
Appeal Decision

Site visit made on 13 September 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

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

Decision date: 14th October 2016

Appeal Ref: APP/F5540/W/16/3151262

57-59 Kew Bridge Road, Brentford, London TW8 0EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Sparrowsherne Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00657/57-59/P5, dated 29 September 2015, was refused by notice dated 22 January 2016.
 - The application sought planning permission for the erection of 4 storey rear extension with mansard roof extension to create additional commercial space of 49 square metres for use classes A1 and A2 use, at ground and part lower ground level; the change of use, reconfiguration and extension of the existing residential space to the upper floors to create 9 residential units with 4No. car parking spaces and 11 cycle spaces at the lower ground floor and 3no. external car parking spaces without complying with a condition attached to planning permission Ref 00657/57-59/P4, dated 31 August 2012.
 - The condition in dispute is No 2 which states that: The proposed development shall be carried out in all respects in accordance with the proposal contained in the application and the plans submitted therewith and numbered EWO_001, EWO_002, EWO_003, EWO_004, EWO_005, EWO_006, EWO_007, EWO_008, EWO_009, EWO_010, EWO_011, EWO_012, EWO_050, EWO_051, EWO_052, EWO_053, EWO_054, EWO_055, EWO_056, EWO_057, EWO_058, EWO_059, EWO_060, EWO_061, EWO_062, 7571/SK006, Design and Access Statement, Structural Engineering and Inspection Report, Economic Development Assessment, Transport Statement, Servicing and Waste Management Plan, Daylight and Sunlight to Neighbouring Residential Buildings (JC/FR/9548, 22 March 2012), Received 20 March 2012 and approved by the Local Planning Authority, or as shall have been otherwise agreed in writing by the Local Planning Authority.
 - The reasons given for the condition is: To ensure the development is carried out in accordance with the planning permission.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the alterations proposed, including the addition of one residential unit would go beyond the scope of a minor material amendment.

Reasons

3. Planning permission was granted in 2012 for the development described in the banner heading. The Council accepts that this permission is still extant. The appellant seeks to amend the details granted by this planning permission by varying condition 2 which lists the approved plans.
4. The amendments amount to the following:
 - The relocation of a rear dormer to avoid a clash with the structure;
 - The relocation of a window/dormer to avoid a clash with a new stair position wall;
 - The insertion of a new dormer window to the side elevation;
 - The relocation of the stair core and lift adjoining no. 60, with minor changes to the roof;
 - Slight modification to the entrances to retail and flats entrances to accommodate changes to the core relocation;
 - Reconstruction of front elevation as a result of the dangerous condition of the original façade, and;
 - Changes to the internal layout to produce ten flats in total.
5. The site falls within the Kew Bridge Conservation Area (CA) and close to listed buildings including, to the rear the Grade II listed Kew Bridge Station. The site occupies a prominent frontage at the junction of Kew Road facing towards Kew Bridge close to the Kew Pumping Station and opposite Kew Bridge itself, which is an iconic landmark of the Thames.
6. The proposed development is under construction and consists largely of a near facsimile re-build of the front façade with shops on ground floor with residential accommodation above. The appellant provides a structural engineering and inspection report in order to justify demolition of the original building. As noted above, the Council raise no objection to this aspect. However, the effect of allowing this appeal would be that the re-built front façade would be granted planning permission.
7. The Council has raised no objections to the way in which the alterations affect the external design of the proposal and has concluded that these are acceptable in principle. Given that the external design is not substantially different to the approved scheme, it follows that it would not fail to preserve or enhance the character or appearance of the CA, or harm the setting of listed buildings.
8. There would not be an increase in floorspace over and above what was originally approved. Nonetheless, there would be major changes to the layout of the units with the development altering room sizes and adding one further unit within the development. These alterations would make the scheme materially different.
9. This would have implications in terms of the development plan and other material considerations. The Council in particular maintains that increasing the number of units to 10 would mean that affordable housing provision would be

required under the provisions of the adopted London Borough of Hounslow Local Plan (LP), Policy SC2. LP Policy SC2 seeks to maximise the provision of affordable housing and sets a threshold whereby sites of ten or more housing units will be expected to provide a reasonable amount of affordable housing to be negotiated on a site by site basis.

10. Whilst the LP has only recently been adopted, Planning Practice Guidance (PPG) makes clear that there are specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought. This follows the order of the Court of Appeal dated 13 May 2016 which gives legal effect to the policy set out in the Written Ministerial Statement (WMS) of 28 November 2014 and should be taken into account. These circumstances include that contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1000sqm.
11. The appeal scheme falls squarely within this definition. The PPG and the WMS are considerations to which I attach substantial weight to outweigh the contravention of the LP policy. Nonetheless the provision of 10 units in terms of its scale and layout would be materially different to the description of development allowed.

Conclusions

12. In conclusion, I am satisfied that the scale and nature of the amendments resulting in an increase in the number of units from nine to ten would result in a development that would be substantially different from the one that has been approved. On that basis, I find there should be no change to the conditions attached to the previous permission.
13. For the above reasons and having regard to all other matters raised, I conclude that the appeal should not succeed.

Gareth W Thomas

INSPECTOR