



Appeal Decision

Site visit made on 15 January 2025

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/E5900/W/24/3349956

141 Leman Street, London E1 8EY

- 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 Bhuiyan against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/00701.
 - The development proposed is the change of use from C4 to C1.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed change of use is acceptable with particular regard to strategic housing policies and the effect on the supply of residential accommodation;
 - The effect of the proposal on the transport network and whether it would provide adequate space for cycle parking and waste management; and
 - Whether the proposal would preserve the listed building at 141 Leman Street or any features of special architectural or historic interest which it possesses.

Reasons

Whether the proposed change of use is acceptable

3. The appeal site comprises a four storey mid-terrace property with a commercial use at ground floor. The planning history before me provides little clarity on the lawful planning status of the upper floors.
4. A house in multiple occupation (HMO) licence was granted in 2020 for the upper floors, however the appellant highlights that no corresponding planning permission was sought. They contend that the property was not occupied as a HMO pursuant to this licence, and the lawful use has been abandoned.
5. The concept of abandonment applies if a building or land remains unused for a considerable time. It involves a cessation of use in such a way and for such a time as to give the impression to a reasonable onlooker, applying an objective rather than a subjective test, that it was not to be resumed. However, the cessation of use must be followed by a period of non-use that is more than merely temporary.

6. The building does not have the appearance of having been abandoned. The appellant indicates that, when they took up tenancy of the property in 2019, the rooms were in an uninhabitable condition, albeit used for storage purposes. There is thus no compelling evidence before me to indicate that the appeal site was subject to any prolonged period of non-use. Notably, the applicant's own application form describes the existing use of the upper floors as being C4 (HMO).
7. A statutory declaration signed by the freehold owner of the property has been submitted stating that the upper floors of the building have previously been used for short-term letting as individual rooms for a few nights to several weeks at a time, since 1986. It states that the rooms were let to the general public and tenants on housing benefits. However, an application for a Lawful Development Certificate (LDC) for the existing use as short term lets (use class C1) was refused in 2019 due to a lack of evidence.
8. A letter from the Valuation Office Agency (VOA) dated 30 October 2019 describes the first to third floors of the building as 'guest house and premises'. However, evidence from the VOA website indicates that the property was registered for Council Tax for four units of self-contained residential accommodation up to June 2019. Additional evidence from the Council, including a tenancy agreement from 2009 for an individual studio flat and correspondence from the Council's Council Tax team from 2010 indicate the upper floors were in residential use.
9. I saw on my site visit that the upper floors are laid out in a form akin to a HMO, as indicated in the existing floor plans, with several en-suite bedrooms on each level, and communal kitchen facilities on the first and second floor. There is also a modest reception space on the first floor.
10. Based on the evidence before me and my own observations, on the balance of probabilities, the last lawful use of the upper floors of the building was either self-contained flats or a HMO. Irrespective, these are both a form of residential accommodation. Policies S.H1 and D.TC6 of the Tower Hamlets Local Plan 2031 Adopted January 2020 (the Local Plan) are therefore relevant.
11. The appeal proposal would result in the total loss of the existing residential accommodation. No compensatory provision is proposed, and no evidence has been provided to demonstrate that this would not have a harmful effect on the Borough's ability to meet its housing targets.
12. The proposed change of use is therefore not acceptable, with particular regard to strategic housing policies and the effect on the supply of residential accommodation. It would conflict with Policies D.TC6 and S.H1 of the Local Plan. These policies, among other provisions, seek to ensure that development does not undermine the supply of self-contained housing, and resist development that would result in a net loss of residential floorspace and support the development of visitor accommodation, providing it does not compromise the Council's ability to meet the borough's housing targets.

Transport network, cycle parking and waste management

13. Policy D.TR2 of the Local Plan requires development that is likely to have a significant impact on the transport network to submit a transport statement. This may require a construction management and logistics plan, or a delivery and servicing plan depending on the type of land use and its location. The policy states

that development that will have an adverse impact to traffic congestion on the highway network will be required to contribute and deliver appropriate transport infrastructure and/or effective mitigation measures. Policy D.TR3 requires development to comply with local parking standards for vehicles and bicycles.

14. Policy D.MW3 of the Local Plan states that all new development must include sufficient accessible space to separate and store dry recyclables, organics and residual waste for collection, both within individual units and for the building as a whole.
15. Details of the anticipated number of visitors are not before me. However, the use of the appeal building as short-term holiday lets is likely to increase activity and waste. Not only would the turnover of residents be higher, but the number of trips each day is likely to be greater for tourists or other visitors, who typically have more free time and a more flexible schedule, compared to permanent residents. Servicing and delivery needs of the building are also likely to increase to accommodate more guests.
16. While the proposal does not include any off-street parking provision, the site has good access to public transport due to its central location. Nevertheless, the plans and details before me do not clarify the servicing arrangements for the proposal. Additionally, no cycle parking is proposed. Details for the management of waste have also not been provided, and it is not clear based on the plans and my own observations how these matters would be addressed. Notably, both the Councils Waste Policy and Development and Transportation and Highways sections required further clarification on these matters.
17. The appellant advises that the site lies close to an area that operates a cycle hire scheme. No further details of this scheme or its accessibility to future guests have been provided. Moreover, this does not in itself demonstrate compliance with the minimum cycle parking standards set out in the Local Plan.
18. I conclude that the proposal would have a harmful effect on the transport network and would fail to provide adequate space for cycle parking and waste management. It would be contrary to Policies D.TR2, D.TR3 and D.MW3 of the Local Plan. These policies, among other provisions, seek to address the impact that development has on the transport network, require that sufficient cycle parking is provided to accommodate current demand and encourage further use over time, and ensure that waste is collected and managed in a sustainable manner.

Listed building

19. Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses. The significance of 141 Lemon Street is derived from its historic fabric. The building forms a group with the adjoining buildings.
20. The appeal scheme simply seeks to change the use of the upper floors. The only physical changes depicted in the plans before me are the change of use of the existing kitchen spaces at first and second floor to communal areas. The Council's Design and Conservation section did not object to the application, on the basis that the minor works proposed would not harm the building's special architectural or historic character. There is no compelling reason before me to conclude otherwise.

21. The Council however refused the application, in part, because of numerous outstanding issues regarding unauthorised works that have taken place on both the exterior and interior of the building and due to the absence of a listed building consent (LBC) for these outstanding works.
22. While I recognise that LBC has not been sought in this case, the appeal proposal as described would not necessitate it. Nevertheless, this does not absolve the appellant of their obligation to seek the necessary consent for any unauthorised alterations to the building that have occurred beyond the scope of this appeal.
23. I therefore conclude that the appeal proposal would preserve the listed building at 141 Lemon Street and any features of special architectural or historic interest which it possesses. In respect of this main issue, I have not identified any conflict with Policy S.DH3 of the Local Plan. This policy, among other provisions, seeks to ensure that proposals preserve, or where appropriate, enhance the borough's designated heritage assets in a manner appropriate to their significance.

Conclusion

24. While I have not identified harm or development plan conflict with respect to the effect of the appeal proposal on the listed building, this does not outweigh the other harm and development plan conflict identified. The appeal proposal therefore conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR