



Appeal Decision

Site visit made on 2 December 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2019

Appeal Ref: APP/L5810/W/19/3237418
216 Hampton Road, Twickenham TW2 5NJ

- 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 Dinesh Bhatt of The Letter Press against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/1703/FUL, dated 24 May 2019, was refused by notice dated 12 August 2019.
 - The development proposed is internal alterations to provide accessible accommodation at the ground floor level of live/work unit. Employment use as printers/graphic design business to be retained. Partial demolition of part of ground floor extension to provide courtyard garden.
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Decision

1. The appeal is allowed and planning permission is granted for internal alterations to provide accessible accommodation at the ground floor level of live/work unit. Employment use as printers/graphic design business to be retained. Partial demolition of part of ground floor extension to provide courtyard garden at 216 Hampton Road, Twickenham TW2 5NJ in accordance with the terms of the application, Ref 19/1703/FUL, dated 24 May 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 190401-00-P0 and 190401-01-P1.
 - 3) The proposed office area of the Proposed First Floor Plan shown in drawing Ref. 190401-01-P1 shall be retained solely for office use and shall not be used for any other use without written consent from the Local Planning Authority.

Application for Costs

2. An application for costs was made by Mr Dinesh Bhatt of The Letter Press against the London Borough of Richmond-upon-Thames. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are:

- Whether the proposal would make suitable provision for the retention of employment floorspace;
- Whether the proposal would make suitable provision for carbon reduction; and
- If any harm arises, whether that harm would be outweighed by the personal and health circumstances of the appellant's family.

Reasons

Employment Floorspace

4. Based on what I have seen and read, the appeal site is in a mixed use with commercial uses on the ground floor including a business use to the rear, and an associated residential use on the ground and upper floors.
5. I saw that the business area to the rear was of a size and arrangement which would provide suitable accommodation for a small business, including separate vehicular access to a rear lane.
6. Policy LP40 of the Council's Local Plan 2018 (the Local Plan) states, amongst other things, that land in employment use should be retained for this use and that mixed use proposals should retain the level of existing employment floorspace. The supporting text for Policy LP40 emphasises that there is a high proportion of small businesses in the Borough and that there is a lack of sufficient employment floorspace provision which is a constraint on business growth.
7. The appellant contends that the proposal would not involve the loss of an employment use, as an office for the extant business would be provided on an upper floor. However, this office would be significantly smaller than the existing area of employment use and the proposal would therefore clearly not retain the level of existing employment floorspace as required by Policy LP40. The appellant has provided no substantive evidence that the ground floor business area is not suitable for an employment use or that there is no demand for this use.
8. There is a disagreement between the parties as to whether the existing business would be a Class B1 'Business' or B2 'General Industrial' use¹. Whilst the Council considers it is a B2 use, in my view the suitability of the site for that purpose is questionable due to the close-knit relationship with the residential use of the site, including a kitchen and dining area at ground floor level. However, Policy LP40 is based on a wider definition of 'employment floorspace' encompassing the B Use Classes as well as relevant sui generis uses. The proposal would involve the loss of an extent of employment floorspace contrary to that policy, and within that context the specific use class is not a determinative issue in this appeal.

¹¹ As set out in the Town and Country Planning Use Classes Order 1987 (as amended)

9. On the basis of the evidence before me, I conclude that the proposal would not make suitable provision for the retention of employment floorspace and would therefore be contrary to Policy LP40 of the Local Plan.

Carbon Reduction

10. The Council's reason for refusal on this matter refers to Policies LP20 and LP22 of the Local Plan and the Sustainable Construction Checklist Guidance Supplementary Planning Document 2011 (SPD). However, the SPD states that the Checklist is only '*mandatory*' where 1 or more new dwellings are being provided or for non-residential development providing over 100m² or more of floor area. Neither of these criteria would apply to the appeal proposal which relates to the reconfiguration of a property containing an existing dwelling, albeit with some degree of building operations.
11. The SPD states that other forms of development '*are encouraged to comply*' with this Checklist as far as possible. This suggests that the provisions of the SPD are only advisory in respect of the appeal proposal. With regards to the provision of Policy LP22 in respect of proposals for a change of use to residential, I am mindful that the proposal relates to the reconfiguration of an existing property in a mixed use, would be of a limited scale and would not result in a new residential dwelling. Carbon reduction matters may also be addressed by the Building Regulations. Furthermore, this matter could also be addressed by a condition, although I note that the Council has not suggested this in respect of this appeal.
12. Within that context, I consider that requiring a Sustainable Construction Checklist and a BREEAM pre-assessment to be submitted prior to determination would be disproportionate. In any event, I conclude that the proposal would, due to its nature and scale, not conflict with policies LP20 and LP22 of the Local Plan and would also not conflict with the guidance of the SPD in respect of mandatory requirements.

Personal Circumstances and the Planning Balance

13. The appellant states that the main reason for the proposal is to provide for a disabled person who lives in the property. The appellant refers to the Equality Act 2010 and I have had due regard to the Public Sector Equality Duty (PSED) contained in that Act which sets out relevant protected characteristics, including disability. Since there is the potential for my decision to affect a person with a protected characteristic, I have had due regard to the equality principles set out in Section 149 of the Act.
14. The appellant has submitted a letter from Hounslow and Richmond Community Healthcare (HRCH) which sets out the particular health care issues. This clearly identifies matters affecting a person with a disability which the appeal proposal would address, including providing a single level of accommodation on the ground floor including bedroom, bathroom and kitchen access.
15. The Council has queried the lack of an address given on the HRCH letter. However, the appellant's evidence clearly states that the proposal relates to a disabled person who lives in the property, and there is nothing in the Council's evidence that leads me to a different conclusion.
16. Given the particular circumstances set out above, in this case and exceptionally, the conflict with planning policy in respect of employment

floorspace is outweighed by the circumstances of the appellant's family member having regard to the PSED. Material considerations therefore indicate that the proposal should be determined otherwise than in accordance with the development plan.

Conditions

17. The Council has suggested a number of conditions which I have considered against the advice in the Planning Practice Guidance. Where I consider that the conditions are necessary, I have altered some of them to better reflect the Guidance.
18. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
19. I have also imposed a condition specifying that the proposed office should be retained in the interests of providing employment floorspace as part of this mixed use proposal. However, I have removed reference to the 'printers/graphic design business' as this is not necessary or relevant to planning matters.

Conclusion

20. On balance, for the reasons given above and taking account of all material planning considerations, I conclude that the appeal should be allowed.

David Cross

INSPECTOR