



Appeal Decision

Site visit made on 15 August 2023

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/K5600/W/22/3313143

136 Brompton Road, London SW3 1HY

- 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 Wafai against the decision of the Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/22/05327, dated 25 August 2022, was refused by notice dated 17 October 2022.
 - The development proposed is the change of use of 3 flats from Residential (c3) to short term lets (*sui generis*).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the supply and choice of housing available in the Borough.

Reasons

3. The appeal site contains a three storey building with basement level and has a commercial unit on the ground and lower level. The appeal relates to the first and second floors of the building which are accessed via a separate door from the street. The building forms part of a wider terrace with active frontages on the ground floor, contributing to the area's busy commercial character. The site is within the Central Activity Zone (CAZ) and whilst residential uses do not form part of the predominant character, there is evidence to show that there are other residential uses in the area.
4. Customers staying in the building would have easy access to a wide range of attractions and facilities. The site's location is therefore likely to be attractive to visitors to the city. The appellant puts forward the argument that the proposal is close in nature to a hotel use and could therefore be reasonably described as a main town centre use. However, even if I were to agree with the appellant and accept that the proposal would fall within one of the exceptions of Policy CH1 of The Royal Borough of Kensington and Chelsea Local Plan (the LP) (2021), the proposal seeks to provide temporary sleeping accommodation resulting in the loss of permanent residential accommodation. Consequently, there is clear conflict with Policy CF9 of the LP (2021).
5. I accept that the location of the site in terms of its closeness to a busy road and that the flats are above a commercial unit without lift access, may limit the attractiveness of the site to some occupiers. However, there is no substantive evidence before me to demonstrate the difficulty in letting the flats on longer-

term leases. Whilst the flats may be currently occupied on short-term lets of no more than 90 days, I am not persuaded that the flats are unsuitable for permanent residential accommodation. The flats appear to be of a high standard and whilst I saw the flats are not necessarily spacious, the layout of the flats provides a functional space that would be possible to provide the facilities required for day-to-day living. I acknowledge that the flats are accessed from Brompton Road via a front entrance shared with access to the basement level, however, once inside the building there is a clear separation between the commercial and residential uses. Furthermore, the provision of residential accommodation above commercial uses is not an uncommon characteristic of homes in London.

6. I therefore find that the proposed development would lead to the loss of three permanent residential units which would reduce the supply and choice of housing in the borough. Accordingly, the proposal would conflict with Policies CH1 and CF9 of the LP (2021) which when taken together, seek to resist the loss of permanent residential accommodation and boost the supply of homes in the Borough.

Other Matters

7. The appeal site is within the Brompton Conservation Area (the CA). I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of this area in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As the proposal would not alter the external appearance of the building, the character and appearance of the CA would be preserved. The site is also well-served by public transport and would not provide off-street parking. However, these are neutral factors which weigh neither for nor against the development.
8. Whilst the proposal may comply with some elements of planning policy in terms of the lack of harm to residential amenity and the noise and disturbance impacts, these considerations alone would not outweigh the harm I have identified above.
9. I am sympathetic to the appellant's desire to have the flexibility to rent the flats for more than 90 days in order to support their business, however, this is not relevant to my consideration of the planning merits of this appeal.

Planning Balance and Conclusion

10. The Council cannot demonstrate a five year supply of deliverable housing sites and the shortfall is described as "substantial". As such, there is a shortage of available sites to provide housing in the Borough. Consequently, the benefits of the proposal in terms of contributing to tourism development and supporting the visitor economy, would not outweigh the harm caused by the removal of the flats from the Council's housing stock at a time when there is great emphasis on the provision of a suitable supply of housing.
11. For the above reasons, I find that the proposal conflicts with the development plan, read as a whole. There are no material considerations that have been shown to carry sufficient weight to indicate a decision otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

L Reid

INSPECTOR