



Appeal Decision

Site visit made on 18 February 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2020

Appeal Ref: APP/L5810/W/19/3241837

Flat 1 & 2, 40 Albion Road, Twickenham TW2 6QJ

- 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 without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Buseman/Frankson against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref 19/1148/VRC, dated 19 February 2019, was refused by notice dated 3 June 2019.
 - The application sought planning permission described as "*Planning permission and 11/3749/FUL subject to a restricting parking permits. Does not allow parking permits to be issued. We wish to remove this planning permission to allow parking permits to be issued*" without complying with a condition attached to planning permission Ref 11/3749/FUL, dated 10 January 2012.
 - The condition in dispute is U46737 which states that: "*Before the development hereby permitted begins a scheme shall be agreed in writing with the Local planning Authority and be put in place to ensure that, with the exception of disabled persons, no resident of the development shall obtain a resident/commercial parking permit within any controlled parking zone which may be in force in the area at any time.*"
 - The reason given for the condition is: "*To ensure that the development does not generate an increased demand for on-street car parking to the detriment of the free flow of traffic, the conditions of general safety along the neighbouring highways, the amenity of the area and to accord with the Councils car parking policy and standards.*"
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Decision

1. The appeal is allowed and planning permission is granted for Removal of condition U46737 Parking Permits Restriction – Grampian of Planning Permission 11/3749/FUL at Flats 1 & 2, 40 Albion Road, Twickenham TW2 6QJ within the terms of application Ref, 19/1148/RVC, dated 19 February 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2028/B.P/PR/01, 2028/B.P/PL02, 2028/B.P/EX/01, 2028/B.P/EX/02 received 16th November 2011.
 - 2) The roof of the building shall not be used for any purpose other than as a means of escape in emergency or for maintenance of the building.

- 3) The first floor window serving bedroom 1 to the east elevation shall be fitted with obscured glazing, and no part of the window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened, and once installed the obscure glazing shall be retained thereafter.
- 4) The provision of storage of refuse/waste and recycling shall accord with Bin bike plan dated 29 Aug 2019 and supporting evidence: Application Form dated 29 Aug 2019, Covering letter dated 29 Aug 2019, and be kept available for the lifetime of the development. No refuse or waste material of any description shall be left or stored anywhere on the site other than within a building or refuse enclosure.
- 5) The areas marked for cycle parking shall accord with the Application Form dated 29 Aug 2019, Covering letter (including photographs and confirmation from the applicant has provided secure wall bike racks received) dated 29 Aug 2019, Bin bike plan dated 29 Aug 2019, and be kept available for the use of the occupiers of Flat 1 and 2 for the parking of bicycles for the lifetime of the development.

Procedural Matters

2. The description of the application has been condensed by the Council to read '*Removal of condition U46737 Parking Permits Restriction – Grampian of Planning Permission 11/3749/FUL*' and therefore I have used this description in the formal decision.
3. At the time of my visit, Flats 1 and 2 were occupied and the condition in dispute has not formally been discharged. Therefore, the condition has been breached.

Background and Main Issue

4. Planning permission was approved for the conversion of the first floor of the Kings Arms Albion public house on Albion Road to 2no. x 2no. bed flats under application 10/1009/FUL in 2011 and a subsequent amendment to this approved under application 11/3749/FUL. A Grampian condition was imposed preventing the residents from applying to the Council for residents parking permits at the point when a controlled parking scheme came into operation.
5. The reasons for this Grampian condition was justified by the Council based on a historical parking survey of 2008. It was predicted that the additional parking this proposal would generate would reduce the available on-street parking to 9%, deemed to be an unacceptable level and would prejudice highway safety. This was also founded on a previous Inspector's decision for a car-free residential development based on their assessment of parking within the area at that time. In relation to this appeal it is necessary to assess whether or not the disputed planning condition meets the relevant tests having regard to the present circumstances.
6. The main issue is whether or not the removal of the planning condition would result in additional on-street parking that would affect highway safety.

Reasons

7. In respect of the locality, the area is largely residential in nature consisting of terraces of houses, flatted development and mews houses with a small number of commercial and other businesses. The area is in very close proximity to the centre of Twickenham. The build pattern here is dense with narrow streets and tight corners. There is dedicated on-street parking flanking most roads close to the appeal site, some with parking on a half footway/half road arrangement. Parking controls along the residential streets are evident, restricted by permit parking with a limited amount of pay and display spaces available.
8. Since the time the proposal was granted, a scheme for a Controlled Parking Zone (CPZ) came into force covering Albion Road and the wider area.
9. The Council rely on the *Lambeth Methodology* to assess on-street parking stress levels within the area. This requires a parking survey to cover a 200m area from the site to be carried out over two separate weekday nights between the hours of 0030 and 0530. The Council set their 'tipping point' of on-street parking stress at a 90% threshold.
10. I note the appellants initial parking survey was conducted over a one-day period only, and in two-hour intervals and included plans of the streets surveyed and their parking layouts. More pertinent however, it was undertaken during the hours of 0830 and 1830 when the CPZ is in place. This survey concluded that the available parking spaces was around 276 spaces with approximately 82 spaces free, denoting parking stress level on-street at approximately 70%.
11. Furthermore, this survey was also supported by an additional week-night survey taken over two separate dates. This survey demonstrated that the on-street parking level equated to approximately 79%-85% stress. I am satisfied that, whilst it does not precisely conform to the Council's Lambeth Methodology, the night-time survey times are acceptable and provides an accurate reflection of on-street parking outside the parking restriction times.
12. I note that the findings of these surveys are not disputed by the Council. Both these surveys demonstrate that on-street parking at different times could accommodate the resultant demand for an additional two car parking spaces, one for each flat, without increasing the parking stress beyond the 90% threshold.
13. I find that the surveys demonstrate that no harm would arise to highway safety as a result of an additional demand for parking permits that could arise from the removal of this planning condition. Therefore, the disputed condition does not meet the tests of paragraph 55 of the National Planning Policy Framework, (the Framework). I find no conflict with Policy LP 44 of the London Borough of Richmond Upon Thames Local Plan 2018 (LP) as this policy aims to ensure development would not have a severe impact on safety of the highway. The proposal is also not in conflict with Policy LP 45 of the LP, in particular part 3.c. as, although the development was originally designed to be car-free, it would not contribute to parking stress on the road network.

Other Matters

14. I understand that more recent applications for new residential development in the area have prevented occupiers from obtaining residents permits via a Section 106 Agreement. This is a different mechanism to control on-street parking to that of the disputed condition. However, whilst I recognise parking restrictions in the area may be required, in this particular case I have determined the appeal based on the evidence before me.

Conditions

15. As this is a Section 73A planning application, conditions can be re-imposed, removed, varied, omitted, or additional conditions applied provided they meet the tests of paragraph 55 of the Framework. Furthermore, the Planning Practice Guidance emphasise that clear and precise reasons must be given for the imposition of every condition.
16. There is no requirement to apply a time limit to the permission as the original development has commenced, nor is there a need to apply a materials condition for the same reason. Condition 1, (development to accord with approved plans) is re-imposed from the original permission for clarity. Condition 2 (restrict use of the roof) and Condition 3 (obscure glazing to first floor window) are re-imposed to protect living conditions of neighbours. Condition 4 (waste management) is re-imposed and combined with another condition to only store refuse within enclosures to encourage good waste disposal practices, and in the interest of the character and appearance of the area. Condition 5 (Cycle storage) is re-imposed in the interest of sustainable transport.
17. The Council seek the imposition of a condition associated with car club membership which is furthermore written as a pre-commencement condition, although the development has clearly commenced. This condition was originally imposed to control on-street parking and to complement the disputed condition. The occupiers of the flats can apply for membership of a car club should they wish, although a condition in this regard would not meet the tests of paragraph 55 of the Framework as I find the removal of the Grampian condition would not prejudice highway safety.

Conclusion

18. I can find no harm would arise to highway safety as a result of the removal of this Grampian condition to allow the appellants to apply for an additional two parking permits to park on-street. Therefore, the condition is no longer necessary and should be removed. The appeal should therefore be allowed.

Alison Scott

INSPECTOR