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## Appeal Decision

Site visit made on 9 November 2016

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 5<sup>th</sup> December 2016**

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**Appeal Ref: APP/H5390/W/16/3156554**

**George House, Brecon Road, London, W6 8PY**

- 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 George Morrill against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2016/02396/VAR, dated 13 May 2016, was refused by notice dated 21 July 2016.
  - The application sought planning permission for a change of use of ground floor from office (Class B1) to a 2 bedroom flat (Class C3) without complying with conditions attached to planning permission Ref 2012/00127/FUL, dated 6 March 2012.
  - The conditions in dispute are Nos 3, 4 and 5 which state that:
    - (3) No occupiers of the 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.
    - (4) The proposed flat 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, 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 development shall not be used otherwise than in accordance with the approved scheme unless prior written agreement is issued by the council.
    - (5) The proposed flat hereby permitted shall not be occupied until the council has been notified in writing (and has acknowledged such notification) of the full postal address of the flats. Such notification shall be to the Council's Head of Development Management and shall quote the planning application number specified in this decision letter.
  - 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 HO3 and TN15 and Standards S8.2 and S18.1 of the Unitary Development Plan, as amended 2007 and 2011, and Policy T1 of the Core Strategy 2011.
    - (4) In order that the prospective occupiers of the flat 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 TN15 and standard S18.1 of the Unitary Development Plan as amended 2007 and 2011, and Policy T1 of the Core Strategy 2011.
    - (5) In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the flat hereby approved, and thus ensure that the
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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 TN15 and standard S18.1 of the Unitary Development Plan as amended 2007 and 2011, and Policy T1 of the Core Strategy 2011.

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## **Decision**

1. The appeal is allowed and planning permission is granted for a change of use of ground floor from office (Class B1) to a 2 bedroom flat (Class C3) at George House, Brecon Road, London, W6 8PY in accordance with the application Ref 2016/02396/VAR dated 13 May 2016, without compliance with condition numbers 3, 4 and 5 previously imposed on planning permission Ref 2012/00127/FUL dated 6 March 2012 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, as listed below:
  - 1) The development hereby permitted shall be built in complete accordance with the following approved plans: Site Location Plan; M109/11/003.
  - 2) Within 3 months of the date of this decision details of storage of refuse and recyclables for the occupiers of the flat hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The arrangements shall be implemented within 3 months of the Local Planning Authority's approval in writing and shall thereafter be retained.
  - 3) Within 3 months of the date of this decision details of safe and secure cycle parking provision for the occupiers of the flat hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The arrangements shall be implemented within 3 months of the Local Planning Authority's approval in writing and shall thereafter be retained.
  - 4) Within 3 months of the date of this decision details of the sound insulation of the floor/ceiling/walls separating the commercial parts of the premises from the dwelling shall be submitted to and approved in writing by the Local Planning Authority. These details shall ensure that the sound insulation and any other mitigation measures are sufficiently enhanced in order that the standard specified in BS 8233:1999 is achieved within noise sensitive premises and their external amenity areas. The approved details shall be implemented within 3 months of the Local Planning Authority's approval in writing and shall thereafter be retained.

## **Main Issue**

2. The main issue is whether the disputed conditions are reasonable and necessary in order to control on-street parking stress in the area in the interests of the living conditions of nearby residential occupiers.

## **Reasons**

3. The appeal property was created by the conversion of a small ground floor office into an apartment. It sits on the corner of Brecon Road and Humbolt Road. These and other roads in the area are subject to a parking permit regime.

4. The disputed conditions were imposed because of the “already high level of on-street car parking stress in the area”. The appeal is seeking to remove the disputed conditions in order to allow residents of the property to obtain parking permits. In this regard, the appellant has drawn my attention to a recent appeal decision (ref APP/H5390/W/15/3135718, dated 22 April 2016) at No 40 Brecon Road, which is on the opposite side of the street from the appeal property. That appeal concerned the imposition of 3 conditions that were identically worded to those currently in dispute. In allowing that appeal, the Inspector gave consideration to the parking stress on Humbolt Road and Brecon Road. Given this, and the proximity to the current appeal site, I attach significant weight to the previous Inspector’s findings.
5. The Council state that the most recent survey of overnight parking stress on Brecon Road found that more than 80% of parking bays were occupied. This exceeds the local standards set out in the Council’s Planning Guidance Supplementary Planning Document (SPD). However, the appellant has drawn my attention to survey figures for overnight parking stress on Humbolt Road that were cited in the appeal at No 40 Brecon Road, referenced above. These indicate that only 55% of parking bays on Humbolt Road were occupied overnight. The Council has not challenged the accuracy of these figures, nor provided more recent data for Humbolt Road.
6. The overnight occupancy figure of 55% indicates a spare capacity on Humbolt Road. This may reflect the fact that the housing estate on the western side of Humbolt Road benefits from off street parking, and that fewer properties directly front onto Humbolt Road compared to Brecon Road. At the time of my site visit (17:10) there were noticeably fewer cars parked on Humbolt Road than on Brecon Road. Whilst this only represents a snapshot, it provides some support for the parking survey data before me. Furthermore, the entrance to the appeal property is very close to the junction with Humbolt Road which increases the likelihood that occupiers of the development will choose to park there.
7. Policy DM J2 states that all developments in areas with good transport accessibility should aim for significantly less than 1 space per unit. However, in this case no dedicated parking spaces would be provided. Rather, the issue is one of access to existing on-street parking spaces. In light of the availability of spaces on Humbolt Road, I am not persuaded that the proposal would lead to, or exacerbate, unacceptable parking stress in the area.
8. For these reasons, I conclude that the disputed conditions are not reasonable or necessary in order to control on-street parking stress in the area in the interests of the living conditions of nearby residential occupiers. There is not sufficient evidence before me that the aims of Planning Guidance SPD would be prejudiced, or that the wider transport aims of Policy T1 of the Hammersmith and Fulham Core Strategy (2011), Policy DM J2 of the Development Management Local Plan (2013), and Policy 6.13 of the London Plan, would be undermined.

### **Undisputed conditions**

9. No details have been provided by either party regarding the status of the remaining undisputed conditions. The time limit condition has now expired, and the development has now been implemented. This condition is therefore no longer necessary. A condition requiring compliance with the submitted

plans is still necessary for clarity and in order to ensure a satisfactory development.

10. The remaining 3 undisputed conditions were required to be discharged prior to commencement of the development. Whilst the development has now been implemented, I cannot be certain that these conditions have in fact been discharged. In the absence of further detail about the status of these conditions, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, this matter can be addressed between the parties. In this regard I note that Planning Practice Guidance states that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged.
11. Two of the undisputed conditions relate to the provision of refuse storage and cycle parking facilities. These conditions are necessary in order to ensure that these facilities are made available to occupiers of the flat, as required by local policy. A further condition relating to the provision of sound insulation is necessary in order to protect the living conditions of occupiers of the flat.

### **Conclusion**

12. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions and restating those undisputed conditions that are still subsisting and capable of taking effect.

*Thomas Hatfield*

INSPECTOR