



Appeal Decision

Site visit made on 26 July 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/V5570/W/21/3286487

33 Linton Street, Islington, London N1 7DU

- 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 True Pub Co. against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/1157/FUL, dated 16 April 2021, was refused by notice dated 30 June 2021.
 - The development proposed is described on the application form as, "The change of use of existing first floor function and office into Class C1 guest accommodation, and the conversion of the existing original pub landlord's flat into Class C1 guest accommodation, and the creation of a larger window opening on the first floor to match that on the second floor".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Change of use of the ancillary accommodation on the upper floors of the existing public house (Sui Generis) (first and second) to result in the creation visitor/guest accommodation (4 no. units) used as ancillary to the main public house use. External alterations including enlargement of existing first floor rear elevation window. Internal alterations throughout". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.

Main Issue

3. The main issue is whether or not the principle of the proposed change of use is acceptable, having particular regard to any loss of an ancillary use to a public house and its conservation area location.

Reasons

4. This appeal relates to the first and second floors of 33 Linton Street, Islington, which is located on the corner of Linton Street and Mary Street. The ground floor of the building operates as a public house, The Hanbury Arms.
5. The first floor contains an office and a function room, although at the time of my site visit much of that space contained items for storage. The representations before me indicate that the second floor contains living

accommodation. The proposal seeks to change the use of the first and second floors into guest accommodation, with 4 units proposed.

6. Part B. i) of Policy DM4.10 of Islington's Local Plan: Development Management Policies (adopted 2013) (DMP) provides that, amongst other things, applications for the change of use of a public house must demonstrate that the public house has been vacant for a continuous period of 2 years or more and continuous marketing evidence has been provided for the vacant 2 year period to demonstrate there is no realistic prospect of the unit being used as a public house in the foreseeable future.
7. However, whilst the hospitality industry has been severely impacted by the coronavirus (COVID-19) pandemic, including via 'lockdowns' and various Government restrictions, and the trading space at first-floor level has not been used for functions since at least early 2020, no continuous marketing evidence, as required by Policy DM4.10, has been provided. Little evidence has been provided to demonstrate that any marketing has been unsuccessful for all relevant floorspace proposed to be lost through the proposed change of use, as required by Appendix 11 of the DMP.
8. Similarly, although there are indicators that the first floor, which has been broken up into a number of rooms, may not be viable for various reasons, including the numbers of staff required to run it, the access arrangements, and noise generated by its use in this dense residential area, no marketing evidence has been provided to demonstrate that there is no realistic prospect of this space being used as part of the public house use in the future. I note that the second floor has been used as residential accommodation for many years, in association with the public house, but this fact of itself does not constitute marketing evidence. Reference has been made to 'exceptional circumstances' but Policy DM4.10 does not refer to these.
9. The site is located within the Arlington Square Conservation Area (conservation area). The significance of the conservation area, as a whole, is derived in part from its abundance of well-maintained 19th century properties with period details, commonly arranged in cohesive terraces, and its wide streets. Additionally, Islington's Conservation Area Design Guidelines (adopted 2002) specify that the land use character of the conservation area, including residential with a few corner pubs, is considered integral to the overall character of the area.
10. The site's positive contribution to the conservation area derives in part from its commercial architecture representative of the inter-war years which provides a notable counterpoint to the 19th century terraces which surround it, and the floorspace being functionally part of The Hanbury Arms which contributes to the economic viability and the social vitality of the local area.
11. The proposal would involve only a minimal intervention to the external façade of the building. Nevertheless, given the importance of The Hanbury Arms to maintaining the character of the conservation area in land use terms, and considering the lack of marketing information referred to above, it has not been demonstrated that the proposal would not have a negative effect on the viability of the public house, potentially resulting in its loss to the community. It follows that, whilst the proposal relates to residential units which would somewhat augment the mix of uses nearby, when considering the proposal as a whole, it has not been demonstrated that the proposed conversion of the

- existing public house floor space would contribute to the balance and mix of uses in the immediate locality, as required by Part B. i) of Policy DM4.11 of the DMP.
12. Given this, the significance of the conservation area would be materially harmed by the proposed development. Whilst the harm would be localised and accordingly would be less than substantial, it must be weighed against the public benefits of the proposal.
 13. In this respect, the main driver behind this appeal is the desire to create an additional revenue stream, to support the viability and longevity of The Hanbury Arms, in the context of the challenges that the hospitality industry has encountered in recent years. In this way, the change of use proposed is envisaged to assist The Hanbury Arms in catering for both patrons of the proposed accommodation and for the local community, including through music and various community events. This is a business model that has been implemented elsewhere in Greater London by the appellant.
 14. No detail has been provided as to the revenue generated by the existing floorspace prior to the pandemic or how much revenue the proposed change of use would be likely to create. Accordingly, the scheme's financial benefit is unclear. Any presumption on my part in relation to these considerations would be speculation. As such, based on the limited financial evidence before me, I have given these benefits limited weight in favour of the proposal.
 15. I recognise the considerable importance of the conservation area as designated heritage asset, and in accordance with the National Planning Policy Framework (the Framework), I have given great weight to its preservation. Collectively, I give limited weight to all the public benefits of the proposal. Thus, those benefits do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation area. Hence, the proposal would not preserve the character of the conservation area.
 16. Considering the clear lack of marketing evidence provided when set against the requirements of Policy DM4.10, and taking account of my findings in relation to Part B. i) of Policy DM4.11 and the effect of the proposal on the conservation area, I find that the principle of the proposed change of use is not acceptable, having particular regard to any loss of an ancillary use to a public house and its conservation area location.
 17. The proposal would therefore conflict with Part B. i) of Policy DM4.10 of the DMP, which I have summarised above, and with Part B. i) of Policy DM4.11 which provides that, amongst other things, proposals for new hotel and visitor accommodation (including ancillary hotel and visitor accommodation) will only be supported where they contribute to the balance and mix of uses in the immediate locality.

Other Matters

18. I have found above that the proposal would conflict with an up-to-date development plan. In this respect I am mindful of the Framework's requirement that the planning system should be genuinely plan-led. In such situations, the Framework advises that planning permission should not usually

be granted. However, it is necessary to consider whether other material considerations indicate that the plan should not be followed.

19. Although the Council have raised a concern with respect to how the proposed residential units would be ancillary to the public house, if the proposal was acceptable in all other respects potentially this matter could be dealt with by condition.
20. I have made reference above to the intention of the proposal to provide an additional revenue stream for The Hanbury Arms, but considering the paucity of details provided as to the scale of support that such a revenue stream might provide, this limits the weight that can be afforded to this factor.
21. The proposal would contribute to the amount of accommodation in the locality, in what is an accessible location which is well-served by services and facilities, including restaurants and shops. The proposal would contribute to sustainable transport through the provision of bike rental and storage for guests. Detailed measures have been put forward in the Sustainable Design and Construction Statement, including in relation to energy and water efficiency and recycling. Nevertheless, given the quantum of units proposed, these matters can only be given limited weight in favour of the proposal.
22. I therefore find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan identified.

Conclusion

23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR