



Appeal Decision

Site visit made on 26 June 2024

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2024

Appeal Ref: APP/X5990/W/23/3332334

45 Welbeck Street, City of Westminster, London W1G 8DZ

- 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 Jonathan Glanz against the decision of the City of Westminster Council.
 - The application Ref is 23/02383/FULL.
 - The development proposed is the conversion of the existing ground and lower ground floor commercial office areas to form a new two bedroom duplex residential apartment.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing ground and lower ground floor commercial office areas to form a new two bedroom duplex residential apartment at 45 Welbeck Street, City of Westminster, London W1G 8DZ in accordance with the terms of the application, Ref 23/02383/FULL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PP-002 Rev. 2
 - 3) Prior to the first occupation of the development hereby approved, full details of the additional refuse and recycling storage shall be submitted to and approved in writing by the local planning authority. The refuse and recycling facilities shall be fully implemented in accordance with the approved details, be clearly marked, made available for use prior to the first occupation of the development, not be used for any other purpose and shall be maintained for the lifetime of the development.
 - 4) Prior to the first occupation of the development hereby permitted each cycle parking space shown on the approved drawings must be provided, used for no other purpose and shall be maintained for the lifetime of the development.

Procedural Matters

2. Subsequent to the decision made by the Council on the application to which this appeal relates, the National Planning Policy Framework has been revised. I

have therefore made my decision with regard to the National Planning Policy Framework (December 2023) (the Framework).

3. Also subsequent to the Council's decision the GDPO has been amended¹. The appellant has provided their comments on this change in relation to their appeal, and the Council have had the opportunity to respond to these. I have made my decision with reference to the GDPO as amended.

Main Issues

4. The main issue is the effect on employment floorspace in the London Central Activity Zone (the CAZ).

Reasons

5. The appeal property is a Grade II listed terraced building with ground, basement and 4 upper floors and is located in the Harley Street Conservation Area and within the boundaries of the CAZ. The ground, basement, and first floor are in currently occupied office use, with the upper floors above in residential use. Small offices of this type make up a substantial part of the office stock of the Council area. The proposal is for the change of use to residential of those parts of the ground floor and basement that are currently in office use. The proposal would result in a new dwelling with two bedrooms.
6. The appeal property is located within the CAZ area. An Article 4² direction is in place for part of the CAZ within the Council area that removes permitted development rights for changes of use from office/commercial to residential use. However, following a Direction of the Secretary of State in 2022, which modified the boundary of the area covered by the Article 4 direction, the appeal property falls outside of the area within which it applies.
7. However, the appeal property is a listed building under the provisions of the GPDO and to ensure full consideration of the effects of such a proposal accords with the Planning (Listed Building and Conservation Areas) Act 1990, prior approval from the local planning authority (the LPA) must be sought for the change of use proposed. The recent amendment to the GPDO, as noted above, does however, remove a previous requirement that a building must have been vacant for 3 months for the permitted development of the change of use proposed, without the need for prior approval to be sought from the LPA.
8. As the appeal property is a listed building, prior approval is, therefore, required by the local planning authority for the change of use proposed. Although a full planning application is not required in this instance, the appeal before me relates to such an application. A separate Listed Building Consent for alterations required for the proposed change to residential use has been granted by the Council.
9. Policy 13 of the City Plan 2019-2040 (2021) (the Local Plan) seeks to ensure that office floorspace that supports the Council area as a global office centre is not lost though the change of use from office to residential within the CAZ. This policy must, however, be considered and balanced along with the intention of the GDPO with regard to the change of use proposed, the 2022

¹ The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024.

² Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015

- direction by the SoS changing the area of the CAZ covered by the Article 4 direction and the modifications to the GDPO relating to vacancy requirements.
10. Policy 13 sets out that the change of use of the type proposed would only be acceptable in areas that are residential in character and where the proposal would reinstate an original residential use. It is accepted by both parties that the proposal would reinstate an original residential use. However, the Council's position is that the area is an area of the CAZ where the majority of ground floor uses comprise of a range of commercial activity. Whilst this indicates that the local area is a predominantly commercial neighbourhood, as defined in the glossary of the Local Plan, this relates only to ground floor uses, and not the character of the area as required by Policy 13.
 11. Character is defined in the glossary of the Local Plan as "the distinctive or typical quality of a building or area, as described by historic fabric, appearance, townscape and land uses". Whilst the first, ground and lower ground floors of the appeal property are in office use, from the street it does appear as a wholly residential property. The majority of buildings within this part of Welbeck Street, including the appeal property, appear to have been originally intended for residential use. Whilst there are hotels and offices in the area, and notwithstanding that it can also be defined as a predominantly commercial neighbourhood in terms of ground floor uses, the predominance of buildings of residential character, and in majority residential use, does afford the local area an evident residential character.
 12. The Council have drawn my attention to dismissed appeal decisions in the Council area that relate to changes of use within the CAZ. Whilst these mainly relate to similar proposals for change of use from office to residential, they predate the modifications to the GDPO with regard to permitted development for the type of change of use proposed, including vacancy requirements that were removed from the GDPO earlier this year. As such, I find that they do not reflect the circumstances of this appeal, and I have only afforded these moderate weight in my considerations.
 13. Whilst the proposal would result in the loss of office space in a commercial neighbourhood within the CAZ, this must be balanced against the general presumption of permitted development in this local area, albeit with pre-approval required for such a change that affects listed buildings. Listed building consent in this instance having been granted³.
 14. Such loss of office space in the CAZ is accepted by Policy 13 of the Local Plan, provided the proposal reinstates a previous residential use in an area of residential character. As I find the proposal meets these requirements, I find that it does not result in any significant harm to employment floorspace in the CAZ.
 15. For the reasons given above, I find that the proposal does not conflict with Policy 13 of the Local Plan, Policy E1 of the London Plan (2021) or Section 11 of the Framework. These collectively seek the effective use of land, the provision of office floorspace that supports the Council area as a global office centre and the use of Article 4 directions to ensure the viability of the CAZ.

³ Listed Building Consent ref: 23/02384/LBC

Conditions

16. I have had regard to the conditions suggested by the Council should I be minded to allow the appeal, and the appellant has confirmed that these are acceptable. Along with the standard conditions relating to the timing of implementation of the development and compliance with approved plans, to ensure access to an alternative to private car use, I have attached a condition requiring the provision of cycle parking prior to first occupation. I have also attached a condition to ensure appropriate refuse and recycling facilities to ensure adequate and visually appropriate provision.

Conclusion

17. For the reasons given and having had regard to all other matters raised, the appeal should succeed subject to the conditions outlined above.

Victor Callister

INSPECTOR