider that the proposal would have an adverse effect on the character and appearance of the BCCA. Given that there are no proposed external changes to the property, I agree with the Council that the proposal would not materially harm the character or appearance of the BCCA. Hence, the character and appearance of the BCCA would be preserved.

Conclusion

14. Although I have found no harm in respect of living conditions, this is not sufficient to outweigh the harm that I have found in relation to the loss of permanent residential accommodation.
15. For the reasons given above and taking into account all other matters, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR