



Appeal Decision

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Appeal Ref: APP/U5930/W/19/3239250

312 Grove Green Road, Leytonstone E11 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Graham Burgess against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 192623, dated 1 August 2019, sought approval of details pursuant to condition No 4 of a planning permission Ref 180472, granted on 6 April 2018.
 - The application was refused by notice dated 27 September 2019.
 - The development proposed is Change of use from a shop (A1) to a self-contained studio flat (C3).
 - The details for which approval is sought are: Prior to the commencement of the development, notwithstanding site investigation and clearance works and demolition, full details relating to the following shall be submitted to and approved by the Local Planning Authority: a) The design of secure and lockable cycle stores; b) Refuse and recycling facilities. The development shall be carried out fully in accordance with the approved details prior to first occupation of the development and shall thereafter maintained as such for the lifetime of the development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In response to travel restrictions due to the COVID-19 pandemic, I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. The appellant has agreed to this approach in writing however, the Council did not respond to the relevant correspondence. Despite this, the Council are aware of the approach and consequently, I have proceeded to determine the appeal.
3. I have taken the appellant's name from the appeal form rather than the planning application form. This is because it provides the full name, including title, rather than simply a surname.

Main Issue

4. The main issue is whether the details submitted are sufficient to discharge the requirements of condition 4 of the original planning permission.

Reasons

5. The National Planning Policy Framework confirms the specific tests that are relevant to the imposition of conditions. One of the tests is that of precision.
6. Condition 4 relates to two separate matters. In relation to cycle storage, the condition requires the details of secure and lockable cycle stores to be submitted prior to the commencement of development. To discharge these requirements, the appellant has provided details of a Sheffield Stand. This is a fixture that would enable a bicycle to be locked to it. Consequently, it would provide a secure facility. However, the stand itself would not be lockable, nor in my view, would it be a store. Instead, it would constitute a secure fixture to which bikes could be locked.
7. On the most recent decision notice, the Council state that to discharge this part of condition 4, the cycle stands must be within a lockable and covered enclosure. This is different to the requirements of the original decision which makes no reference to the necessary storage being covered. Such divergence in requirements does not sit comfortably with the test of precision and is not helpful for the appellant. However, the lockable requirement is explicit within the condition and whilst Sheffield Stands enable a degree of security, for the reasons identified above, it is not a lockable store. Accordingly, based on the evidence before me, the details provided by the appellant are not sufficient to comply with the requirements of the condition.
8. The second part of the condition relates to the submission of details for refuse and recycling facilities. In refusing the proposal, the Council states that regard will be given to the level and type of provision, its location, and its impact on visual amenity. However, the wording of the condition is not as clear and only requires details of refuse and recycling facilities. No other explicit guidance is provided.
9. Based on the evidence before me, a specific area for refuse and recycling would be located within the site. This would be enclosed and make provision for up to two bins. Although the Council may seek to impose more exacting requirements, this guidance should have been explicitly part of the condition. To apply a more rigorous standard post decision, without any guidance, ensures that the condition fails the tests of precision and reasonableness. In my view, the appellant has provided full details of the refuse and recycling facilities, and in doing this, I am satisfied that they have complied with the specific requirements of the condition.
10. However, when taken as a whole, for the reasons identified above, and having specific regard to the lockable requirements of the cycle storage, I conclude that the details submitted would not be sufficient to discharge all of the requirements of the condition. Accordingly, the appeal should be dismissed.

Martin Chandler

INSPECTOR