
Appeal Decision

Site visit made on 26 June 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 19 July 2017

Appeal Ref: APP/X5990/W/17/3170460
19 Cambridge Square, London W2 2QE

- 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 M Alquatami (SRIH Property Ltd) against the decision of City of Westminster Council.
 - The application Ref 16/09408/FULL, dated 8 December 2016, was refused by notice dated 1 February 2017.
 - The development proposed is described as 'change of use of the semi-detached house to education community organization (charity). Type of use to be change is C2 residential institutions. Third floor: three x six m extension, wood roof, windows and doors to match the existing one.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development in the banner heading above is taken from the planning application form. Different descriptions are used in the Council's decision notice and on the appeal form. However, as I have received no written confirmation from the parties that the description has changed, I have used the description from the planning application form, which adequately describes the proposal.
3. The Council advises that the roof extension referred to in the appeal proposal has already been granted planning permission under Ref 16/05338/FULL. Therefore, I will not consider that aspect of the proposal in my assessment.

Main Issues

4. The main issues are:
 - whether the proposal would result in a loss of housing;
 - the effect of the development, with particular regard to parking, on the safe and efficient operation of the highway network in the vicinity of the appeal site; and,
 - whether sufficient information has been provided about the proposed use of the property to enable any effect on the living conditions of neighbouring occupiers to be fully assessed.

Reasons

Loss of housing

5. The appeal site is a five storey dwelling at the end of a terrace of similar properties. It is located in a residential square with a mix of housing and tower blocks around a pleasant garden area in the centre.
6. Policy S14 'Optimising Housing Delivery' of Westminster's City Plan (WCS)¹ states that residential use is the priority across Westminster. It also advises that: '*All residential uses, floorspace and land will be protected.*' According to the policy, proposals that would result in a reduction in the number of residential units are not acceptable subject to certain limited exceptions relating to affordable and family-sized dwellings. The 'reasoned justification' of the policy explains that to achieve and exceed Westminster's housing targets it is necessary to protect existing housing.
7. It is proposed to change the use of the appeal building from a dwellinghouse (Class C3) to a residential institution (Class C2). There are limited details about the proposed use but the application form refers to an 'education community organisation', whilst the Council advises that the applicant is the Society of the Revival of Islamic Heritage.
8. It is submitted by the appellant that the size of the indoor space will not change, the number of residents would not be reduced and that more residents would occupy the property, thereby addressing the concern about loss of housing. Whilst the Council understands that the intention is that it would remain the appellant's primary residence, its view is that the change of use would involve other occupants staying for only short periods rather than providing permanent residency.
9. The lack of clarity in the proposal leads me to share the Council's concern that the use for an educational purpose would result in a loss of residential housing, which policy S14 intends to protect to enable housing targets to be met. Although policy S14 does not specifically refer to permanent residential housing to differentiate it from short term residential stays for educational purposes or similar, it is reasonably clear from the stated objectives in the policy that it intends to protect housing, as it is normally understood.
10. From the limited information supplied, it appears that the change of use would mean that the residential units would be available for a different and more restricted purpose on a shorter term study basis. They would not, therefore, be likely to fulfil the same housing function as a Class C3 dwellinghouse. Furthermore, once the change of use was sanctioned, there would be no mechanism to ensure that the property continued to be used as a main permanent residence.
11. Although the proposal would affect only one house, it is a large five storey dwelling of a type and size that the development plan policies seek to retain. Overall therefore, I conclude that the proposal would be likely to lead to a loss of housing and consequently be contrary to policy S14 of WCS, which seeks to prioritise residential use and retain existing and family-sized dwellings.

¹ November 2016

Safe and efficient operation of the highway network

12. The change of use involves an internal reconfiguration of the property which would convert the existing garage on the lower ground floor to a reception room. Therefore, on the face of it, the proposal would result in the loss of protected off-street car parking. Furthermore, although limited detail has been supplied, the change of use would seem likely to entail an increase in the number of visitors to the site.
13. Whilst the appellant states that there would be no need for further parking spaces and refers to two parking spaces inside the property, it is not apparent from the submitted plans or documentation where those parking spaces are located. The appellant asserts that most of the current trustees of the organisation do not drive and that visitors would use mainly public transport. However, the trustees may change and whilst the location is accessible by public transport, the method of transport chosen by potential future visitors would not be within the control of the appellant.
14. Policy TRANS 23 of the Council's Unitary Development Plan (UDP)² states that: *'The permanent loss of any existing off-street residential car parking space will not be permitted other than in exceptional circumstances.'* Given the lack of clarity about the location of the parking spaces referred to by the appellant and the failure to indicate any exceptional circumstances, the proposal would conflict with policy TRANS 23 of the UDP.
15. The Council says that there is high demand for parking permits indicates that many residents rely on on-street parking and that 36% of residents still choose to own cars. In that context, the apparent loss of the garage car parking and the likely increase in numbers of people visiting the property, would cumulatively add to the parking stress, which the Council holds already exists.
16. Parking stress can lead to drivers circulating around an area looking for parking spaces which can add to traffic congestion, pollution and contribute to noise and disturbance. It can also result in some drivers parking in potentially dangerous or unsuitable locations, such as near junctions or pedestrian crossing points, which can in turn compromise highway safety. Moreover, it may result in elderly or disabled residents having to park further from their homes. UDP Policy STRA 25 gives priority to residents and people with disabilities in relation to parking controls. A change of use which potentially exacerbates parking stress would potentially conflict with that policy. I have also considered and applied criteria referred to in paragraph 39 of the National Planning Policy Framework (the Framework)³ in my assessment, which are similar to the matters considered by the Council.
17. The above factors lead me to conclude that the proposal would, with particular regard to parking, be likely to have an adverse effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. It would, therefore, conflict with policies TRANS 23 and STRA25 of the UDP.

Living conditions of neighbouring occupiers

18. The Council refer to a lack of supporting details regarding the proposed use of the appeal site, which they indicate has prevented them from fully assessing

² Adopted January 2007

³ Published 2012

the possible impact on the living conditions of neighbouring residents, in terms of noise or disturbance, for example. It is unclear to me from the submitted evidence if further attempts were made by the Council to clarify the position with the appellant, but limited further information has been submitted by the appellant with the appeal.

19. In their third reason for refusal, the Council cite policies S25, S28 and S38 of WCS, along with policy DES1 (A) and paras 10.108 and 10.128 of the UDP. They refer to a range of matters, including heritage and conservation areas, sustainable and inclusive design, biodiversity and green infrastructure. The Council's appeal statement clarifies that the concern relates to the amenity or living conditions of neighbouring residents. However, it is not clear to me from the Council's appeal statement or Officer's Report precisely where the conflicts lie with those policies in relation to the amenity or living conditions of neighbouring residents.
20. Policy DES1 (B) of the UDP, although not referred to by the Council, does refer to protecting amenity by adopting appropriate design measures, so that would be relevant. Paragraph 17 of the Framework, a significant material consideration in all planning decisions, also states, in its fourth bullet point, that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Taking those factors into account, I consider that insufficient information about the proposed use has been submitted to enable those aspects to be fully assessed.

Other Matters

21. As required by statute⁴, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Bayswater Conservation Area (CA), which the site lies within. In addition, I have taken account of the importance which the Framework places on conserving designated heritage assets such as CAs. I have also considered the relevant heritage policies in the development plan. However, I cannot see that the proposal would cause any discernible harm to the CA.
22. The appellant's appeal statement includes an invitation to answer any further queries and requests a meeting to explain the purpose of the proposal. However, the written representations procedure, selected by the appellant, provides various opportunities for appellants to present their case in written submissions. Meetings to discuss the merits of a case are not within the scope of that procedure.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

⁴ s72(1) Planning (Listed Buildings and Conservation Areas) Act 1990