
Appeal Decision

Site visit made on 7 February 2017

by Nicholas Taylor BA(Hons) MRTPI

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

Decision date: 8th March 2017

Appeal Ref: APP/U5930/W/16/3162680

Oakfield Works, 74 Oakfield Road, Walthamstow, London E17 5RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Paragraph P.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Spring Properties (UK) Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 162017, dated 4 March 2016, was refused by notice dated 16 August 2016.
 - The development proposed is change of use from warehouse (class B8) to residential (Class C3) to provide 10 self-contained flats.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use from warehouse (class B8) to residential (Class C3) to provide 10 self-contained flats at Oakfield Works, 74 Oakfield Road, Walthamstow, London E17 5RW subject to the standard condition set out in paragraph W(12)(a) of the Order and the following additional conditions:
 - 1) The development hereby permitted shall take place in accordance with the submitted Framework Travel Plan. Implementation of the plan shall be continued thereafter, in accordance with the plan itself.
 - 2) No development shall take place until details of the proposed covered and secure parking within or adjacent to the site for a minimum of 1 bicycle per dwelling shall have been submitted to and approved in writing by the local planning authority; and no dwellings shall be occupied until such provision shall have been constructed and made available in accordance with the approved plans.

Procedural Matters and Main Issues

2. The address of the appeal property given on the application form differs slightly from that on both the Council's decision notice and the appeal form. I have followed the latter in the banner heading above.
 3. The provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) require the local planning authority to assess the proposed development solely on the basis of whether it constitutes permitted development under the terms of Class P and
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its impact on a number of factors specified in paragraph P.2(b) of the GPDO. My determination of this appeal has been made in the same manner.

4. From the evidence before me, it is apparent that the Council accepts that the evidence provided confirms that the proposed development would meet the requirements of paragraph P.2(a) of the GPDO, regarding the previous or current use of the property, and that consequently it would represent permitted development under Class P: that is, change of use from storage or distribution centre to dwelling houses. I have not been provided with any strong evidence to the contrary.
5. Therefore, I consider that the main issues in this case are, in terms of paragraph P.2(b)(ii) of the GPDO, whether the transport and highways impacts of the development would be acceptable, having particular regard to:
 - parking;
 - cycle storage; and
 - The lack of a planning obligation to control occupants' use of parking permits.

Reasons

Parking

6. The proposed change of use would involve a significant proportion of a fairly large, two storey commercial building occupying a corner site within an otherwise predominantly residential area. In the proposed scheme, the majority of the first floor and a smaller proportion of the ground floor would be converted into a total of 10 flats. The building has very limited, narrow external space around it. At the time of my site visit, the entire building appeared to be vacant.
7. The *Transport Statement* (TS) submitted by the appellants provides a detailed analysis of the likely impact of the proposed development. It refers to pre-application discussions with the Council's highways officers. The Council itself refers to concerns expressed by its highways officers regarding a previous application but I have not been provided with those or any specific highways comments regarding the appeal proposal, including the submitted TS.
8. The TS identifies that the site is located within a "walkable" neighbourhood, within good to acceptable walking distance of many essential facilities. Whilst the location is assessed as having a low level of public transport accessibility (PTAL), I accept that this is a relative concept in the London context. There are bus stops with frequent services within comfortable walking distance of the site and a cycle audit shows that a number of public transport hubs are within easy cycling distance. The Council has introduced measures to improve cycling infrastructure.
9. Car ownership and usage rates in the immediate locality are moderate, with almost 90% of households having only one car or none. The TS estimates that car ownership among occupiers of the proposed flats would be below the 0.69 vehicles per household average for the Borough, due to the development consisting of small one bedroom flats and studio apartments. It arrives at what it describes as a worst-case requirement of 9 parking spaces. Using nationally

recognised trip-generation analysis¹, it predicts some 12 vehicular trips to and from the development per day. From all the evidence before me, including my own assessment of the accessibility and nature of the location, I do not dispute the TS estimate of likely car parking demand for the development.

10. The TS also concludes, on the basis of a survey, that the surrounding streets provide large amounts of on-street capacity at peak times and throughout the day. Using the average daily occupation rates, it estimates 65 spaces are available on roads around the site, sufficient to "comfortably" accommodate the parking demand from the development.
11. In my view, some caution needs to be applied to this conclusion. Whilst I do not dispute the survey results, it took place only on one day between 7.00 and 19.00 and so may not be entirely representative of all likely scenarios. My own observations at my site visit (during a weekday, off-peak period) indicated few parking spaces close to the appeal site and this is borne out by a number of third parties. The streets included in the survey extend over a fairly wide area around the site, so that available spaces would be spread around, potentially requiring drivers to search out a reasonably close parking space. The streets are generally quite narrow, with parking permitted partly on pavements and verges in places, and there appears to be a dearth of off-street parking places.
12. It is not certain whether commercial uses would occupy the substantial remaining parts of the building, should the appeal be successful. It is possible, as asserted in the TS, that, with the proposed development, the overall parking demand and trip generation of the building as a whole, including the remaining parts of it which are not subject to this application, would be less than that which could, potentially, be generated by a commercial use of the entire building. The timing of parking demand and type of vehicle could well be different.
13. The TS includes a Framework Travel Plan which, it says, has been discussed with Council highways officers and follows Transport for London guidance. The aim would be to limit vehicle trips and to encourage sustainable modes of transport. Implementation of the travel plan could be secured by condition and would be likely to suppress vehicle trips and demand for parking generated by the development.
14. Despite some reservations, on the balance of the evidence, I am persuaded that the worst-case impact of the development on parking stress in the locality would be unlikely to be significant. I have not been referred to any relevant development plan policies, which would be a material consideration. In cases such as this, I must have regard to the *National Planning Policy Framework* (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. In this instance, I am satisfied that any resultant effect of parking for the development on the operation or safety of the highway would be unlikely to amount to the severe residual and cumulative impacts referred to in paragraph 32 of the Framework. All in all, therefore, I conclude that the proposal would not give rise to unacceptable transport and highways impacts, with regard to parking.

¹ Trip Rate Computer Information System (TRICS)

Cycle storage

15. The TS confidently states that a minimum of 10 cycle parking spaces, in line with the Council's standards, would be provided in a secure location(s) either within the building or in a separate bike shed. The submitted drawings do not show how such provision would be made and the proposed intensive use of internal space, the restricted amount and configuration of external space and the use of only part of the building by the proposed development all indicate that making adequate provision for cycle parking might not be straightforward.
16. In view of the prominence given to cycling in the TS, it is disappointing that details of cycle storage provision have been relegated to something of an afterthought. Nevertheless, I am satisfied that the overall site offers some physical flexibility to provide adequate storage, which could be secured by a condition. Moreover, the travel plan, as referred to above, would provide positive encouragement for cycling. I conclude, therefore, that, subject to those safeguards, with regard to cycle storage, the transport and highways impacts of the development would be acceptable and would comply with the relevant policies in the Framework.

Planning obligation

17. The Council considers that the appellants ought to have provided a legal planning agreement to require that future occupiers of the residential units would not be entitled to obtain parking permits to park on surrounding streets which are outside a Controlled Parking Zone (CPZ). It considers this necessary to avoid adverse transport and highways impact in the form of parking stress.
18. A s106 obligation may be offered in mitigation of the matters that are the subject of the prior approval (e.g. to deal with highways impacts) and can be considered in the planning balance, but cannot be required by condition. Regulation 122 of The Community Infrastructure Levy Regulations 2010 does not apply to prior approval determinations but the three policy tests which a planning obligation must satisfy are set out in paragraph 204 of the Framework. These are that the obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to in scale and kind.
19. In this case, I have found that the proposed development would not be "car free" as such but would be likely to generate limited parking demand, which could be satisfactorily accommodated within the surrounding streets without significant adverse impacts on transport and highways. Thus, the suggested planning obligation would fail the first of the Framework's tests.
20. Furthermore, the Council has not explained how such an obligation, even if it were to be drafted so as to be legally compliant, could take effect in the streets surrounding the appeal property, as these are not within a CPZ. As far as I have been made aware, no permits are currently required to park in those streets and no immediate plans are in place to introduce such a scheme. I have not been referred to any development plan policies or other strong evidence in support of the Council's requirement.
21. I conclude, therefore, that the lack of a planning obligation to control access to parking would not lead to adverse transport and highways impacts.

Other Matters

22. The representations from third parties raise a number of issues, in addition to concerns about traffic and parking. A number of representations concern the type of small accommodation which is proposed and its perceived effect on the local area and community, but this is not a matter which is directly relevant to an application for prior approval for change of use under Class P of the GPDO.

Conditions

23. Paragraph W (12) (a) of the GPDO requires the development to be carried out in accordance with the approved details. Paragraph W(13) permits the imposition of additional conditions reasonably related to the subject matter of the prior approval. In this case, as set out in my reasoning, above, in the interests of managing the impact on transport and highways, it is necessary to ensure that the travel plan, as set out in the TS, is implemented. It is also necessary to require the submission of details of cycle storage.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed and approval granted.

Nicholas Taylor

INSPECTOR