
Appeal Decision

Site visit made on 21 September 2016

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 October 2016

Appeal Ref: APP/H5390/W/16/3154703
16G Vera Road, London, SW6 6RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr James Carmichael against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/01136/VAR, dated 10 March 2016, was refused by notice dated 29 April 2016.
 - The application sought planning permission for the erection of a rear roof extension and the erection of a rear extension at third floor level, over part of the existing back addition in connection with the creation of 1 x two bedroom self-contained flat; the formation of a roof terrace on top of an existing flat roof at third floor level; installation of 5 roof-lights in the front roof-slope, without complying with 2 conditions attached to planning permission Ref 2013/05210/FUL, dated 14 January 2014.
 - The conditions in dispute are Nos 3 and 4 which state that: (3) "No occupier of the 2 bedroom flat hereby approved, with the exception of disabled persons who are blue badge holders, shall apply to the Council for a parking permit or retain such a permit, and if such a permit is issued it shall be surrendered to the Council within seven days of written demand." And (4) "The 2 bedroom flat hereby approved, shall not be occupied until such time as a scheme has been submitted to and approved in writing by the local planning authority to ensure that all occupiers of the flat, other than those with disabilities who are blue badge holders, have no entitlement to parking permits from the council and to ensure that occupiers are informed, prior to occupation, of such restriction. The flat shall not be occupied otherwise than in accordance with the approved scheme unless prior written agreement is issued by the Council."
 - The reasons given for the conditions are: (3) "In order to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on-street car parking stress in the area, in accordance with Policy T1 of the Core Strategy and Policy DM A1, A9, J2 and J3 of the Development Management Local Plan 2013, and SPD Transport Policies of the Planning Guidance Supplementary Planning Document 2013." And (4) "In order that the prospective occupiers of the flat concerned are made aware of the fact that they will not be entitled to an on-street car parking permit, in the interests of the proper management of parking, and to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on-street car parking stress in the area, in accordance with Policy T1 of the Core Strategy and Policy DM A1, A9, J2 and J3 of the Development Management Local Plan 2013, and SPD Transport Policies of the Planning Guidance Supplementary Planning Document 2013".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a rear roof extension and the erection of a rear extension at third floor level, over part of the existing back addition in connection with the creation of 1 x two bedroom self-contained flat; the formation of a roof terrace on top of an existing flat roof at third floor level; installation of 5 roof-lights in the front roof-slope at 16G Vera Road, London, SW6 6RN in accordance with the application Ref 2016/01136/VAR, dated 10 March 2016 without complying with conditions 3 and 4 set out in planning permission 2013/05210/FUL granted on 14 January 2014 by the Council of the London Borough of Hammersmith & Fulham, but otherwise subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is whether the conditions are necessary to protect the living conditions of nearby residents, with particular reference to car-parking.

Reasons

3. Planning permission was granted in 2014 for an extension to create an additional 2-bedroomed flat at 16 Vera Road which is a 3-storey mid terraced property. The evidence suggests that there is no off street parking associated with this flat and therefore, when permission was granted, 2 conditions were attached to prevent the occupiers applying for car parking permits.
4. To justify this, the Council relies on Transport Policies 3 and 4 of the *London Borough of Hammersmith and Fulham's Planning Guidance Supplementary Planning Document, July 2013* (SPD). These policies indicate that the Council will limit the number of units in a property conversion where the level of on-street overnight parking leaves less than 20% free notional on-street overnight parking capacity. Where it is proposed to increase the number of conversions beyond the number permitted by this standard (i.e., one unit less than the number of floors) the additional units will normally only be permitted if sufficient off-street parking spaces are provided. No off-street parking was provided for the approved conversion.
5. In this case, there is a level of parking stress on Vera Road which leaves less than 20% free notional on-street parking capacity. However, the policy does indicate some flexibility if the Council are satisfied that there would be no consequential increase in on-street parking demand in areas of over-night parking stress. In order to avoid an increase in on-street overnight parking stress, the Council has imposed the conditions in an attempt to prevent the occupiers of the flat keeping a car.
6. Vera Road is a Controlled Parking Zone (CPZ) which, between 9.00 and 17:00 hours Monday to Saturday, limits parking to permit holders or to those who pay at the meter. Outside of these times anyone can park on the street without paying and without a permit.
7. This means that the planning conditions do not actually stop a person having a car, they just mean that a car owner has to pay for parking during the operation of the controlled parking. I have no evidence that this expense results in a reduction in car parking thereby protecting residential amenity or encouraging public transport use. Therefore, the conditions do not achieve what the relevant policies attempt to achieve. As such, they do not have a

planning purpose. They simply make it expensive for a resident to keep a car on the road during the day.

8. Therefore, Conditions 3 and 4 are not relevant to planning and do not protect the living conditions of nearby residents. Therefore, they are not necessary. Furthermore, they cannot make the development comply with Policy T1 of the London Borough Hammersmith and Fulham Core Strategy, 2011; Policy J2 of the London Borough of Hammersmith and Fulham Development Management Local Plan; or London Plan, March 2016, Policy 6.13.
9. I accept that only last year an appeal was dismissed for the same proposal at the same site.¹ However, I do not know what evidence was put to that Inspector and looking at his decision, it appears that the appellant had not made the case that the conditions served no identifiable planning purpose. Furthermore, I have had regard to the more recent decision at No 14 Vera Road² in which the Inspector found that such conditions do not meet the tests for Conditions as set out in Paragraph 206 of the Planning Practice Guidance. For the above reasons, I agree with this previous Inspector.

Conditions

10. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged. I impose all those conditions of the original planning permission that I consider may remain relevant. If the requirements of some of the conditions have already been discharged, this is a matter that may be sorted out between the parties away from this appeal. I have also removed original Condition 5 as that related to the restriction on parking permits and therefore, it is no longer relevant.

Conclusion

11. For the above reasons, I conclude that the appeal should succeed.

Siobhan Watson

INSPECTOR

Schedule

- 1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.
- 2) The development shall be carried out and completed only in accordance with the plans approved under planning permission 2013/05210/FUL, and the height of the rear roof extension shall not exceed the height of the ridge of the existing roof of the application property, or that of the adjoining properties No.10 and 6 Vera Road.
- 3) Any alterations to the elevations of the existing building shall be carried out in the same materials as the existing elevation to which the alterations relate.

¹ APP/H5390/W/15/3006245

² APP/H5390/W/15/3138246

- 4) The raised party wall of the rear roof extension and the raised wall of extension at third floor level hereby approved shall be constructed in stock brickwork.
- 5) The new party/flank walls to the rear roof extension and the extensions at third floor level hereby approved shall not project more than 250 millimetres above or beyond the external faces of the main roof structure.
- 6) The rear roof extension and the extensions at third floor level hereby approved shall be clad in slates or artificial slates.
- 7) The openings in the rear roof extension and the extensions at third floor level, hereby approved shall be of timber construction, to match the existing openings in the rear elevation of the application property.
- 8) The extent of the terrace at third floor level shall not exceed that indicated on the approved drawing PL07 and the roof terrace shall not be subsequently enlarged prior to the submission and approval in writing of a further planning application. The roof of the remainder of the back additions hereby approved shall not be used as a terrace or other amenity space. No railings other than shown on approved drawings or other means of enclosure shall be erected on or around the roofs, and no alterations shall be carried out to the rear elevation of the application property to form access onto the roofs.
- 9) The development hereby permitted shall not be occupied until the new window to the western side elevation of the extension at third floor level has been installed fixed shut with obscure glazing below the level of 1.7 meters, a sample of which shall have been submitted to and approved in writing by the Council prior to any development on site. Thereafter the windows shall be retained in the form approved.
- 10) The development shall not commence until details of safe and secure cycle parking provision for the occupiers of the flat hereby approved have been submitted to and approved in writing by the Council, and no part of the property shall be occupied or used until the cycle storage arrangements have been provided in accordance with the approved details. The cycle storage arrangements shall thereafter be retained.
- 11) The development shall not commence until details of adequate storage of refuse and recyclables for the occupiers of the flat hereby approved have been submitted to and approved in writing by the Council, and no part of the residential unit shall be occupied or used until the waste storage arrangements have been provided in accordance with the approved details. The waste storage arrangements shall thereafter be retained.
- 12) Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of an enhanced sound insulation value $D_{nT,w}$ and $L'_{nT,w}$ of at least 5dB above the Building Regulations value, for the floor/ceiling /wall structures

separating different types of rooms/uses in adjoining dwellings. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.