
Appeal Decision

Site visit made on 28 June 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 25 July 2017

Appeal Ref: APP/E5900/W/17/3171527

Flat 39A Northesk House, Tent Street, London E1 5DS

- 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 O Zayed against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/17/00064, dated 9 January 2017, was refused by notice dated 23 February 2017.
 - The development proposed is the temporary change of use from C3 to C1 (short-term let).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the whether the proposed change of use would result in an unacceptable loss of a residential dwelling.

Reasons

3. The appeal site is a one-bedroom flat in a predominantly residential area. The appellant seeks a five-year temporary change of use from Class C3, use as a dwelling-house, to Class C1, use as a hotel or as a boarding or guest house.
4. Policy 3.3 of the London Plan 2016 seeks to ensure the provision of an adequate housing supply in London. The Policy sets benchmark targets for the provision of additional homes in each London Borough over a ten-year period from 2015 to 2025. The Council's target over ten years is 39,314 new homes, which roughly equates to 3,931 new homes per year.
5. To help reach this target, Policy DM3 of the Tower Hamlets Managing Development Document 2013 (the Local Plan) seeks to ensure the retention of units in the existing housing supply. Policy DM7 of the Local Plan seeks to ensure that any development creating visitor accommodation does not compromise the Council's ability to meet housing supply targets.
6. The appellant contends that the change of use would not result in the loss of a housing unit because once any temporary planning permission expired the flat would revert to Class C3 use. The appellant suggests an analogy between a temporary change of use and a property being taken out of the available housing supply for, say, renovation. However, unlike renovation, the change of use would result in the flat no longer being residential accommodation and therefore would result in a loss of a residential unit.

7. The loss of residential accommodation at the site would reduce the number of homes in the borough and would therefore have a detrimental effect on the Council's ability to meet its target for additional housing supply. The target is set over a ten-year period and the appellant seeks a five-year temporary permission, which is half of the target period. I take into account that the ten-year period began in 2015 and therefore a five-year temporary permission would bring the flat back into the housing supply for only three years or so.
8. The appellant has suggested a trial period for the change of use for six months to a year or, alternatively, a condition that would allow the Council to revoke the Class C1 use in the event of an unspecified complaint. Any conditions imposed must be precise so a trial period would be inappropriate and any temporary permission should be for a defined length of time. Similarly, any condition that purported to enable the Council to revoke a planning permission based on some potential future event would introduce uncertainty to the permission and would therefore be inappropriate.
9. However, I have considered whether the detrimental effect of the change of use would be reduced by a shorter temporary permission. Given its very high target for new housing units, even the modest reduction of one unit for a short period of time would have a substantial detrimental effect on the Council's ability to meet its housing supply target. Therefore, I conclude that the proposed change of use would not be in accordance with Policies DM3 and DM7 of the Local Plan.

Other Matters

10. The appellant states that the change of use is required for two purposes, namely: to provide accommodation for friends and family who may visit; and to generate an additional income. The appellant contends that if friends and family stay in the flat rather than in hotels they would be able to remain longer and would be able to make a greater contribution to the local economy. While I give significant weight to the appellant's personal circumstances and potential benefits to the local economy, they are not sufficient to outweigh the detrimental effect of the proposed change of use.
11. The appellant also suggests that Government Policy has shifted towards a general relaxation in relation to a change of use from Class C3 to Class C1. This policy change is reflected in the Deregulation Act 2015, which specifically removed the requirement to obtain planning permission for short-term lets for up to 90 days. The appellant intends to use the flat for short-term lets in excess of 90 days which continues to require planning permission. Therefore the appeal must be determined in accordance with the Council's planning policies unless material considerations indicate otherwise. There is nothing in the evidence before me that would lead me to conclude that I should depart from the Council's Policy.

Conclusion

12. For the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR