
Appeal Decision

Site visit made on 23 January 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 13th February 2017

Appeal Ref: APP/T5150/W/16/3160412

171 Church Lane, London NW9 8JS

- 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 Trust House Securities Limited against the decision of the Council of the London Borough of Brent.
- The application Ref 16/2312, dated 27 May 2016, was refused by notice dated 2 September 2016.
- The application sought planning permission for the 'erection of a first floor and second floor extension above existing shops on Church Lane to create 2 x two bedroom flats, and erection of a part ground, first and second floor extension to create a three storey building fronting Merley Court to provide 6 x two bedroom self-contained flats, provision of 6 car parking spaces and cycle parking, subject to a deed of agreement dated 23 May 2011 under s106 of the Town and Country Planning Act 1990 as amended' without complying with conditions attached to planning permission Ref 15/3111 (Appeal Ref APP/T5150/W/15/3140883), dated 6 May 2016.
- The conditions in dispute are Nos 1 and 2 which state that:
- No 1 - The development hereby permitted shall be carried out in accordance with the following approved drawings and documents: 11/078 - 25, 09/087 - 01; 02; 03; 04 Rev C; 05 Rev D; 06 Rev C; 07 Rev C; the Arboricultural Report prepared by Suffolk Tree Service Ltd; and the Design and Access Statement prepared by Whymark Moulton.
- No 2 - All of the parking spaces and loading bay area proposed in the rear car park, as shown on the approved plans shall be constructed and permanently marked out prior to first occupation of proposed residential units hereby approved. Such works shall be carried out in accordance with the approved plans and thereafter shall not be used for any other purpose, except with the prior written permission of the Local Planning Authority.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to Policies TRN3, TRN10, TRN23 and TRN24 of the London Borough of Brent Unitary Development (UDP). However, the UDP policies have now been superseded by the London Borough of Brent Local Plan Development Management Policies (DMP) which was adopted in November 2016 after the appeal was submitted. The change in policy circumstances was set out in correspondence from the Council, and the appellant has had the opportunity to comment on this matter. Both sets of policies have similar aims
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in respect of movement and parking and so neither party has been prejudiced by the change in policy circumstances. I have therefore considered the appeal proposal against the relevant DMP policies.

Background and Main Issue

3. The application which is the subject of this appeal is made under Section 73 of the Planning Act for the development of land without complying with conditions subject to which a previous planning permission Ref 15/3111 was granted. Condition 1 of that previous planning permission specified the approved plans, which included the provision of 6 car parking spaces within the appeal site, and Condition 2 required these car parking spaces to be provided prior to first occupation of the 8 proposed flats. The appeal proposal seeks permission for a minor material amendment to remove these car parking spaces from the scheme. It is still the intention to provide a 4 space layby on Merley Court adjacent to the appeal site.
4. The main issue is the effect of the appeal proposal upon highway safety, with particular regard to the free and safe flow of pedestrians.

Reasons

5. The appeal site is located within a parade of shops which forms part of a local centre on Church Lane. Access to the appeal site is from Merley Court, which in turn is accessed from a service road running parallel to Church Lane at the front of the parade. Merley Court is a cul-de-sac which serves a number of residential properties, none of which appear to have off-street parking. There are no parking restrictions on Merley Court, other than the double yellow lines on both corners of the junction with the Church Lane service road. A number of time-limited parking bays are located along the Church Lane service road.
6. The appeal site is well situated to take advantage of nearby local facilities and appears to be well connected to the local pedestrian and cycle network. However the nearest large supermarket, to which future occupants of the proposed development would be more likely to drive, is 1.7km away. Furthermore, access to public transport is limited. There are only 2 bus services and a night bus within walking distance of the appeal site, Hendon railway station is 2.4km (a 31 minute walk) from the site and the nearest underground station at Wembley Park is 2.1km (26 minutes' walk) away.
7. At the time of my site visit, which took place early afternoon on a weekday, I observed cars parked on both sides of the street along much of the east-west section of Merley Court, including along the frontage where it is proposed to provide the 4 space layby. The north-south hammerhead section of the street adjacent to the existing residential properties was also heavily parked. The carriageway is fairly narrow, and the majority of the parked vehicles I observed during my site visit had 2 wheels mounted on the footway. This resulted in a series of obstructions, and I observed several pedestrians walking along the carriageway.
8. Development Management General Policy DMP 1 of the DMP states that development will be supported where, amongst other matters, it does not add to on-street parking demand where on-street parking spaces cannot meet existing demand such as on heavily parked streets, or otherwise harm existing on-street parking conditions.

9. Policy DMP 12 of the DMP relates to parking, and states that developments should provide parking consistent with parking standards in Appendix 1. Both Policy DMP 12 and the parking standards take account of the accessibility of the development, the type, mix and use of development, the availability of and opportunities for public transport, local car ownership levels and an overall need to reduce the use of high-emission vehicles and, as such, are consistent with paragraph 39 of the National Planning Policy Framework.
10. Application of these parking standards in respect of the appeal proposal would require the provision of a maximum of 1 space per unit (8 parking spaces). The previous scheme included 6 parking spaces within the rear service yard, whereas the appeal proposal seeks to provide no off-street parking. The proposed provision of a 4 space layby on Merley Court would simply formalise the parking on the street at this location rather than add to the parking supply.
11. Policy DMP 12 states that in appropriate locations benefiting from high levels of public transport access, generally with PTAL 4 or above, opportunities for car free development should be considered. However, as set out above, the appeal site is not well placed in terms of access to public transport and is in a location with a score of PTAL 2 on a scale ranging from 1 (poor) to 6 (excellent). The existing local parking environment demonstrates that not providing parking for residential uses does not in itself result in car free development.
12. Whilst Policy DMP 12 states that contributions secured through a planning obligation to car clubs and pool car schemes will be strongly encouraged in place of private parking in developments, I have not been provided with details of a proposed car club scheme or any evidence of how this would remove the need for any off street car parking provision. Furthermore, I have no evidence to support the appellant's assertion that the development will be purchased by the Council's housing department and managed as a car-free development. I have therefore given these matters little weight.
13. The appellant makes the case that the use of the service yard for car parking would be prejudicial to highway safety and could result in conflict with service vehicles. The service yard access is currently used by vehicles servicing the commercial premises and during my site visit I observed cars parked in the yard. I have no evidence of accidents associated with the existing use of this access and yard. The restricted visibility at the access combined with the residential nature of Merley Court would be likely to result in drivers exercising due care and attention when manoeuvring in to and out of the appeal site. As such, additional parking in the service yard is unlikely to prejudice highway safety. I therefore give this matter little weight.
14. I note that there were no objections or representations from third parties. However, the absence of objection does not render the appeal proposal acceptable and I must determine the appeal with regard to the planning merits of the case. As such, I afford very little weight to this matter.
15. Overall, the removal of the requirement for the provision of 6 off street car parking spaces would increase the already significant on-street/footway demand in Merley Court. As the additional parking would be associated with new residential development it would be likely to lead to more prolonged instances of parking on the footway. This would create severe difficulties for the free movement of pedestrians along the footway and leave them with little

option but to use the main carriageway. Given the limited road space in Merley Court, this would create conditions that would harm pedestrian safety.

16. I therefore conclude that the appeal proposal would have a harmful effect upon highway safety, with particular regard to the free and safe flow of pedestrians. As such, it would not accord with DMP Policies DMP 1 and DMP 12 which seek to ensure that development does not have an adverse impact on movement.

Conclusion

17. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

CL Humphrey

INSPECTOR