

Appeal Decision

Site visit made on 31 January 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2023

Appeal Ref: APP/X5990/W/22/3305563

Flat 1 Basement, 75 Inverness Terrace, London W2 3JT

- 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 Timothy Francis Cant against the decision of the City of Westminster Council.
 - The application Ref 22/03675/FULL, dated 6 June 2022, was refused by notice dated 15 August 2022.
 - The development proposed is described as the Flat 1(BST) is my home in the UK. I am the flat leaseholder, and own part of the freehold of 75 Inverness Terrace (along with other flat leaseholders from our RTM). I have recently renovated the entire flat, and certified to current standards. We collectively have also renovated the exterior of the building last month to match its status in the Bayswater Conservation Area. I am working abroad for 9 months a year, and wish to live in my home for the remaining 3 months. While am I abroad, I would like to rent my flat out on a furnished short-term let basis to professionals who are working in London on an assignment basis (1~3 months at a time). I have already appointed a UK Property Manager to look after the flat in my absence. All the freeholders of the building agree with myself, that this is the best way to maintain my residence and building in good order, before I retire to live in the property full time. I had previously rented out the property on a long term AST basis, but the previous tenants have never taken care of the flat. I can ensure you a short-term let basis would give me the best opportunity to maintain the good order of the building and it's residential status.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposal on the supply of permanent residential accommodation in Westminster and on the living conditions of the occupiers of neighbouring properties with particular regard to potential noise and general disturbance.

Reasons

3. The appeal property is a basement level flat within a substantial Grade II listed building, which forms part of an impressive tall terrace in the Bayswater Conservation Area. The proposal is to allow the appeal flat to be used as residential accommodation on a short-term let basis.

Effect on the supply of permanent residential accommodation

4. Policy 8 of the Council's City Plan 2019-2040 (CP) seeks to protect all residential floorspace within Westminster except in certain circumstances, none of which would apply in this case. Part D of this policy states that the change of use of any type of housing to temporary sleeping accommodation on a permanent basis will not be permitted. A short-term let, as proposed, would be regarded as temporary sleeping accommodation. The supporting text to this policy explains that the restriction on short-term letting is to safeguard the existing housing supply and to ensure that the existing stock remains available on a permanent basis for residents.
5. The appellant states that both he and his wife intend to live at the appeal property permanently from February 2026 and would occupy the accommodation on a temporary basis up to 3 months at any one time in the interim. During the same period, the appeal flat would be let to professionals for between 1 and 3 months. While the appeal property would ultimately revert to permanent residential accommodation, the flat would not be available as such until then. Consequently, the appeal scheme conflicts with CP Policy 8.
6. Hotels near to the site also offer short term accommodation, albeit different in type to the proposal, and I agree that these would not be affected by the proposal. I also note that the appellant has had problems in the past arising from renting to individuals on an Assured Shorthold Tenancy (AST) basis.
7. Nevertheless, the proposal would result in the loss of permanent residential accommodation. In doing so, it would exacerbate the shortage of dwellings available for households in Westminster, and Greater London more generally.

Living Conditions

8. The Council asserts that the proposed use is likely to adversely affect the quality of life of nearby residents who occupy accommodation on a permanent basis through multiple comings and goings to the property and by creating noise and general disturbance at unsocial hours. It is also concerned that problems in crime, anti-social behaviour and refuse management may result if the appeal scheme were to proceed. However, few specific details have been provided to substantiate this opinion.
9. From what I saw, the appeal flat addresses a busy road and it is close to several hotels and other commercial premises. As a result, there is already an existing level of activity and associated background noise in the local area. The appeal flat has a separate entrance from street level to the rest of the main building and prospective tenants would be vetted by both the managing agent and the appellant. This arrangement could ensure that all future occupiers are made aware of the need to keep noise levels to a minimum, always. Given all these factors, I see no reason to conclude that the comings and goings to and from the appeal flat would necessarily be noisy or disturb other nearby residents.
10. A resident of the upper flat at No 75 supports the proposal and is nervous that the appeal flat could be left empty for extended periods while the appellant and his wife are away. That there has been a recent incident of trespass at the back of the building is likely to reinforce that feeling. However, there is no convincing evidence that if the appeal flat were to be left unoccupied that it

would prejudice the safety or security of the neighbourhood. Similarly, I am not persuaded that tenants of the appeal flat would cause or exacerbate any actual or perceived levels of crime and/or antisocial behaviour.

11. On the second main issue, I therefore conclude that the proposal would not cause significant harm to the living conditions of the occupiers of neighbouring properties. As such, there is no conflict with CP Policies 7 or 33 insofar as they aim to safeguard residential amenity. My finding on this matter does out weigh the harm that I have identified in relation to the first main issue.

Other matters

12. Sections 66 and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special regard is given to the desirability of preserving the listed building or its setting and preserving or enhancing the character or appearance of a conservation area. In this case, no exterior or interior changes to the appeal property are sought and there is no evidence before me to indicate that the issues raised by the proposal have any significant implications for the listed building or the CA. I have no reason to disagree with those findings. The proposal would therefore preserve the special architectural and historic interest of No 75 as a listed building and the character and appearance of the CA. I also note that all the freeholders and leaseholders of No 75 have been canvassed and support the proposal. However, these matters do not outweigh the harm that I have identified.

Conclusion

13. The proposed development would conflict with the development plan. There are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan.
14. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR