
Appeal Decision

Site visit made on 8 September 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Appeal Ref: APP/H5390/W/20/3252663

13 Seagrave Road, London SW6 1RP

- 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 Mercervy Ltd against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/03205/FUL, dated 28 October 2019, was refused by notice dated 26 March 2020.
 - The development is described as: change of use of the lower ground floor/basement from a Class A2 use (financial and professional services) to short term residential let accommodation (class sui generis).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Part E of the appeal form indicates that the description of development has changed, I have therefore referred to this revised description in the heading above.
3. The application form indicates that the development is already in use. I have therefore determined this appeal on the basis that the appellant is seeking the retention of the use in place.

Main Issue

4. The main issue is whether the development would provide satisfactory living conditions for existing and future occupants with particular regard to internal living space; outlook; daylight and sunlight; and the provision of outdoor amenity space.

Reasons

Living conditions

5. The appeal site comprises the basement and lower ground floor of a four-storey terrace building located in an area containing a mix of commercial and residential uses. The appeal development comprises two 1-bedroom units of accommodation used for short term letting purposes for periods of up to 90 days. The appellant indicates that these are already in use, and during my site visit I observed that Unit 2 was occupied, while Unit 1 was currently vacant.
6. Policy HO11 of the Hammersmith and Fulham Local Plan, February 2018 (Local Plan), requires consideration of detailed residential standards for all new housing, to ensure the needs of future occupants are met. Furthermore, the policy, amongst other things, requires the protection of existing residential amenities, including

issues such as loss of daylight, sunlight, privacy and outlook. Similarly, a criteria of Local Plan Policy HO4 is that the Council expects all housing development to be well designed internally and provide a high-quality residential environment. Even though these requirements relate to new housing, I consider that they can be equally applied to the appeal proposal, where occupiers could stay within the units of accommodation for up to 90 days. Although most occupancies will be temporary, residents will be living and sleeping in a residential setting. It will therefore be reasonable to expect that occupiers of the units to have a living environment that is protected from the harmful effects that could be caused by a poor outlook, or a loss of daylight and sunlight. I have therefore given both these policies, insofar as they relate to the protection of living conditions, moderate weight in my determination of the appeal.

7. Unit 2 is located at basement level towards the front of the appeal building. The bedroom, kitchen and bathroom do not have any windows allowing daylight and sunlight to directly enter these rooms, and therefore, they will be reliant on artificial light to adequately illuminate them throughout the day. There is an emergency escape off the bedroom that allows daylight to partially enter the room from the street above. However, I observed during my late-morning site visit that this opening is small and will allow only a limited amount of light to enter the bedroom. The lack of windows serving these spaces means there is no direct exposure to external views for occupiers of the rooms, which will have a detrimental impact on their outlook. Taken together, the lack of daylight/sunlight entering the accommodation and the poor outlook from within rooms, results in a poor-quality living environment that will be gloomy and dispiriting. This will result in unsatisfactory living conditions for existing and future occupiers of Unit 2.
8. Unit 1 is located at the lower ground floor level of the building towards its rear. During my site visit, I observed, that the sitting room and kitchen area is covered by a roof with obscure glazed panels, while the room is served by a single window that is also obscure glazed. The partially covered patio area is enclosed by existing walls with no views externally other than skyward views through a small gap created by an external staircase. Whilst, there is a reasonable amount of daylight and sunlight entering the accommodation, the obscure glazed window and roof panels serving the kitchen / sitting room do not allow for external views of areas or spaces outside of Unit 1. Together with the lack of windows in the bedroom and bathroom, this results in a poor living environment with limited connection and exposure to the areas outside of the appeal building. Although there is a small unenclosed gap above the patio area, outward views will be limited and obscured by the existing staircase. Consequently, this will have a harmful effect on the outlook of existing and future occupiers of Unit 1.
9. The appellant considers that the short-term nature of the accommodation means that occupiers will only be using it as a place to sleep, therefore will not require the same level of amenity as new housing. However, the level of accommodation shown on the submitted drawings indicates that they are more than just sleeping facilities given that both units have kitchen and bathrooms, while Unit 1 has a sitting room. Besides, I have not been directed to any specific policy or guidance that states that living conditions of occupiers of this type of living accommodation should necessarily be reduced in quality on account of the shorter occupancy periods.
10. Notwithstanding my assessment of outlook and daylight/sunlight, I consider that the internal and external space requirements for short-term let accommodation will likely be lower than a residential dwelling. For example, residential dwellings may require greater storage area requirements and a need for external outdoor space

that will be commensurate with longer term occupancy. Therefore, I have given only limited weight to those policies referred to by the Council insofar as they relate to internal and external space requirements (namely Policies HO4 and H11(a) of the Local Plan, Key Principle HS1 of the Hammersmith and Fulham Supplementary Planning Guidance and Policy 3.5 of The London Plan). Nevertheless, the rooms associated with Units 1 and 2 will be functional in terms of their size and will likely be adequate in terms of space needs for existing and future occupiers given the short-term nature of the tenure. Furthermore, a local park is located a short distance from the appeal site that could adequately cater for the external space needs of occupiers.

11. I have found there to be no harm to the living conditions of existing and future occupiers in terms of internal and external space requirements, and daylight/sunlight in respect of Unit 1. However, the appeal development will have a harmful effect on the living conditions of existing and future occupiers as they relate to outlook from Units 1 and 2, and daylight/sunlight at Unit 2. This will therefore lead to conflict with Policies HO4 and HO11, the specific requirements of which I have referred to above.
12. The Council's refusal notice refers to Policy 7.6 of The London Plan, however, this relates specifically to new buildings, and as the appeal development relates to a use within an existing building, I have not referred to this policy in concluding on the main issue.

Other Matters

13. The appellant has indicated that there is sufficient evidence to demonstrate that the existing use at the site is lawful. Yet, that is a separate matter to this appeal and the appellant will need to pursue that separately with the Council.
14. I acknowledge that the appeal development will not give rise to harmful impacts upon neighbouring living conditions. However, the lack of harm is a neutral factor that does not weigh in favour of this appeal.
15. The appeal site is in a very accessible location close to public transport connections, nevertheless this will not overcome my concerns in respect of the living conditions of existing and future occupiers at Units 1 and 2.
16. The appellant has submitted an unsigned and dated planning obligation that will limit individual occupiers of the flats from staying more than 90 days during any calendar year. But, as I am dismissing this appeal on the harm to living conditions, I have not pursued this matter further.

Conclusion

17. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

R. E. Jones

INSPECTOR