
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: 4 May 2017

Appeal Ref: APP/H5390/W/17/3166429
68a 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 Alistair Reid against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/02430/VAR, dated 26 May 2016, was refused by notice dated 22 July 2016.
 - The application sought planning permission for "Erection of a rear roof extension; erection of a rear extension at second floor level over part of the existing back addition; removal of part of the pitched roof of the back addition at second floor level to form a roof terrace with a 1.7 metre high obscure glazed screen; installation of French doors to the rear elevation at second floor level in order to allow access to the roof terrace; installation of 3 no. rooflights in the front roofslope; conversion of the existing first floor flat into 1 no. studio flat at first floor level and 1 no. two bedroom maisonette at first and second floor level" without complying with conditions attached to planning permission Ref 2015/04336/FUL, dated 16 November 2015.
 - The conditions in dispute are Nos 5 and 6 which state that: (No 5) "No occupiers of the additional first floor flat 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 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 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."
-

Decision

1. The appeal is allowed and planning permission is granted for "Erection of a rear roof extension; erection of a rear extension at second floor level over part of the existing back addition; removal of part of the pitched roof of the back addition at second floor level to form a roof terrace with a 1.7 metre high obscure glazed screen; installation of French doors to the rear elevation at second floor level in order to allow access to the roof terrace; installation of 3 no. rooflights in the front roofslope; conversion of the existing first floor flat into 1 no. studio flat at first floor level and 1 no. two bedroom maisonette at first and second floor level" at 68a Ormiston Grove, London W12 0JS in accordance with the application Ref 2016/02430/VAR dated 26 May 2016, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 101.001 (Rev B); 101.002 (Rev B); 101.003 (Rev B); 101.004 (Rev B) and 101.005 (Rev B).
 - 2) Prior to occupation of the additional first floor flat hereby approved, 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 structures separating different types of rooms/uses in adjoining dwellings, namely the 2nd floor kitchen above the bedroom of the separate first floor studio flat. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.
 - 3) Materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those of the existing building.
 - 4) Prior to the occupation of the additional first floor flat, details shall be submitted to and approved in writing by the Council of two cycle parking spaces for the residential units, within the site curtilage. The details shall be implemented in accordance with the approved details and retained as such thereafter.

Procedural Matter

2. The appellant states that development commenced on 1 March 2016, although there is no evidence that the disputed conditions have been breached. I have considered the appeal on this basis.

Background and Main Issue

3. The appeal property is a two storey mid-terrace house located on a street of similar residential development. 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 additional flat to apply for on-street parking permits.
4. 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 and highway safety.

Reasons

5. 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.
6. The Council states that according to previous overnight parking surveys, the average stresses for 2013, 2014 and 2015 are 70 percent, 78 percent and 81 percent respectively. This suggests that there is a relatively high demand for overnight parking in the area. This is supported by a neighbour who comments that it is extremely difficult to park on Ormiston Grove. The Council advises that the area has moderate access to public transport and, therefore, it is likely that future occupiers would own at least one car. This would increase the demand for on-street parking in the area above the threshold limit set out in the SPD. I have not been supplied with the Council's survey data and it is unclear what area the survey covered, what methodology was used and over what period the data was gathered.
7. Parking surveys have also been carried on behalf of the appellant, during Wednesday 27 and Thursday 28 April 2016. The study area covered all local roads within a radius of approximately 200m from the appeal property. Data was collected at regular intervals over the study period. This showed that at 0100 hrs on 27 April 75 percent of available spaces on Ormiston Grove were occupied, compared with 67 percent in the wider area. At 0100 hrs on 28 April the overall figures for Ormiston Grove and the wider area were the same. The maximum parking levels for Ormiston Grove did not exceed 80 percent over the study period.
8. The data submitted by the appellant demonstrate that parking levels on Ormiston Grove did not exceed the threshold given in the SPD during the study period. The Council's data indicates one instance in 2015 where parking levels in the area exceeded the threshold. Consequently, on the basis of the data I have before me, it is likely that the roads in the vicinity of the appeal site have capacity overnight to accommodate the additional parking associated with the development. Therefore, there would be no material adverse effect on the amenity of neighbouring occupiers or highway safety.

Conditions

9. 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, 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.

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

Conclusion

10. I conclude that the development would not adversely affect parking in the area, and therefore, there would be no material adverse effect on the living conditions of neighbouring occupiers or highway safety. The proposal would comply with Policy T1 of the Core Strategy,² which seeks to ensure appropriate parking is provided without impacting on the quality of the urban environment, and Policies DM J1 and DM J2 of the Development Management Local Plan,³ which seek to limit congestion and set out the relevant car parking standards.
11. For the reasons given above, the appeal is allowed.

Debbie Moore

Inspector

² Hammersmith and Fulham Council Local Development Framework: Core Strategy, October 2011

³ London Borough of Hammersmith and Fulham Development Management Local Plan, July 2013
