



Appeal Decision

Site visit made on 9 August 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/H5390/W/17/3174508 174 Stephendale Road, London SW6 2PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Ms Jenny Dupant against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2016/02828/FUL, dated 14 June 2016, was approved on 8 December 2016 and planning permission was granted subject to conditions.
- The development permitted is the:
"Erection of a rear roof extension; erection of a single storey rear extension to the side of the existing back addition; excavation of the front and rear garden to form lightwells in connection with the enlargement of the existing basement; erection of new metal railings and pedestrian entrance gate at the front of the property; installation of 2 no windows to replace the existing window to the side of rear back addition at first floor level; installation of French doors and a Juliet balcony to replace the existing window at first floor level to the rear elevation; conversion of the existing dwellinghouse into 1 no three bedroom and 1 no two bedroom self-contained flats".
- The conditions in dispute are Nos 10, 11 and 12 which state that:
10) *The two flats which are hereby permitted shall not be occupied until the Council has been notified in writing (and has acknowledged such notification) of the full postal address of the flats. Such notification shall be to the council's Head of Development Management and shall quote the planning application number specified in this decision letter;*
11) *No occupier of the self-contained flat at first and second floor level 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.*
12) *No occupier of the self contained flat at first and second floor level 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;*
- The reasons given for the conditions are:
10) *In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the flats hereby approved, and thus 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 DM A1, A9, J2 and J3 of the Development Management Local Plan (2013) and Policy T1 of the Core Strategy (2011);*
11) *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 DM A1, A9, J2 and J3 of the Development Management Local Plan 2013 and Policy T1 of the Core Strategy*

2011;

12) *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 DM A1, A9, J2 and J3 of the Development Management Local Plan 2013 and Policy T1 of the Core Strategy 2011.*

Decision

1. The appeal is allowed and the planning permission Ref 2016/02828/FUL for the "Erection of a rear roof extension; erection of a single storey rear extension to the side of the existing back addition; excavation of the front and rear garden to form lightwells in connection with the enlargement of the existing basement; erection of new metal railings and pedestrian entrance gate at the front of the property; installation of 2no windows to replace the existing window to the side of rear back addition at first floor level; installation of French doors and a Juliet balcony to replace the existing window at first floor level to the rear elevation; conversion of the existing dwellinghouse into 1 no three bedroom and 1 no two bedroom self-contained flats" at 174 Stephendale Road, London SW6 2PN granted on 8 December 2016 by the Council of the London Borough of Hammersmith & Fulham, is varied by deleting conditions 10, 11 and 12.

Main Issue

2. The effect that removal of the disputed planning conditions would have with respect to on-street parking demand and in turn upon the residential living conditions within the area.

Reasons

3. The appeal site includes a 2 storey, mid-terraced dwelling in a primarily residential area although there are some communal uses nearby. The area is covered by a Controlled Parking Zone (CPZ). On street signs explain that to park within the CPZ requires either the payment of a fee for parking between 09.00hours – 17.00hours Monday to Saturday, or a Residents' Parking Permit (RPP). Outside of those hours, there is no restriction on parking so anybody can park for free without a RPP.
4. The purpose of each of the disputed planning conditions is to ensure that the occupiers of the proposed flats cannot obtain a RRP and in the case of condition 12, to ensure occupants are made aware of that situation. The reasons given relate to the stress that can occur when there is competition for parking spaces due to limited supply. The conditions cannot prevent the ownership or use of vehicles by prospective occupants of the dwellings. The prospective occupants could attempt to park in the CPZ outside of the controlled hours with the Council having no control over that. They could also attempt to park during the day subject to paying the necessary fee. I have no evidence that to attempt to park nearby with a RPP or through other means would any significant difference to the stress levels of the occupants of the proposed flats or other dwellings nearby.
5. It is therefore unclear whether the prohibition of applying for a parking permit

will achieve what the Council is seeking through these planning conditions. Furthermore, the effect of the conditions is to prevent occupants carrying out an act of applying for a permit which is not directly related to the use of the land. Occupants could attempt to use the land within the site and within the public highway at the restricted times in precisely the same way even if they do not possess a RPP, by paying to do so. The conditions in this way are unreasonable and do not meet that test for planning conditions as set out within paragraph 206 of the National Planning Policy Framework (the Framework).

6. Policy T1 of the Core Strategy¹ (CS) is referred to in the reasons for each of the conditions. This seeks to ensure appropriate parking to meet essential needs without impacting upon the quality of the urban environment. Policy DM J2 of the Development Management Local Plan² (DMLP) requires compliance with maximum residential parking standards. DMLP Policy DM J3 allows reduced parking in areas with good levels of public transport accessibility (PTAL), where occupants are unlikely to need a car and where quality of life criteria such as access to shops are satisfied. DMLP Policy DM A1 allows the conversion of existing dwellings into 2 or more dwellings subject to a number of criteria including where there is no adverse impact on on-street parking stress. In this case, the appellant states that the site is reasonably accessible by public transport and quotes a PTAL rating of 3. Although this is not a "good" rating, the site is also only a modest walk from a wide range of services such as those within the New Kings Road.
7. The appellant has provided evidence that was gathered by the Council demonstrating on-street parking stress (capacity) levels in the nearby roads as on 30 April 2015. This evidence is limited, more than 2 years old and no time is stated for the survey however, the Council has not produced any further information to dispute the figures. My site visit was between 08:00 and 08:25 hours on a weekday. I recognise that this is a snapshot in time and it is also within the school holidays which could limit the reliability of what I saw. However, I can only make a decision based upon what I saw and what evidence I am provided with.
8. The appellant's evidence indicates that at the time of the survey there were 3 cars parked in an area including 9 spaces on the east side of Stephendale Road between Tynemouth Street and Lindrop Street. This equates to a "parking stress" level of 33.33%. At my visit, I counted 2 cars along this part of the road which therefore is a lower parking stress figure. There were also more spaces available within easy reach of the site elsewhere along Stephendale Road. There are some parts of Stephendale Road further away from the site where stress levels do exceed, approach or exceed 80% which is the figure referred to within the Council's report. However, there would appear to be available parking on-street close to the site should the prospective residents choose to own a vehicle. Given the reasonable accessibility of the area residents would not have to rely upon private vehicles to reach a range of services, facilities and places of work.
9. As well as my concerns that the disputed planning condition may not achieve what the Council is trying to achieve I also consider that the area close to the

¹ London Borough of Hammersmith and Fulham, Local Development Framework, Core Strategy, adopted October 2011

² London Borough of Hammersmith and Fulham, Development Management Local Plan, adopted July 2013

appeal site is not the subject of undue parking stress and is also reasonably accessible. In relation to the main issue, the removal of the disputed planning conditions would make little difference to on-street parking demand and in turn residential living conditions within the area. Appropriate parking would exist to meet essential needs of the prospective occupants without impacting upon the quality of the urban environment for other people. CS Policy T1 would be complied with as would DMLP Policies DM J2, DM J3, DM A1 and DM A9. The requirement in paragraph 17 of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings would be achieved. With respect to the tests for planning conditions as set out within paragraph 206 of the Framework, the conditions are unnecessary and it would be unreasonable to retain them.

Conclusion

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

A Harwood

INSPECTOR