

Appeal Decision

Site visit made on 11 April 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 27th April 2017.

Appeal Ref: APP/H5390/W/17/3167913

60a Ormiston Grove, London W12 0JS

- 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 Ms Abby Lord against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/02979/VAR, dated 29 June 2016, was refused by notice dated 25 August 2016.
 - The application sought planning permission for "Creation of an additional residential unit (C3), for the erection of a rear mansard extension over main roof with associated Juliet balcony dormer, erection of a roof extension over rear addition with associated side dormer window, erection of a terrace on roof of rear addition with associated door opening and privacy screen, insertion of three rooflights on front roofslope and insertion of rooflight on top of roof of rear addition and replacement of existing single glazed windows with double glazed windows" without complying with conditions attached to planning permission Ref 2016/00524/FUL, dated 1 April 2016.
 - The conditions in dispute are Nos 5 and 6 which state that: (No 5) "No occupiers of the additional first floor studio flat located in the rear addition hereby permitted, 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 receipt"; (No 6) "The additional first floor studio flat located in the rear addition hereby permitted 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. This 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: (no 5) "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 2011 and Policy DM J2 of the Development Management Local Plan 2013"; (No 6) "In order that the prospective occupiers of the residential unit 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 2011 and Policy DM J2 of the Development Management Local Plan 2013."
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Decision

1. The appeal is allowed and planning permission is granted for "Creation of an additional residential unit (C3), for the erection of a rear mansard extension over main roof with associated Juliet balcony dormer, erection of a roof extension over rear addition with associated side dormer window, erection of a terrace on roof of rear addition with associated door opening and privacy screen, insertion of three rooflights on front roofslope and insertion of rooflight on top of roof of rear addition and replacement of existing single glazed windows with double glazed windows" at 60a Ormiston Grove, London W12 0JS in accordance with the application Ref 2016/02979/VAR dated 29 June 2016, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 31 March 2019.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LD4242/1-2B, LD4242/1-3B, LD4242/1-4, LD4242/2-2B, LD4242/2-3A and LD4242/2-4A.
 - 3) 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.
 - 4) No development shall commence until details / samples of the materials, including windows and doors, to be used in the construction of the external surfaces of the extensions hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
 - 5) The window on the flank wall of the rear addition roof extension hereby approved shall be obscurely glazed and fixed closed to a height of 1.7m from the finished floor level, and maintained as such thereafter.
 - 6) Prior to occupation of the first floor studio flat hereby approved, details of waste and recycling provision shall be submitted and approved in writing by the Council. The waste and recycling provision shall be implemented in accordance with the approved details and retained as such thereafter.
 - 7) No plumbing, extract flues or pipes, other than rainwater pipes, may be fixed on the front elevation of the building.
 - 8) Prior to the occupation of the development hereby permitted, the 1.7m high obscurely glazed privacy screen shall be fully installed in the positions shown on approved drawings and shall be permanently retained as such thereafter.

Background and Main Issue

2. The appeal property is a two storey mid-terrace house located on a street of similar residential development. The property has been sub-divided into flats, and planning permission has been granted for extensions and alterations to create an additional residential unit. The permission was subject to conditions to ensure the development would be car-free. The appellant seeks to remove these conditions to enable future occupants of the studio flat to apply for on-street parking permits.
3. The main issue is the effect that removing the conditions would have on parking in the area, with regard to the living conditions of neighbouring occupiers.

Reasons

4. The Council's Supplementary Planning Document¹ (SPD), Transport Policy 4, relates to parking for conversions. The policy seeks to limit the extent by which properties can be sub-divided into separate residential units, where the level of on-street overnight parking leaves less than 20 percent free notional on-street overnight parking capacity. The justification to the policy explains that, in order to meet the borough's housing need, it may be possible to allow car-free conversions. In such cases, the demand for on-street parking would need to be restrained through measures to prevent future occupiers obtaining parking permits.
5. The Council has provided parking data from 18 May 2014 and 21 April 2015. This shows that cars were parked along both sides of Ormiston Grove with occupancy levels of between 78.56 percent and 82.14 percent, which suggests that there is a relatively high demand for on street parking. This is supported by local residents who have expressed concerns about an existing lack of on street parking. However, the appellant has also submitted a survey,² undertaken on the nights of 21 and 22 June 2016. This survey covered a wider area than the Council's survey, but for the same section of Ormiston Grove (North) the recorded occupancy levels were between 54 percent and 67 percent over both nights, with an overall average occupancy of approximately 60 percent. The appellant also refers to data from other surveys carried out in area, which show that occupancy levels along Ormiston Grove and the surrounding roads were, on average, less than 80 percent.
6. The data submitted by the appellant is more extensive and more recent than the Council's data. Therefore, it is more likely to accurately reflect the parking situation in the vicinity of the appeal site. On the basis of this data, it is likely that the roads in the vicinity of the appeal site have capacity to accommodate the additional parking associated with the development.

Conditions

7. The guidance in the Planning Practice Guidance makes it 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. As I have no information before me about the status of the other conditions imposed on the original planning permission,

¹ London Borough of Hammersmith and Fulham Planning Guidance Supplementary Planning Document – July 2013

² Dated 29 June 2016

I shall impose all those that I consider remain relevant and necessary. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

8. I conclude that the development would not have an adverse effect on parking in the area, and therefore, there would be no material adverse effect on the living conditions of neighbouring occupiers. The proposal would comply with Policy T1 of the Core Strategy,³ which seeks to ensure appropriate parking is provided without impacting on the quality of the urban environment, and Policies DM J2 of the Development Management Local Plan,⁴ and 6.13 of the London Plan, which set out the relevant car parking standards.
9. For the reasons given above, the appeal is allowed.

Debbie Moore

Inspector

³ Hammersmith and Fulham Council Local Development Framework: Core Strategy, October 2011

⁴ London Borough of Hammersmith and Fulham Development Management Local Plan, July 2013
