
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: 31 August 2017

Appeal Ref: APP/H5390/W/17/3175750
78 North End Road, London W14 9ES

- 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 Fred Kingsley against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/04150/FUL, dated 16 September 2016, was refused by notice dated 15 November 2016.
 - The development proposed is the conversion of 2 office units and 4 bedsits into 2 2-bedroom apartments and 2 1-bedroom apartments. Extension of existing 2-bedroom apartment into a 3-bedroom apartment with a proposed mansard roof extension. Additional windows into existing elevations and additional external amenity space in the form of 2 balconies.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have been provided with details of the 'prior approval' scheme¹ which was previously agreed for the change of use of part of the first and second floors of the building from office use into 2 No 2-bedroom self-contained flats. This relates to 'Class O' of Part 3 to Schedule 2 of the GPDO². Works were being undertaken within the building at the time of my site visit and although were not complete, appeared to be similar to what is shown on those plans.
3. One of the Council's reasons for refusal refers to the nearby 'Famous Three Kings' public house as a grade II Listed Building. It has subsequently been confirmed that it is not a Listed Building and although the Council consider that it is a 'building of merit', they no longer wish to contest the effect of the proposal upon the setting of that building.
4. I have also undertaken a site visit in relation to an advertisement appeal at this site which has been the subject of a separate decision.

Main Issues

5. Whether the proposal would preserve or enhance the character or appearance of the Barons Court Conservation Area (CA). The second is the effect upon living conditions of the neighbouring dwelling at No 80 with particular reference

¹ Council reference:2016/00778/PD6

² The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)

to privacy. The third is the effect of the proposal on the supply of commercial floor space. The last main issue is whether the occupants of proposed units 1 and 3 would have satisfactory living conditions.

Reasons

Character and appearance

6. The appeal site includes a large 5 storey (including the basement level) end of terrace building which is on the corner of the junction between North End Road and Talgarth Road (also referred to within representations as West Cromwell Road). This is a traditional late Victorian building in a terrace of similar properties constructed of brick with simple detailing. The wider CA contains a variety of the buildings and open spaces including more modern parades of commercial premises to the south. The site is close to the District Line track cutting and the low station building on the other side of North End Road which adjoins the Famous Three Kings public house. The Famous Three Kings dominates the corner of North End Road directly opposite the appeal site.
7. The largely unaltered principle elevation of the terrace faces towards the North End Road. The upper floors above the fascia signage of the ground floor commercial premises have a strong rhythm with lines of traditional window openings and simple ornamentation. At roof level, the rendered parapet continues along the terrace and it is difficult to notice the existing roof top extensions on the remainder of the terrace from North End Road but they are more obvious to the rear when viewing from Talgarth Road.
8. The appeal building being on the corner provides an attractive continuation between the terrace in North End Road and a graduated transition down to the lower buildings facing Talgarth Road. The lower part of the appeal building includes a line of dormers at roof level. On the higher part, the line of chimney pots between No 78 and No 80 is partially evident from close quarters but is more noticeable from the north of the junction, within North End Road. At the rear, the more utilitarian design of the terrace is partially evident from Talgarth Road. The butterfly roof on the appeal building can be seen from the west as can the row of chimney pots and additions at roof level further along the terrace. The appeal building is a significant building in a prominent position on the edge of the CA which is visible within the local and broader area.
9. The proposal would involve the extension at roof level to create an additional floor which would become part of proposed 'unit 5'. The roof extension would rise up from the top of the parapet and would be raked back from it. The flat top of the roof would, according to the submitted drawing, be a little above the chimney pots that are currently noticeable between the roof of No 78 and No 80. This extension would be difficult to see from the front and side at close quarters. However from further away, particularly on approach from the east and from the north, the roof extension would obscure the chimney pots which are a traditional feature of the building. The structure would rise above the parapet and would be an obvious modern addition to the building in a prominent position. From the rear, when viewing from Talgarth Road the proposed rear slate hung elevation would obscure the existing roof-form and would not adhere to the existing or neighbouring roof-forms.
10. The extension would not be compatible with the character of the existing building and would not successfully integrate with architectural design of the

existing building. This would have a harmful impact upon the building and in turn this would cause less than substantial harm to the significance of the CA. I give great weight to the conservation of the CA. In relation to the first main issue, the proposal would not therefore preserve or enhance the character or appearance of the CA. This would not comply with Policy DMG7 of the Local Plan (LP)³ or Policy BE1 of the Core Strategy (CS)⁴. In these respects, the proposal would not constitute a good design, as required by paragraph 56 of the National Planning Policy Framework (Framework).

Living conditions – No 80 North End Road

11. Proposed units 1 and 3 would have balconies which would enable some views down towards the garden of No 80. The balconies would be where there is presently a blank wall and there would be a reduction in the privacy of that adjoining garden area. This could be overcome by the addition of a privacy screen similar to the 1.8m return privacy screen proposed for the eastern sides of the balconies. However, had the proposal been otherwise acceptable I would not be able to impose a planning condition to require such a change. That would significantly alter the scheme and could deprive those who should have been consulted an opportunity to comment upon those revisions.
12. In relation to this main issue, the proposal would have a harmful effect upon living conditions of the neighbouring dwelling at No 80 with particular reference to privacy. This would not comply with LP Policies DM G3 and DM A9.

Commercial floorspace

13. Notwithstanding the possible implementation of the prior approval scheme, the proposal as originally set out would involve the loss of office space. CS Policy LE1 seeks to ensure accommodation for all sizes of business. It requires the retention of premises capable of providing continued accommodation unless a number of criteria are met. LP Policy DM B1 supports the retention of such premises again subject to a number of criteria including evidence of marketing.
14. The Framework places the emphasis on approving residential development from commercial buildings. That is subject to there being an identified need for additional housing and provided there are not strong economic reasons why such development would be inappropriate. I have no evidence before me about viability of the office space involved in the change of use of the ground, first and second floors. I also have no evidence about housing or economic land needs in the area. Although the proposal would not comply with CS Policy LE1 and LP Policy DM B1, the Framework has a different emphasis and so these matters are finely balanced.
15. The Council within its report has dismissed the appellant's claimed fallback position of the prior approval scheme. The Council report refers to the need to implement the prior approval scheme before 30 May 2016. It is not my role in this S78 appeal to rule on the lawfulness or otherwise of an existing development. However, an amendment Order⁵ came into force on 6 May 2016 which permits development under 'Class O' subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. The appellant has stated that this should apply to the prior approval scheme

³ Hammersmith and Fulham, Development Management Local Plan, July 2013

⁴ Hammersmith and Fulham, Local Development Framework, Core Strategy, October 2011

⁵ The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016

and the Council having had an opportunity to comment upon this matter, has not done so. My understanding is that prior approval planning permissions granted under 'Class O' before 6 April 2016 will continue to have effect and that the agreed scheme at this site remains extant. I make no judgement about whether or not the works I saw comply with that scheme. However, it seems highly likely that the alternative scheme will be implemented if the current scheme is unsuccessful. It is a fallback position that I can give substantial weight to.

16. The presence of an alternative fallback scheme that would result in the loss of much of the commercial floorspace involved in the proposal, outweighs the conflict with the CS and LP. In relation to the main issue the proposal will not have a harmful effect upon the supply of commercial floor space.

Living conditions – proposed units 1 and 3

17. These flats are similar and according to the Council have around 52m² in gross internal floor area (GIA) which they say complies with their Housing Supplementary Planning Guidance (SPG). The Council has also referred to individual rooms being below the requirements of SPG Policy 5. The measurement given of 17m² and 17.5 m² for the living-kitchen-diner of Units 1 and 3 respectively is below the suggested requirement of 19.5m² but it is not explained how that figure has been arrived at. Policy 5 does not give a figure for that type of room. There are also deficiencies in the size of the bedrooms in unit 1 and the master bedroom of unit 3 compared with requirements within the SPG.
18. The Written Ministerial Statement of 25 March 2015 made it clear that existing plans should be interpreted by reference to the nearest equivalent new national technical standard. These are set out in the Technical Housing Standards – Nationally Described Space Standard (THS). I give more weight to the THS than the SPG when considering LP Policies DM A2 and DM A9 which require a high standard of design and including internal space. For 2 bedroom dwellings over 1 storey such as in this case, the required GIA in the THS is 61m² or 70m² depending upon whether the unit is designed for 3 or 4 people respectively. Neither unit would meet or exceed the requirements of the THS.
19. The living rooms and bedrooms would have good access to natural light and in my view this will help to make up for the area deficiencies. Furthermore, the prior approval scheme includes living accommodation set out over a similar overall area. The current proposal would not provide for a worse standard of living space than the prior approval and I consider that this outweighs the conflict with the SPG, the THS as well as LP Policy DM A9.
20. In relation to this main issue, proposed units 1 and 3 would have satisfactory living conditions. Not building to the required standards is justified in this case due to the fallback position. In this way, the proposal would comply with LP Policy DM A2.

Other Matters

21. The proposal would provide additional living accommodation within an accessible urban area. However, from the evidence provided I do not consider that this would lead to significant public benefits of any significant weight. The modest weight that I can give that benefit as well as acceptability in relation to

the third and fourth main issues does not outweigh the less than substantial harm to the significance of the CA as well as the additional harm in relation to the second main issue. On balance, the proposal is unacceptable. In undertaking this balance I have given great weight to the conservation of the CA.

Conclusion

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

Andy Harwood

INSPECTOR