



Appeal Decision

Site visit made on 7 January 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2020

Appeal Ref: APP/N5660/W/19/3239069

Unit 6 Abbeville Mews, 88 Clapham Park Road, London SW4 7BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Sandra Alayon-Stanton against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 19/02639/VOC, dated 8 July 2019, was refused by notice dated 4 September 2019.
 - The application sought planning permission for prior approval for the change of use of Unit 6 Abbeville Mews (Use Class B1) to provide a single residential unit (Use Class C3) without complying with conditions attached to planning permission Ref 18/02273/P30, dated 21 September 2018.
 - The conditions in dispute are Nos 1 and 2 which state that: 1) Notwithstanding the approved drawings, prior to the first occupation of the development hereby permitted, details of the provision to be made for cycle parking for a minimum of 2 bicycles shall be submitted to and approved in writing by the local planning authority. The cycle parking shall therefore be implemented in full accordance with the approved details before the use hereby permitted commences and shall thereafter be retained solely for its designated use. and 2) Prior to the commencement of the use hereby permitted, details of waste and recycling storage for the development shall be submitted to and approved in writing by the local planning authority. The waste and recycling storage shall be provided in accordance with the approved details prior to the commencement of the use hereby permitted and shall thereafter be retained for its designated use. The waste and recycling storage area/facilities should comply with Lambeth's Refuse and Recycling Storage Design Guidance (2013), unless it is demonstrated in the submission that such provision is inappropriate for this specific development.
 - The reasons given for the conditions are: 1) To ensure adequate cycle parking is available onsite and to promote sustainable modes of transport (Policy T1, T3, and Q13 of the Lambeth Local Plan 2015); and 2) To ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area (Policy Q2 and Q12 of the Lambeth Local Plan 2015).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Planning permission was originally granted under The Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) subject to the prior approval process for the change of use from office (use class B1) to

one residential unit (use class C3) at which stage the contested conditions were imposed.

Background

3. Paragraph W13 of Part 3 of the GPDO outlines that the local planning authority may grant prior approval subject to conditions reasonably related to the subject matter of the prior approval. For a change of use from use class B1 to use class C3 under this process, paragraph O.2 of Part 3 of the GPDO effectively outlines that in considering the application the local planning authority can have regard to the transport and highways impacts of the development.
4. The reason for condition No. 2, as stated on the Council's Decision Notice, is 'to ensure suitable provision for the occupiers of the development, to encourage the sustainable management of waste and to safeguard the visual amenities of the area'. In their statement, the Council have commented that the condition is intended to ensure that any future waste and recycling storage arrangement does not cause obstructions to the highway, compromising the safety of its users.

Main Issue

5. The main issue is whether the conditions are necessary and reasonably related to the subject matter having regard to the transport and highways impacts of the development.

Reasons

6. The appeal property is located within a purpose-built mews style complex that appears to include a mix of residential and small office units built around a central courtyard.
7. Firstly, on the matter of being reasonably related to the subject matter having regard to the highways and transport impacts of the development, I find that cycle parking and refuse storage are matters that would be reasonably related to a proposed residential unit in regard to its highways and transport impacts.
8. In relation to cycle parking, it is necessary for a condition to require details, and implementation, of cycle parking as this would encourage a sustainable form of transport and offer an appropriate alternative to travel by car. As a first-floor unit, it is unlikely that appropriate cycle storage can be made available/accessible within the unit. Additionally, the prior approval was granted with a Section 106 Agreement which restricts the occupiers of the unit to have a residents parking permit to park a vehicle in a Resident's Parking Bay, and also prevents occupiers from parking within any car park owned, controlled or licensed by the Council. Taking these factors into account, harm would arise to the encouragement of sustainable transport choices, and thereby the transport impact of the development, without the condition.
9. In relation to the refuse storage, I also find it is necessary for a condition to require details, and implementation, of refuse storage as this ensures that a dedicated area is provided to avoid undesirable storage in an area that may otherwise cause an obstruction to pedestrians, wheelchair users, cyclists, vehicles and other highway users.

10. The appellant has referred to areas of communal cycle parking and refuse storage within the overall mews, I observed these on my site visit. The appellant has commented that the use of the communal refuse store is subject to confirmation of its availability for the use of the residential unit.
11. I have not been presented with any evidence of how the use of the communal cycle parking and refuse storage areas can be secured by the occupants of the development or whether there is capacity within both storage areas to accommodate the requirements of the residential unit. The imposition of both conditions is therefore necessary in order that the details in relation to appropriateness, availability and capacity can be considered.
12. Paragraph W10(b) of Part 3 of the GPDO outlines that in determining an application regard should be had to the National Planning Policy Framework (the Framework), so far as is relevant to the subject matter of the prior approval, as if the application were a planning application. Therefore, in this instance, the conditions are required to ensure that appropriate opportunities to promote sustainable transport are taken up and any significant impacts on highway safety can be mitigated to an acceptable degree, in accordance with the Framework.
13. In such prior approval cases (including in the imposition of conditions) there is no statutory obligation to have regard to the development plan. Development plan policies may be relevant, but only insofar as they relate to the matters that may be taken into account, which in this instance are highways and transportation. Such policies may be taken into account as a form of evidence.
14. In this case therefore, the condition relating to the provision of cycle parking is required to ensure the development has regard to Policies T1, T3 and Q13 of the Lambeth Local Plan (2015) which seek to, amongst other things, minimise the need to travel and reduce dependence on the private car, and improve conditions for people to cycle by providing, amongst other things, appropriate cycle storage facilities. The condition relating to the provision of refuse storage is required to ensure the development has regard to Policy Q12 of the Lambeth Local Plan (2015) which seeks to ensure, amongst other things, that adequate refuse and recycling storage is provided for all development.
15. Policy Q2 of the Local Plan relates to the impact of development on amenity and would not be relevant to the consideration of the highways and transport impacts of the development as outlined in the GPDO.

Conclusion

16. I therefore find that conditions Nos 1 and 2 are necessary and reasonably related to the subject matter having regard to the transport and highways impacts of the development.
17. For the reasons given above, and having had regard to all other matters raised, I conclude that the conditions should be retained in their current form and accordingly the appeal is dismissed.

A M Nilsson

INSPECTOR