The Planning Inspectorate

Appeal Decision

Site visit made on 21 July 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/X5990/W/23/3318104
7 Moor Street, London W1D 5NB

- 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 McMullen & Sons Limited against the decision of City of Westminster Council.
- The application Ref 22/04693/FULL, dated 13 July 2022, was refused by notice dated 9 September 2022.
- The development proposed is described as a change of use of first and second floors from office (Class E) to short-term letting rooms (sui generis).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council state that while the proposed use is sui generis it would be akin to a hotel use and therefore policies which reference both visitor accommodation and/or hotels would be relevant to the determination of this application. This approach is not fundamentally challenged by the appellant, and I have therefore considered the appeal on this basis.

Main Issue

3. The main issue is whether sufficient information has been presented to demonstrate the loss of office floorspace to short-term letting use can be justified.

Reasons

4. Policy 13(D) of the 2021 Westminster City Plan 2019 – 2040 (The City Plan), states that net loss of office floorspace to a hotel use will only be permitted where there is no interest in its continued use for office or any other Class E (commercial, business and service) uses education or community use, as demonstrated by vacancy and appropriate marketing for a period of at least 12 months.

5. Policy E1 of the London Plan (2021), identifies the specialist functions of the central London office market should be developed and promoted. However, the policy supports the redevelopment and change of use of surplus office space to other uses. This is also subject to evidence of vacancy and marketing for at least 12 months as set out at paragraph 6.1.7 of the London Plan.

6. The City Plan and London Plan are relatively recent documents underpinned by evidence which identifies a growth in projected office floorspace demand coupled with a historical loss of office stock.

7. This trend has resulted in high rents which the City Plan, at paragraph 13.1, recognises as one which needs to be halted for Westminster to continue to compete globally, to support the continued growth of emerging sectors and to adapt to modern working practices. Paragraph 6.1.2 of the London Plan also highlights that office employment projections are estimated to rise by 31% by 2041.

8. I appreciate the site has been marketed historically for varying durations and there have been some vacancy periods during this time. I also accept the financial challenges during and after the Covid-19 pandemic, indeed significant numbers of business struggled during this period.

9. However, both the City Plan and London Plan were adopted in the knowledge of the pandemic and there is limited compelling evidence before me to suggest the office market has substantially departed from the projections identified in the Development Plan.

10. I say this as there is some variance between the main parties regarding office leasing activity and transactions across the whole of London. This includes vacancy trends, office attendance and occupier expectations. This variance further indicates the importance of a minimum 12-month marketing period to robustly test demand within this market.

11. I also note the absence of a lift serving the upper floors, lack of cycle parking and a shared building with a public house including a communal staircase. These may be undesirable to some tenants. I also acknowledge that some potential tenants found the quality of the accommodation, size, layout or location unsuitable.

12. Nonetheless, in the absence of a continuous minimum 12-month period of recent marketing, I cannot be satisfied that the appellants evidence is representative of all interest in the market. Particularly as Policy E1 of the London Plan states that development proposals should take into account the need for a range of suitable workspace including lower cost and affordable workspace.

13. The appellant suggests that the proposal would deliver benefits to the existing building as a non-designated heritage asset with further social, cultural and economic benefits. Additionally, the principle of short-term lets is not in dispute. In these cases, I must consider the balance with the development plan overall bearing in mind the importance of the policies which are infringed and the extent of such infringement.

14. In this case, planning policy sets out controls regarding changes of use from office floorspace, unless it is demonstrated that such floorspace would be surplus. In this case the office space has not been robustly demonstrated as surplus and this appeal scheme would therefore conflict with the development plan taken as a whole. Whilst there would be benefits associated with the development, they would not outweigh the identified harm and its associated development plan conflict.

15. Consequently, in the absence of the minimum requirement of 12 months marketing evidence, insufficient information has been presented to demonstrate that the loss of office floorspace to short-term letting use can be justified. The proposed development would therefore conflict with the relevant

provisions of Policy 13(D) of the City Plan and Policy E1 of the London Plan. These, amongst other things, seek to support economic growth and meet the need for office floorspace.

Conclusion

16. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR