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## Appeal Decision

Site visit made on 1 June 2017

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

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

**Decision date: 27 June 2017**

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### **Appeal Ref: APP/H5390/W/17/3170032**

### **123 Godolphin Road, London W12 8JN**

- 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 Mr J Patel against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2016/05064/VAR, dated 17 November 2016, was refused by notice dated 13 January 2017.
  - The application sought planning permission for change of use of ground and first floors from offices (Class B1) into 2 x one bedroom and 2 x two bedroom self-contained residential flats (Class C3) without complying with conditions 3 and 4 attached to planning permission Ref 2014/01128/PD56, dated 13 March 2014.
  - The conditions in dispute are Nos 3 and 4 which state that: (3) No occupiers of the new dwellings 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 written demand; (4) The new dwellings 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 new dwellings 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: (3) 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, Policy DM J2 and J3 of the Development Management Local Plan (2013), and SPD Transport Policies of the Planning Guidance Supplementary Planning Document (2013); (4) In order that the prospective occupiers of the dwellings 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), Policy DM J2 and J3 of the Development Management Local Plan (2013), and SPD Transport Policies of the Planning Guidance Supplementary Planning Document (2013).
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### **Decision**

1. The appeal is allowed and planning permission is granted for change of use of ground and first floors from offices (Class B1) into 2 x one bedroom and 2 x two bedroom self-contained residential flats (Class C3) at 123 Godolphin Road, London W12 8JN in accordance with the application Ref 2016/05064/VAR,

dated 17 November 2016, without compliance with condition numbers 3 and 4 previously imposed on planning permission Ref 2014/01128/PD56, dated 13 March 2014 and subject to the following conditions:

- i) The change of use of the office to 4 x residential units shall not take place until the conditions attached to this notice are fully complied with.
- ii) No part of the development hereby approved shall be occupied prior to the provision of the cycle storage for 4no. cycle parking spaces for the residential development hereby approved, and such storage facilities shall be permanently retained thereafter in accordance with the approved details.
- iii) All refuse generated by the development hereby permitted shall be stored internally, and shall only be brought to the front of the premises on the day of collection.
- iv) The development shall be carried out in accordance with those recommendations and measures specified in the following reports, approved under planning reference 2014/01963/DET, pertaining to land contamination risks on the site:
  - Preliminary risk assessment report, Argyll Environmental, reference SAS\_50899318\_1\_1.;
  - Gas Assessment and Ground Investigation, Geo-Environmental, reference GE10145/LR/03/KB;
  - Contaminated land inspection report, Argyll Environmental, reference AEL-2149-PHI-304650.All works must be carried out in compliance with and by a competent person who conforms to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements of sampling and testing.

### **Application for costs**

- 2. An application for costs was made by Mr J Patel against the Council of the London Borough of Hammersmith & Fulham. This application is the subject of a separate Decision.

### **Procedural Matter**

- 3. The Council, in its decision notice, refers to its Planning Guidance Supplementary Planning Document (the SPD). I have afforded some weight to that document due to its role in supporting the relevant development plan policies.

### **Main Issue**

- 4. The main issue is the effect that removing the conditions would have on parking stress in the area having regard to the effectiveness of the highways network and amenities of surrounding residents.

### **Reasons**

#### *Main issue*

- 5. Policy T1 of the Hammersmith & Fulham Local Development Framework Core Strategy (the Core Strategy) relates to improving transportation provision and

accessibility in the borough by, amongst other things, ensuring appropriate parking is provided to meet the essential needs of the development without impacting on the quality of the urban environment. Policy DM J2 of the Hammersmith & Fulham Development Management Local Plan (the Local Plan) requires any proposed development to conform to the Council's parking standards.

6. The SPD refers to residential conversions normally being refused permission in streets where the level of on-street overnight parking exceeds the notional on-street overnight parking capacity. It also refers to that parking capacity being determined by surveys between the hours of 0300 and 0500 on a weekday night on the basis that such times have been identified as producing the normal maximum on-street overnight car-parking demand.
7. The Council has provided survey evidence relating to the take up of available on-street parking capacity in the part of the street nearest to the site. The most recent survey, and therefore most closely related to existing circumstances, shows high weekend daytime parking stress. However, the Council provides no qualification for this in terms of the circumstances at the time, such as the extent of parking restrictions or any events going on. With regard to the latter, the appellant refers to a nearby music festival occurring on 18 June 2016 in terms of potential additional demand for parking compared to the norm. The Council has not provided any substantive evidence to dispute this.
8. Notwithstanding those daytime weekend figures, importantly the weekday night-time parking, which is when the SPD seeks surveys to be conducted in relation to assessing whether or not residential conversions would be acceptable, shows sufficient spare capacity, greater than the required 20%. It can reasonably be expected that it is at night-time when most local residents who own cars would be at home and therefore parked on the street.
9. I have also had regard to a survey conducted by the appellant which takes account of a slightly wider area still within comfortable walking distance of the site. That survey was undertaken at night-time in accordance with the terms of the SPD and found the parking stress level in Godolphin Road, and on average, to be significantly less than the 80% set out in the SPD. Additional cars associated with the proposal would therefore be unlikely to exceed that stress level.
10. The parking standards refer to proposals for 1 and 2 bedroom dwellings to have a maximum of less than one car parking space per unit. Furthermore, all developments in areas with good public transport accessibility should aim for significantly less than one space per unit. The site is in such a location, which is not disputed by the parties. Due to my findings in respect of the availability of on-street parking in the vicinity, this should however not be a reason to deny prospective occupiers the ability to apply for a permit, regardless as to whether or not the appellant originally accepted the conditions when prior approval was granted.
11. For the above reasons, the removal the conditions concerned would be unlikely to unacceptably impact upon parking stress in the area having regard to the effectiveness of the highways network and amenities of surrounding residents. As such, it would accord with policy T1 of the Core Strategy, policy DM J2 of the Local Plan and the SPD.

### *Conditions*

12. The guidance in the Planning Practice Guidance makes 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.
13. Condition 2 of the original permission requires details of the full postal address of the proposed dwellings in connection with ensuring that no parking permits would be issued. As this relates to conditions 3 and 4, it would no longer be necessary in light of my findings in respect of those conditions, and the Council has also clarified that it should be deleted in the event of the appeal being allowed.
14. Conditions 7, 8, 9, 10, 11 and 12 of the original permission relate to the submission of details concerning potential contamination risks. However, I note that the Council has suggested a single condition to replace those original ones to reflect that reports have since been submitted and approved by the Council, and the need for compliance with them. It is therefore reasonable to include that condition in place of the original ones, in the interests of ensuring that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works.

### **Conclusion**

15. For the above reasons, I conclude that the appeal should be allowed.

*Andrew Dawe*

INSPECTOR