
Appeal Decision

Site visit made on 20 May 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/A5840/W/23/3333251

1 (A, B and C) Camberwell Road, London SE5 0EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Erdinc Sisman against the decision of the Council of the London Borough of Southwark.
 - The application Ref is 23/AP/2406.
 - The development proposed is described as "Change of use of first, second and third floor from approved residential (C3) to short stay accommodation (sui generis)".
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant, Mr Erdinc Sisman, against Council of the London Borough of Southwark. This application is the subject of a separate Decision.

Preliminary Matter

3. The appellant was informed in a letter dated 30 April 2024 that a site visit was to be undertaken on 20 May 2024 between the hours of 14:15 and 16:15. This letter expressed the importance of making arrangements for the Inspector to be met during this time period and to allow access to the site. I arrived at the appeal site on 20 May 2024 during the specified time, however, I was not met by the appellant or a representative, and I was unable to gain access to the appeal site to undertake an internal visit. My assessment of this appeal is therefore on the basis of the submitted written evidence and my external observations of the appeal site.

Main Issue

4. The main issue is the effect of the proposal on housing supply in the area.

Reasons

5. Policy P3 of the Southwark Plan 2022 (SP) states the net loss of existing housing, including short-stay accommodation, will not be permitted except where existing location and standard of accommodation is unsatisfactory and cannot be improved; or where the residential accommodation is on a site which is allocated in the development plan for an alternative use.
6. The appellant argues that Policy P3 is not relevant as there is not any existing housing at the appeal site, as the flats have not been occupied.

7. Planning permission 15/AP/4937 was granted for change of use of ground floor premises and the construction of a first, second and third floor for flats. It was clear from what I saw at my visit that the first, second and third floors have been constructed. The submitted existing floor plans detail that each floor have been laid out as flats with rooms identified as kitchen/dining/lounges, bedrooms and bathrooms.
8. Sections 75(2) and (3) of the Town and Country Planning Act 1990 provide that where planning permission is granted for the erection of a building, the permission may specify the purposes for which the building may be used – and if no purposes is specified, the permission shall be construed as including permission to use the building for the purpose for which it is so designed. In determining the actual use of the appeal building, the physical state of the appeal building is very important but is not decisive. Actual or intended use is also important but again is not decisive. These matters have to be looked at in the round.
9. The appellant details the description of the proposal on the application form that the proposal is for a change of use from approved residential (C3). The description of development of permission 15/AP/4937 is clear that the purpose of the first, second and third floors were designed to be flats and therefore the intended use was to be flats. So, whilst the flats have not been occupied, the flats approved by permission 15/AP/4937 have been constructed and the submitted existing floor plans confirm the layout of the building as flats. As a matter of fact, and degree, given the description of the proposed development, the physical state of the building and the intended use derived from permission 15/AP/4937, I am satisfied that the appeal building does provide existing housing accommodation.
10. There is minimal evidence before me which demonstrates that the existing location and standard of accommodation is unsatisfactory and cannot be improved. I have not been made aware of the appeal site being allocated in the development plan for an alternative use.
11. Accordingly, the proposal would have a harmful effect on housing supply in the area. The proposal would be contrary to Policy P3 of the SP, Policy H9 of the London Plan 2021 (LP) and the National Planning Policy Framework (the Framework) which seeks to protect and promote efficient use of existing housing stock.

Other Matters

12. I have had regard to the appellants statement of case including matters relating to flooding, heritage, living conditions and parking. These matters do not outweigh the harm identified to housing supply.
13. Policy P15 of the SP and Policy D6 of the LP have been included in the Council's decision notice. These Policies relate generally to residential design and housing quality, and do not refer directly to housing supply. Nevertheless, this matter does not alter my findings on the main issue and the conflict with development plan policies.

Conclusion

14. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
15. For the reasons given above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR