
Appeal Decision

Hearing held on 25 April 2017

Site visit made on 25 April 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 21st June 2017

Appeal Ref: APP/X5210/W/17/3167533

Museum House, 23-26 Museum Street, London WC1A 1JT

- 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 Devonshire Development (UK) Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/3411/P, dated 19 June 2016, was refused by notice dated 30 September 2016.
 - The development proposed is change of use of part second and all of the third floor from Class B1 (office) use to Class C3 (residential) use.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part second floor and all of the third floor from Class B1 (office) use to Class C3 (residential) use at Museum House, 23-26 Museum Street, London WC1A 1JT in accordance with the terms of the application Ref 2016/3411/P, dated 19 June 2016 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P0-001 Rev P1, E1-000 Rev P1, E1-002 Rev P1, E1-103 Rev P1, E3-100 Rev P1, P1-102 Rev P1, P1-103 Rev P1, P1-202 Rev P1, P1-203 Rev P1, P1-000 Rev P2 and Details of Replacement Fenestrations (like for like).
 - 3) The development shall not be occupied until space has been laid out within the site in accordance with drawing no. P1-000 Rev P2 for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.

Application for costs

2. An application for costs was made by Devonshire Development (UK) Limited against the Council of the London Borough of Camden. This application is the subject of a separate Decision.

Preliminary Matters

3. At the Hearing a signed and dated S106 agreement was provided. This includes provisions for affordable housing and for the development to be car free. The Council confirmed at the Hearing that the car-free provisions in the
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S106 agreements overcome its reason for refusal in this respect. I will return to consider these matters later in my decision.

4. Following the Hearing, the examining Inspectors report on the emerging Camden Local Plan has been published and the Council has confirmed that it is the intention for it to be considered by the full Council on 26 June 2017. I subsequently requested further written comments from the parties on the implications of this for the appeal and have taken into account the responses received in my decision.

Main Issues

5. The main issues are:

- i) Whether the employment use should be retained on the site,
- ii) Whether the proposal makes appropriate provision for affordable housing.

Reasons

Employment use

6. I firstly will consider whether the appeal premises are appropriate for continued use as employment space.
7. Policy DP13 of the London Borough of Camden Development Policies 2010 (DP) seeks to retain premises that are suitable for continued business use. The supporting text to this policy states that the applicant must demonstrate that there is no realistic prospect of demand to use the site for any employment use and that the applicant must submit evidence of a thorough marketing exercise, sustained over at least two years. However, the text also refers to the Camden Planning Guidance. CPG5 - Town Centres, Retail and Employment (September 2013). This sets out further marketing criteria and states that the Council will consider shorter marketing periods for office premises.
8. The supporting text of Policy CS8 of the Camden Core Strategy 2010 acknowledges that the future supply of offices in the borough can meet the projected demand and consequently the Council will consider proposals for other uses of older office premises if they involve the provision of permanent housing.
9. I am also mindful of relevant national policy in this respect contained in paragraphs 22 and 51 of the National Planning Policy Framework (the Framework) which generally encourages changes of use from employment where there is no reasonable prospect of a site being used for such use, having regard to market signals and the relative need for different land uses to support sustainable local communities. Paragraph 51 states that planning applications for residential from B use classes should normally be approved where there is an identified need for additional housing in the area, provided there are not strong economic reasons why such development would be inappropriate.
10. The Council has expressed concern that the premises have not been marketed for a long enough period of time. Although of a lesser period than the Council has sought in this case, the results of the marketing exercise indicates that there has been limited or no demand for the building. Even where there have been expressions of interest this has not resulted in any offers being made for

the premises. Since the Council's determination of the application, the marketing of the premises has continued but with no positive results. I am not convinced that a further period of marketing would be likely to change this.

11. The premises, located in an older building, has some drawbacks as office space. Most particularly, the structural divisions preventing open plan accommodation, the existing lawful residential uses in the building, lack of reception space, shared stairwell, lack of disabled access and the general lower specification of the premises in relation to many other offices spaces available on the market. Whilst such shortfalls would not necessarily prevent the continuation of use of the office use, I am in no doubt that they act as significant constraints to its usability and therefore attractiveness for potential occupiers. It is not clear what would be the full extent of works required to improve the position, but taking account of the age of the building, such works are likely to be extensive and expensive.
12. The Council has also expressed concern that the premise has been marketed at too high a rent. There is mixed evidence in this respect. The Carter Jonas report, for Quarter 1 2016, indicates that typical quoting rents in this area are less than that used for appeal premises. However, the report excludes small office suites (under 5000 sq ft) which tend to command higher pro-rata rents. The appellant has provided evidence of rents quotes for a range of other offices, some of which are higher and some lower than used for the appeal premises. I do not have full details of the offices quoted but note that the average figure in these cases is slightly higher.
13. It is also not clear that the appeal premises offers an equal or better standard of space than the lower average quoted by the Council for 2 star spaces, particularly in view of the re-decoration works intended to be carried out by the appellant. The information provided by the appellant's agent, indicates that the property has been marketed at a reasonable rent and the rent has not been raised as a reason why perspective occupiers have decided not to pursue the premises. From the evidence provided, it does not appear to me that the rent quoted for the premises has been an overriding factor in the lack of interest being shown.
14. I acknowledge that the premises, despite its shortfalls, could provide space for certain small sized businesses that do not require high specification office space. However, from the evidence before me there appears to be no significant interest at the current time.
15. Whilst some new office space is being constructed, I acknowledge that much of this new space may be not be so attractive to smaller business seeking lower rents. The introduction of permitted development rights for changes of use from offices to residential outside of the Central Activities (CAZ) is likely to have implications for the demand for office space within the CAZ and I recognise that the loss of more affordable office stock could impact upon the economic role and offer of the area, including space for small businesses, of which there are a large proportion of in Camden.
16. However, in this case I am satisfied from the results of the marketing carried out and the shortfalls identified with the accommodation, that the appeal premises is not of particular suitability for a continuation of office use. Furthermore, there appears to be a growing supply of more flexible office space being provided in the area which can often be more suitable and more

attractive than the more constrained and less flexible employment space at the appeal premises.

17. I have considered the appeal decision¹ at 61 to 65 Charlotte Street, noting in that case that the Inspector was not satisfied that the space was no longer suitable for employment use, highlighting the lack of marketing carried out. The current appeal case is different given the marketing that has been carried out which I have found to be satisfactory and my conclusions on the suitability of the premises for a continued office use.
18. In conclusion, in this case I am satisfied that the premises are of limited suitability for a continuation of office use and that the proposed change of use would not result in any significant harm to economic activity and employment opportunities within the borough. It therefore would not result in any significant harm when considered against policies CS8 of the Core Strategy, DP13 of the Development Policies and the Framework.
19. I have also considered the proposal against the relevant policies contained within the emerging Camden Local Plan Submission Draft 2016, including policies E1 and E2. Give the advanced stage of this emerging plan, the weight I give to these policies is considerable. However, the objectives of these policies are generally similar to those of the existing development plan policies and, taking account of my reasoning set out above, they do not alter my overall conclusions on this issue.

Affordable Housing

20. Policy DP3 of the Development Policies requires that residential developments with a capacity for 10 or more additional dwellings will be expected to make a contribution towards affordable housing. The supporting text to the policy explains that a floorspace of 1000 sqms is capable of accommodating 10 family sized dwellings.
21. The appeal proposal together with all previous residential permissions at the property would result in a total residential floorspace of 1035.9 sqms.
22. The Camden Planning Guidance – Housing (CPG2) provides guidance on the interpretation of the policy. It acknowledges that the addition of 1000 sqms of residential floorspace will not have a 10 dwelling capacity in every single case. In this instance, the appellant argues that the layout and design of the building would not allow the creation of additional family residential units beyond those proposed, without resulting in unit sizes which are below the recommended standards. A Technical Note has been submitted demonstrating why 10 family dwellings would not be achievable in this instance. From the accompanying information provided and my observations at the site visit, this does not seem to be an unreasonable position and no details have been provided by the Council of how an alternative arrangement would be possible that would provide for 10 or more family units.
23. I note that the permission for the 5th floor extension did not include a S106 obligation in relation to affordable housing and that it is for additional built floorspace not specifically referred in the previous legal agreements. However, given my findings above (which in any case include the floorspace created by such an extension) this does not alter my conclusions on this matter.

¹ APP/X5210/A/13/2198656

24. On this basis, whilst acknowledging the need for affordable housing in the Borough, I find that in this case the proposal would not trigger a contribution towards affordable housing and therefore would not be in conflict with policy DP3 of the Development Policies, policy CS6 of the Core Strategy and CPG2.
25. I have also taken account of policy H4 of the emerging Camden Local Plan. Given its advanced stage of preparation I have given this policy considerable weight. Policy H4 involves changes to the Council's approach to affordable housing including a requirement for affordable housing provision on residential schemes of 100sqms and over. The examining Inspector has concluded that there are local circumstances in the case of Camden which, taken as a whole, fully justify a lower affordable housing threshold. Under the emerging policy, the proposal would qualify for an affordable housing contribution to be made. The policy also states that the Council will seek to ensure that where separate proposals are brought forward for closely related sites, the appropriate affordable housing contribution is comprehensively assessed for all the sites together via an appropriate affordable housing contribution.
26. The Written Ministerial Statement (WMS) dated 28 November 2014 and subsequent Planning Practice Guidance (PPG) states that a threshold of 11 or more units should apply recognising the burden placed on small developers. Notwithstanding the Examining Inspectors conclusions on this regard, as the Camden Local Plan is yet to be adopted it does not carry full weight as the Council has yet to decide to adopt it and it is not part of the current development plan. Given the particular circumstances in this case, I do not consider that policy H4 outweighs the provisions of the existing development plan which I consider still has primacy on this matter. Therefore, the emerging policy does not change my conclusions on this issue.
27. I do not therefore consider that the relevant obligation in the S106 agreement requiring an affordable housing contribution is necessary and therefore it does not pass the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations). I have not attached it any weight in my decision.

Other matters

28. The parties have agreed a S106 obligation seeking to provide for a car-free development. The site has very good accessibility to services and public transport provision, is located in a controlled parking zone and, from the information provided by the Council, there are significantly more permits issued than spaces available with parking stress evident in the vicinity of the site. Therefore, from the evidence provided by the Council, I am satisfied that there is a need for this obligation in this case. It would accord with policies CS11 and CS19 of the Core Strategy and policy DP18 of the Development Policies. I am satisfied that this obligation passes the statutory tests in the CIL Regulations. I have also considered policy T2 of the emerging Camden Local Plan, which I have given considerable weight given the advanced stage of preparation. This reaffirms the Council's approach in the development plan towards car free development and does not alter my conclusions on this matter.
29. Whilst I have found the S106 obligation requiring an affordable housing contribution (4.1) for this particular development to be unnecessary, the obligation in the S106 agreement relating to Remaining Floorspace (4.2) is necessary and passes the statutory tests.

30. The proposal does not include any significant external alterations that would result in any adverse impacts upon the amenity of neighbouring properties. Furthermore, the application does not include changes to the external appearance of the building and there are existing permissions for residential use at the property. Therefore, I am satisfied that the development would preserve the character and appearance of the Bloomsbury Conservation Area and the setting of listed buildings located in the vicinity of the site.
31. Whilst some disturbance may arise from construction works, this would be subject to separate environment regulations and I do not consider it likely that the works would be of a magnitude to result in significant adverse impacts upon the occupiers of residential or commercial properties.
32. Whilst matters of access have been raised including wheelchair access, given the proposed use for three flats and the age the buildings, I have given only minimal weight to such matters. From the information before me, the cycle storage arrangements appear to be capable of being utilised without significant interference with the use of the basement. Several of the detailed matters, including those concerning access, raised by an interested party in respect of the use of the basement are matters which appear to be best dealt with between the parties concerned and carry minimal weight in my determination of this appeal. Whilst the additional residential units would require appropriate refuse provision, these would need to be arranged alongside those residential units at the property already permitted and I do not consider that this matter is of such significance to have any bearing on the outcome of this appeal.

Conditions

33. I have considered the conditions suggested by the Council taking account of the relevant tests and guidance.
34. I have imposed a condition specifying the approved plans as this provides certainty. I have not included the comprehensive list of the application documents as set out in the Council's suggested condition as the approved plans alone adequately set out the details of the proposed development. A cycle parking condition is necessary in order to encourage sustainable means of transport.
35. Although not suggested by the Council I have also attached a standard commencement time limit condition. This is because the Statement of Common Ground states that the application proposes no external alterations to the building. No such alterations are also included in the description of development. Therefore, whilst I am aware that replacement windows have already been implemented and internal alterations are being carried out to the appeal premises, these do not appear to amount to the commencement of development in this case.

Conclusion

36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cliff

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nick Laister	RPS
Nayan Gandhi	RPS
Karen Price	Hawes Price Ltd

FOR THE LOCAL PLANNING AUTHORITY

Rachel English	Senior Planning Officer
Seonaid Carr	Principal Planning Officer
Tessa Craig	Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Email dated 24 April 2017 from Glinsman Weller regarding marketing.
2. Email and attachment dated 24 April 2017 from Glinsman Weller including details of other properties.
3. Signed and dated S106 agreement.
4. Camden Local Plan Submission Draft 2016.
5. Statement of Common Ground.

DOCUMENTS SUBMITTED FOLLOWING THE HEARING

1. Document submitted on 26th April 2017 from Rachel English (Local Planning Authority) regarding pricing of other properties.
2. Email dated 27th April 2017 from the appellant with comments on the above.
3. Representations dated 1 June 2017 from the Council regarding the Camden Local Plan and examining Inspectors report.
4. Representations dated 1 June and 5 June 2017 from the appellant regarding the Camden Local Plan and examining Inspectors report.