



Appeal Decision

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2020

Appeal Ref: APP/H5390/W/20/3247535
28 Ellerslie Road, London W12 7BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr William MacDonald, Salte 3 Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
- The application Ref 2019/03538/FUL, dated 26 November 2019, was approved on 23 January 2020 and planning permission was granted subject to conditions.
- The development proposed is Erection of a part one, part three and part four storey extension to the side of the main building; erection of an additional floor at roof level; erection of a single storey rear extension, to the side and rear of the existing back addition; formation of roof terraces at second floor level; two roof terraces at raised ground floor to the rear together with obscure glazed privacy screens and painted steel railings; conversion of the building from a single dwellinghouse into 3 x 1 bedroom, 3 x 2 bedroom and 1 x 3 bedroom self-contained flats; associated external alterations.
- The conditions in dispute are No's 7, 8 and 9 which states that: The six new residential units (Flats 2-7) hereby permitted shall not be occupied until the Council has been notified in writing (and has acknowledged such notification) of the full postal address of the residential units to be created. Such notification shall be to the Council's Head of Development Management and shall quote the planning application number specified in this decision letter; No occupiers of the six new residential units (Flats 2-7) hereby permitted, with the exception of disabled persons who are Blue Badge holders, shall apply to the Council for a parking permit or retain such a permit, and if such a permit is issued it shall be surrendered to the Council within seven days of written receipt; The six new residential units (Flats 2-7) hereby permitted shall not be occupied until such time as a scheme has been submitted to, and approved in writing by, the local planning authority to ensure that all occupiers, other than those with disabilities who are blue badge holders, have no entitlement to parking permits from the Council and to ensure that occupiers are informed, prior to occupation, of such restriction. The residential units shall not be occupied otherwise than in accordance with the approved scheme unless prior written agreement is issued by the Council.
- The reasons given for the conditions are: In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the residential units concerned, and thus ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on-street car parking stress in the area, in accordance with Policies T1 and T4 of the Local Plan (2018); In order to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on-street car parking stress in the area, in accordance with Policies T1 and T4 of the Local Plan (2018); In order that the prospective occupiers of the residential units concerned are made aware of the fact that they will not be entitled to an on-street car parking permit, in the interests of the proper management of parking, and to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to

the already high level of on-street car parking stress in the area, in accordance with in accordance with Policies T1 and T4 of the Local Plan (2018).

Decision

1. The appeal is allowed and planning permission is granted for Erection of a part one, part three and part four storey extension to the side of the main building; erection of an additional floor at roof level; erection of a single storey rear extension, to the side and rear of the existing back addition; formation of roof terraces at second: floor level to the front elevation: two roof terraces at raised ground floor to. the rear together with obscure glazed privacy screens and painted steel railings; conversion of the building from a single dwellinghouse into 3 x 1 bedroom, 3 x 2 bedroom and 1 x 3 bedroom self-contained flats; erection of a single storey outbuilding in the rear garden; formation of bin stores and cycle storage at the front of the property; associated external alterations at 28 Ellerslie Road, London W12 7BW within the terms of application Ref, 2019/03538/FUL, dated 26 November 2019 subject to the conditions contained on the attached schedule.

Procedural Matter

2. In response to travel restrictions currently in place 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. Both the appellant and the Council have agreed to the appeal proceeding on this basis.

Main Issue

3. The main issue is whether or not conditions 7, 8 and 9 of the above mentioned planning permission are necessary and reasonable having regard to on-street car parking which may have an effect on the living conditions of existing local residents.

Reasons

4. The appeal site is located on the north side of Ellerslie Road and backs onto the grounds of Queens Park Rangers Football Club. Permission has been granted¹ to convert and extend 28 Ellerslie Road from a single dwelling into 7 flats with conditions attached. The appellant has confirmed that works have commenced on site to implement the permission.
5. There is no opportunity to park in-curtilage, and the Council have imposed three conditions associated with resident's parking permits to restrict occupiers from applying to the Council for on-street permits and to notify the Council of the addresses of the occupiers. The reasons for the conditions are to prevent additional parking stress within the local streets due to the net increase of six residential units at the site.
6. Paragraph 55 of the National Planning Policy Framework, (the Framework) advises that conditions should only be imposed where they are necessary, relevant to planning and to the development, enforceable, precise and

¹ 2019/03538/FUL

reasonable in all other respects. The Planning Practice Guidance refers to this as the 'six tests'. It also emphasises that clear and precise reasons must be given for the imposition of every condition.

7. Condition 7 requires the postal address of the residential units to be submitted to the Council prior to their occupation. This condition is not relevant to planning as is not directly related to the use of land and buildings. It would not prevent the Council from issuing parking permits. This condition would not meet the test of necessity and therefore I allow the removal of the condition.
8. Condition 8 prevents the new occupiers from applying for parking permits unless they are a disabled badge holder, and if issued, for it to be surrendered within 7 days following demand. A planning permission that is granted, and by association any conditions that it may be subject to, runs with the land or building, and not the individual. It is therefore not the role of the planning system to control the actions of individuals in this way by preventing them from applying for parking permits. The wording of the condition fails to meet the test of reasonableness and is also not relevant to planning. I allow the deletion of this condition.
9. Condition 9 requires a scheme to be submitted to the Council to inform occupiers they have no entitlement to apply for parking permits unless they are blue badge holders, and they are informed of this fact prior to occupation. The condition seeks to control the actions of a person rather than control the use of land, and the mechanism to secure compliance with this condition is undetermined. I therefore conclude that the condition does not meet all the relevant tests, and its removal should be allowed.
10. Whilst I appreciate that there may be genuine on-street parking stress, I have nevertheless determined the appeal based on the evidence before me and find the three disputed conditions fail more than one of the tests set out on paragraph 55 of the Framework and should be deleted.

Conditions

11. As I am granting a new planning permission under section 73, conditions can be amended, deleted or further conditions imposed, and I have had regard to all conditions imposed to the original permission as well as the advice within the Guidance. Works have commenced on site and therefore this negates the requirement for a condition seeking works to commence within three years of grant of permission.
12. Some detail has been submitted on the submitted plans as to the external finish of the proposal. However, given the proposal forms both alterations to the existing dwelling as well as a new extension to the side to ensure a high-quality finish in the interest of the character and appearance of the area conditions 2, 3, 4, 5, 6, 7 and 8 are necessary.
13. A condition restricting the use of the flat roofs and structures is necessary to prevent overlooking and to avoid unsightly additions that could be placed in prominent locations.
14. Other conditions have been re-imposed to secure implementation of cycle and bin storage in the interests of the character and appearance of the area. Conditions relating to specific supporting documents that are required to be

complied with are also re-imposed. Also, details of privacy measures to be applied to the development are also re-imposed.

15. There is no requirement to secure a condition to restrict the height of the single storey extension with No 26 Ellerslie Road as the detail is illustrated on the approved plans. All other conditions are however relevant and re-imposed to the permission.

Conclusion

16. The appeal is allowed.

Alison Scott

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PR321; PR328 Rev. A; PR7301 Rev. A (Proposed bins store); PR7301 Rev. B (Proposed site plan); PR7302 Rev. B; PR7303 Rev. A, PR7310 Rev. B; PR7311 Rev. A; PR7312 Rev. A; PR7313 Rev. B; PR7314 Rev. B.
- 2) Any alterations to the elevations of the existing building of 28 Ellerslie Road shall be carried out in the same materials as the existing elevation to which the alterations relate. The new windows to the rear elevation shall be constructed of timber. All windows shall be maintained in timber thereafter.
- 3) No water tanks, water tank enclosures or other structures shall be erected upon the flat roofs of the extensions hereby permitted.
- 4) The brickwork to be used in the construction of the proposed extensions at upper ground and first floor level shall match the existing dwelling at 28 Ellerslie Road in terms of brick colour, bond pattern and mortar colour and shall thereafter be permanently maintained in this form.
- 5) The doors to the rear elevation at lower ground floor level shall be constructed of either white painted timber or aluminium material and finished in RAL 7016. The doors shall be retained as such thereafter.
- 6) The proposed new windows and doors hereby permitted to the front elevation of the new extension shall be constructed of timber and the windows of traditional sliding sash opening, and maintained in perpetuity thereafter. The new windows to the rear elevation shall be constructed of timber. All windows shall be maintained in timber thereafter.
- 7) The elevations of the roof extensions shall be clad in natural slates or artificial slates to match the appearance of the existing roof.
- 8) The railings to the front boundary shall be erected on site prior to the occupation of the side extension of the development. The railings to the North elevation of the roof terrace to Flat 3 and the North and West elevations of the roof terrace to Flat 4 shall be erected on site prior to the occupation of the respective flats. All railings shall be constructed of metal, and painted black in colour, and thereafter retained.
- 9) Other than the areas identified on the approved plans as roof terraces on the approved drawings, the roof area shall not be used as a balcony, roof garden or other form of open amenity space. No structures or enclosures shall be erected on the flats roofs hereby permitted.
- 10) No dwelling shall be occupied until the refuse storage has been provided in accordance with the approved plan reference PR7301 Proposed Site Plan Rev B,

PR7301 Proposed Bin Store Rev A and PR302 Rev B. Refuse shall not be placed on the street other than on collection day. The approved refuse storage arrangements shall thereafter be retained for this purpose thereafter.

- 11) No dwelling shall be occupied until the cycle storage has been provided in accordance with plan reference PR302 Rev B. The cycle storage shall be permanently retained and kept available for the parking of bicycles.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) England) Order 2015 (or any order provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), no flats within the development hereby approved shall not be permitted change to C4 use.
- 13) The development hereby approved shall be carried out and completed in accordance with the Construction Logistics Plan approved under application Ref. 2019/03037/DET on 11.12.2019 (document ref. Construction Logistics Plan Rev. C dated 11.09.19). The approved details shall be implemented, throughout the project period.
- 14) No part of the development hereby permitted shall be occupied until the details of the technical specification set out in FPA report (January 2019) have been completed in accordance with the approved details. The details specified shall be retained thereafter.
- 15) The development shall be implemented in accordance with the mitigation measures contained within the submitted Francis Philips Associated Flood Risk Assessment dated January 2019, and retained thereafter for the lifetime of the development.
- 16) The sustainable drainage systems shall be managed and maintained in accordance with the approved details in accordance with the email between the Council and the agent dated 11/06/2019.
- 17) The party walls of the roof extension hereby permitted shall be constructed to follow the profile of the roof extensions and shall not project more than 250 millimetres above or beyond the external faces of the roof structure.
- 18) The development hereby permitted shall be carried out in full accordance with the details contained within the approved tree report (B.J. Unwin Forestry Consultancy 22.07.2019) and British Standard BS5837:2012.
- 19) The roof terraces at upper ground floor level shall not be used until a sample of the obscure glazed screening, to be a height of at least 1.7m above the finished floor level, has been submitted to, and approved in writing by the council. The scheme shall be installed in accordance with the approved details prior to their use, and in the position indicated on drawing nos. PR7302 Rev. B and PR7312 Rev. A. The screening shall be permanently retained in this form thereafter.
- 20) The development hereby approved shall not be occupied until the window in the side (West) elevation of the building at first floor level has been fitted with obscure glazing and fixed shut below a height of 1.7m above finished floor level,

in accordance with drawing no. PR7313 Rev. B. The window shall be permanently retained in accordance with the approved details thereafter.

- 21) No part of the outbuilding hereby approved shall be used or occupied for purposes other than those that are ancillary to the residential use and activities of the occupants of Flat 1 within the development site, and the building shall not be used for any trade or business purposes.

END OF SCHEDULE