The Planning Inspectorate

Appeal Decision

Site visit made on 3 April 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 28 April 2017

Appeal Ref: APP/H5390/W/17/3167453
84 Fulham Palace Road, London W6 9PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Kirit Vinda against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2016/03329/FUL, dated 11 July 2016, was refused by notice dated 23 September 2016.
- The development proposed is described as 'the conversion of part retail use of premises to form a 2 bedroom self-contained flat'.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey rear extension, to the side of the existing back addition at basement and ground floor levels in connection with the change of use of the basement and rear part of the Ground floor from Class A1 retail to a two bedroom self-contained residential unit Class C3 at 84 Fulham Palace Road, London W6 9PL in accordance with the terms of the application, Ref 2016/03329/FUL, dated 11 July 2016, subject to the conditions contained in the schedule at the end of this decision.

Procedural matters

2. The Council have adopted a description of development which is more expansive than that used on the original application form. This includes additional operational development in the form of a two storey extension to the property and a clearer description of the proposed change of use. The description used on the Council's decision notice is repeated in the appeal form and is the 'Erection of a two storey rear extension, to the side of the existing back addition at basement and ground floor levels in connection with the change of use of the basement and rear part of the Ground floor from Class A1 retail to a two bedroom self-contained residential unit Class C3'. This more accurately reflects the proposed development and I have therefore adopted this description in my formal decision above.

3. The appeal site is located in the Crabtree Conservation Area and therefore I have a statutory duty to ensure that the character and appearance of the conservation area are preserved or enhanced. The Council have not raised any objections to the proposals in this regard and given the scale, location and form of the extension I am satisfied that there would be no harm arising as a

result of that aspect of the proposal and that the character and appearance of the conservation area would be preserved.

Main Issue

4. The main issue is therefore the effect of the proposed development on the retail character and function of the local shopping area.

Reasons

5. The appeal relates to the ground floor and basement of a three storey, plus basement, mid-terrace property located on the west side of Fulham Palace Road close to its junction with Distillery Lane. The ground floor is presently occupied by a pharmacy with storage in the basement. The upper floors are accessed from an independent access door onto the street and appeared to be in residential use.

6. There is no dispute that the site falls within a 'satellite parade'. Policy DM C4 of the LB Hammersmith and Fulham Development Management Local Plan, July 2013 (DMLP) seeks to manage uses in such centres, amongst others, by permitting uses on the basis that no more than 50% of the parade frontage is changed to non-class A1 uses and no more than 25 % of the frontage is changed to food and drink use. There is no evidence before me to suggest that the proposal would result in the breach of either of these quota.

7. Whilst policy DM C4 does not state that uses should be any particular class in criteria for all centres including satellite parades the policy also notes that other uses will be permitted subject to the above quotas, the use being shown to be complimentary to the function of the centre, enhancing the centre's viability and vitality and not having an adverse impact on the local area. Importantly it states consent will not be granted for any ground floor residential frontages. The proposal would result in the change of use of a small section of the ground floor main retail floor space and a back room. This would not directly affect the frontage presented to the parade. The basement area would also be lost but the policy does not directly refer to basement areas.

8. Paragraph 4.67 of the DMLP gives further guidance on policy DM C4 and states that residential will not be permitted on ground floor frontages because this will impact upon the retail function of the centres. However, it goes on to note that there may be circumstances where shopping and service floor space at the rear of premises is surplus to requirements. In these situations, it advises residential may be appropriate, but the Council will require evidence that neither its shopping policy nor the long term viability of the retail unit will be prejudiced. As noted above I have no evidence before me to demonstrate that the policy quotas would be breached. The Council are concerned that the appellant has provided no evidence to demonstrate that the long term viability of the unit would not be threatened by the proposal. However the proposal would result in a small proportion of the existing retail floor space being given over to provide access to the flat. Some space would be returned to the retail unit in the upper floor of the extension to provide a new WC for the shop premises. The appellant has provided some local estate agency response to demonstrate that there is a market for small units of this nature in the locality and also evidence of the Council accepting changes of use for other properties resulting in similarly sized retained retail units. The Council has not disputed this evidence.

9. On the basis of the information and plans before me I am satisfied that a retail unit which retains a retail frontage would be retained. The small section of retail floor space that would be lost to provide access to the flat would not directly affect the retail frontage of the premises and therefore would not affect the character or appearance of the parade.

10. The proportion of the floor space that would be lost would not result in a substantial reduction in the existing area of space used for retail floor space in the premises. Given the advice from local estate agents and the other examples of the Council's decisions allowing such a scale of retail unit I am not convinced that there is a valid concern that the retail unit would not remain viable. Whilst there would be a more significant loss of storage space and the rear 'staff room' these are large areas that are utilised by the existing operator and need not necessarily require such intense use for another operator as is suggested by the advice provided to the appellant.

11. For the reasons given above I conclude that the proposed development would not result in material harm to the retail character and function of the local shopping area. Consequently it would not conflict with policy DM C4 of the DMLP or policy 4.8 of the London Plan which collectively seek to support retailing and related facilities supporting and enhancing local centres.

Other matters

12. As noted above the appeal site lies within the Crabtree Conservation Area and the council raised no objections in this regard. I concluded that the operational aspect of the development preserved the appearance of the conservation area and as I have concluded that the proposal would not harm the retail character and function of the area I also conclude that the change of use would preserve the character of the conservation area. There are no changes resulting from the development in terms of the shop front.

Overall conclusions and conditions

13. The Council has submitted a list of suggested conditions which I have considered in the light of the advice in the National Planning Policy Framework and the Planning Practice Guidance.

14. I have imposed an approved plans condition to ensure clarity and as this is good practice. Conditions 3, 4 and 6 relate to specific matters concerning materials and are required given the property's location in a conservation area. Condition 5 is imposed in to protect the living conditions of occupiers of surrounding properties. Conditions 7 and 8 are required as there are only limited details on the approved plans and in the interest of the appearance of the area and to support sustainable modes of transport. I have amalgamated the requirement for the refuse details to be submitted with the restriction from storing refuse on the street to aid coverage and reduce the number of conditions.

15. I have imposed a condition requiring the submission of a scheme to preclude future occupants, other than blue badge holders, from parking permits in the interest of the proper management of parking in the area. I have imposed a condition requiring the implementation of the Flood mitigation measures in the interest of reducing flood risk. I have imposed a condition on water fittings and

fixtures to help minimise water use in the interests of water efficiency in accordance with policy CC2 of the Core Strategy and DM H3 of the DMLP.

16. I have imposed condition 12 to protect the future residents of the proposed flat and ensure satisfactory living conditions. Condition 13 is required to protect the living conditions of adjoining residents and highway safety. Condition 14 is required in the interest of the living conditions of surrounding residents and the character of the area.

17. I have not imposed a condition on plumbing flues etc in the front elevation as the proposals relate to the rear and basement of the property and do not affect the front of the property the condition is therefore not necessary. I have also not imposed a condition requiring notification of the Council of the postal address as this is not necessary to make the development acceptable in planning terms. There was duplication in terms of parking permit restrictions and I have not imposed one of the suggested conditions as it could be effected by the implementation of the condition I have imposed. I have not imposed a condition preventing external alterations and installation of equipment to the external facades of the building as any material changes would require planning permission and there is no suggestion that such would be required as a result of this development.

18. I am satisfied that the proposed development would not result in material harm to the character and function of the local shopping area and that the character and appearance of the conservation area would be preserved. With the imposition of the identified conditions I am satisfied that any residual impact would be acceptable and that no harm would arise.

19. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

Schedule of conditions for appeal APP/H5390/W/17/3167453

1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: RPA/84/FPR/ 103, 104, 105 and 106.

3) Any alterations to the elevations of the existing building shall be carried out in the same materials as the existing elevation to which the alterations relate.

4) The new and replacement openings hereby approved shall be of a timber construction to match the existing openings and painted grey to match.

5) The roof of the ground floor level hereby approved shall not be used as a terrace or other amenity space. No railings or other means of enclosure shall be erected on or around the roof, and no alterations shall be carried out to the rear elevation of the application property to form access onto the roof.

6) The rear extension hereby approved shall be constructed in second hand London stock bricks, to match the existing facing

7) The residential units hereby permitted shall not be occupied until details of two secure cycle parking spaces to be provided in connection with the proposed residential dwelling have been submitted to and approved in writing by the Council, and such details as are approved shall be implemented prior to the occupation or use of the flats and permanently retained thereafter for such use.

8) The residential unit hereby permitted shall not be occupied until details of refuse space to be provided in connection with the proposed residential dwelling have been submitted to and approved in writing by the Council, and such details as are approved shall be implemented prior to the occupation or use of the flats and permanently retained thereafter for such use. Any refuse/recycling generated by the residential unit hereby approved shall be stored in the refuse stores forming part of the details approved pursuant to this Condition and shall not be stored on the pavement or street.

9) The new residential flat 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. The flats shall not be occupied otherwise than in accordance with the approved scheme unless prior written agreement is issued by the Council.

10) The development shall be implemented in accordance with the recommended flood mitigation measures as proposed in the submitted Flood Risk Assessment. The recommended mitigation measures shall be permanently retained thereafter.

11) The development hereby permitted shall not commence until details of installing water efficient fixtures, fittings and appliances to help minimise water use and foulwater flows in the new unit have been submitted to and approved in writing by the council. The approved measures shall be

implemented in accordance with the approved details prior to occupation of the development hereby permitted, and thereafter permanently retained and maintained in line with the agreed plan.

12) Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of an enhanced sound insulation value DnT,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, namely eg. living room and kitchen above bedrooms of separate dwelling. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

13) Prior to commencement of the development hereby approved, a demolition method statement and a construction management plan shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 0800-1800hrs Mondays to Fridays and 0800 -1300 hrs on Saturdays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. Approved details shall be implemented throughout the project period.

14) The conversion hereby approved shall only be used as a residential unit falling within Class C3 of the Town & Country Planning (Use Classes) Order 1987 (as amended). The resulting converted property shall not be used as housing in multiple occupation falling within Class C4 of the Town & Country Planning (Use Classes) Order 1987 (as amended).

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