



Appeal Decision

Site visit made on 23 July 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2019

Appeal Ref: APP/F5540/W/19/3228337
165 Gunnersbury Lane, Acton W3 8LJ

- 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 Mrs Eileen Cragg against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00536/163-165/P3, dated 20 December 2018, was refused by notice dated 12 March 2019.
 - The development proposed is conversion of the existing property into 6 self-contained flats (2x studios, 2x1 bed and 2x3 bed) including a single storey side extension, part single and part two storey rear extensions, alterations to the fenestration and alterations to rear dormer and associated alterations to the rear garden area and provision of a bin store and cycle storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form.
3. The appellant has included additional plans as part of their appeal (Drawing Nos A103 and A103-B). While not submitted as part of the application before the Council, they were submitted at the outset of the appeal and therefore parties have had the opportunity to comment. These plans provide additional information. However, they do not fundamentally change the scheme from that originally submitted and upon which consultation took place. Against this backdrop, no injustice would be caused to any appeal party or third party if I were to take these documents into account. I have considered the appeal on that basis.

Application for costs

4. An application for costs was made by Mrs Eileen Cragg against the Council of the London Borough of Hounslow. This application is the subject of a separate Decision.

Main Issues

5. The main issues of the appeal are the effect of the proposal on;
- The availability of on-street parking;
 - The character and appearance of the area, including on the Gunnersbury Park Conservation Area (CA);
 - The living conditions of the occupiers of nearby properties, with particular regard to noise and disturbance;
 - Whether the proposal would provide appropriate living conditions for future occupiers, with particular regard to noise and disturbance, internal space, outlook and daylight; and
 - Whether the appeal building is suitable for conversion, with particular regard to internal space.

Reasons

On-Street Parking

6. Policy EC2 of the London Borough of Hounslow Local Plan (Local Plan) promotes car-free development where appropriate. The supporting text refers to car-free development in locations of high public transport accessibility and where there are controlled parking zones (CPZ's). This is to secure a more sustainable local travel network and maximise opportunities for walking, cycling and public transport as well as improving health and well-being. It also states that active car parking management will be implemented, in part, by restricting access to CPZ's to existing dwellings.
7. Parts of Gunnersbury Lane and the nearby streets are subject to parking restrictions. This includes yellow lines and CPZ's. The main parties do not dispute that the appeal site falls within PTAL5 with facilities and public transport close by.
8. At my site visit, which I appreciate is only a snapshot in time, I saw that many of the parking spaces in the surrounding streets were occupied. Moreover, there were very few spaces available near the appeal site itself. The proposal only accommodates parking for 1 vehicle on the site and would create 6 separate residential units. This is likely to lead to an increased demand for on street parking. Any further parking demand would serve only to exacerbate the existing situation. No detailed evidence to the contrary has been put to me.
9. I consider that in order to comply with the policy of the development plan that some form of control is needed to ensure that the development is car-free. While a draft planning obligation has been provided, this is not complete, being unsigned and not dated. The provision of an executed and certified copy of the executed planning obligation needs to be in place when permission is granted. Therefore, the draft agreement carries no weight.
10. While the use of conditions to secure the scheme as car-free development has been mentioned, none have been put to me. Therefore, there is insufficient information to demonstrate that conditions are an appropriate mechanism of securing this, and that they would meet the requisite tests in Planning Policy Guidance (PPG).

11. Moreover, given the scale of the scheme, and absence of any detailed information to suggest otherwise, the proposal is not a complex or strategically important development, and these are not exceptional circumstances. Consequently, with regard to the advice in PPG, the use of a negatively worded condition requiring a planning obligation or other agreement to be entered into would not be appropriate in this instance.
12. Therefore, I have no means of control before me to ensure that the development would be car-free. There is an absence of compelling evidence to demonstrate that the scheme would maximise opportunities for alternative modes of transport. Furthermore, no convincing case has been made that it would not result in unacceptable parking stress. Consequently, the scheme would fail to accord with Policy EC2 of the Local Plan.

Character and Appearance

13. The appeal site is located within the CA. As such I have had regard to the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. From my observations and the details provided, the significance of the CA lies, in part, in its focus on the open land of Gunnersbury Park/Kensington Cemetery and the residential properties that surround them as well as a shopping parade that formed part of the Gunnersbury Estate.
14. The Council have not included refusal reasons in relation to works to the appeal building or the loss of landscape features. There has been no convincing case made to the contrary and I see no reason to reach a different conclusion. The proposal would require the removal of some trees. Nonetheless, several are retained, and were the appeal to be allowed, a condition could be imposed requiring a detailed landscape scheme.
15. The surrounding streets are primarily residential. However, the site is adjacent to a parade of commercial properties and there is a car park to the side of the appeal site. Moreover, there is a busy road to the front. As a result, there is already a high degree of comings and goings both from pedestrians and vehicles close to the site. While the number of occupants would be greater than either 1 or 2 properties, the level of combined activity and movements from the intensification of the activities would not significantly impact on the character of the area.
16. Consequently, the development would preserve the character and appearance of the area and the CA. It would comply with Policies SC6 and CC2 of the Local Plan insofar as these require developments to carefully consider external appearance, composition and arrangement and prevent adverse impact on the character of the area.

Living Conditions of Occupiers of Nearby Properties

17. The Council have not included any refusal reasons in relation to overlooking. Given the separation between properties, intervening structures and landscaping as well as the orientation of the extensions and windows, I see no reason to reach a different finding.
18. An increased number of occupants from different householders would be likely to give rise to increased comings and goings at the site and associated noise. Nonetheless, at my site visit, which I accept is only a snapshot in time, there

was regular passing traffic and pedestrian movements along the street and in the surrounding area. This and activity associated with the nearby parade of shops results in some background noise already being experienced.

19. The proposal would not provide additional car parking on site and therefore would not increase the vehicular movements at the front of the property. The Council have not raised concern with the level or arrangement of the outdoor space for the proposed flats. The outbuildings and lane to the rear of the appeal site would provide sufficient separation to prevent unacceptable impacts with regard to noise from the site on those properties to the rear. Many of the existing trees are to be retained and there are tall boundary treatments to the sides of the site. This would limit the noise experienced at nearby properties.
20. Therefore, the proposal would not result in unacceptable harm to the living conditions of occupiers of nearby properties with regard to noise and disturbance. The proposal would comply with Policy SC6 and CC2 of the Local Plan where it, in part, seeks to prevent adverse impacts on resident's amenity and provide adequate levels of privacy at adjacent dwellings.

Living Conditions of Future Occupants

21. Bedroom 3 in each of the ground floor units would only have a small window. Nevertheless, each of these rooms would also be served by rooflights to allow additional light in to them. The outlook from bedroom 3 of Flat 1 would be south facing towards the garden area. The removal of some existing trees would give a more open outlook from this window.
22. The window for bedroom 3 of Flat 2 would be north facing. Nonetheless, being set back from the front of the property would provide some separation between it and the nearby tree. Moreover, the outlook from this window would be towards the proposed landscaped frontage. Therefore, given the size of these rooms the outlook and light would result in them being acceptable for its intended use.
23. The proposal would involve the stacking of living accommodation above ground floor bedrooms. This may result in a certain level of noise and disturbance due to activities at different times and by different age groups. Nonetheless, I have not been provided with any compelling evidence to dispute that this is primarily a sound insulation matter and that compliance with Building Regulations would be sufficient to mitigate any noise transmission and avoid unacceptable harm.
24. Plans provided during the application showed the dimensions of the studio flats. Further details as part of the appeal clarified the area where headroom is above 1.5m in height. Both these indicate that the internal floor area would exceed the minimum standards in the THS¹. While the Council have disputed the size of these units, they have not provided any clear evidence to the contrary of that provided by the appellant.
25. As such, the development would provide adequate living conditions for the future occupants of the units with regard to noise and disturbance, internal space, outlook and daylight. It would comply with Policies SC5 and CC2 of the Local Plan. These in part, seek to provide adequate outlook, daylight and amenity for proposed dwellings as well as applying minimum internal space standards as set out in the THS.

¹ Technical Housing Standards-Nationally Described Space Standard

Suitable for Conversion

26. The Council consider that the appeal site comprises 2 separate dwellings. Policy SC6 of the Local Plan states that properties are expected to have a minimum of 130sqm net original internal floor space to be suitable for conversion and subdivision. This is said to reflect the minimum standards for new development in THS and Policy SC5 of the Local Plan. In addition, it expects proposals to have regard to internal and external space standards. To my mind the use of the words 'expect' and 'have regard' implies that it will not be achievable in all cases.
27. Initially the Council was unconvinced that the loft area was originally habitable space. While they now agree that it does appear to have been original space, they feel that areas below 1.5m in height should not be included for calculating the net original internal floor area. Even if I were to consider the appeal building as 2 dwellings, only 1 of the them would fall below the required 130sqm and the shortfall is marginal. On the basis of the individual circumstances of the case before me, and in light of my findings on the other main issues above, overall the proposal would meet the underlying aims of both the development plan policies and the THS.
28. Therefore, the appeal building would be suitable for conversion. It would accord with the aims of Policy SC6 of the Local Plan where it seeks to manage the subdivision of existing housing stock without adverse impact on the character of an area and residents' amenity and is of a suitable size for subdivision.

Other Matters

29. I acknowledge the size of the property and understand the appellants' wish to move to a quieter location. However, these personal benefits are not a justification for setting aside the harm that the proposal would cause.
30. I have considered the appeal in the context that the government seeks to significantly boost the supply of housing. In relation to the three objectives of sustainable development in the Framework, it is acknowledged that occupiers of the units would have access to various modes of transport, services and facilities. The scheme would also contribute towards housing supply and mix in the area. Nonetheless, given the scale of the development such benefits would be modest.
31. Moreover, economic benefits associated with the construction and occupation of the properties, including support for local services and taxation would be limited. Environmental factors are again limited given the scale of the proposal. While these factors do add weight to the appellant's case, they do not outweigh the harm identified above and the conflict with the development plan.
32. The conduct of the Council in regard to the application and appeal process has been raised. However, I have assessed the scheme on its planning merits.

Conclusion

33. I have found that the scheme would be acceptable in respect of its effect on the character and appearance of the area, living conditions and the suitability of the building for conversion. Notwithstanding this, it would fail in relation to on street parking. This matter is decisive.

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

Stuart Willis

INSPECTOR