



Appeal Decision

Site visit made on 6 July 2020 by C Brennan BAE (Hons) M.PLAN MIPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2020

Appeal Ref: APP/H5390/W/19/3242157

249 Lillie Road, London SW6 7LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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 Mr Oliver Jackman against the decision of the Council of the London Borough of Hammersmith and Fulham.
- The application Ref 2019/01865/VAR, dated 17 June 2019, was refused on 14 August 2019.
- The application sought planning permission for conversion of the existing and first and second floor maisonette into 2 x two bedroom self-contained flat, erection of a two storey rear extension at first and second floor level, installation of one new window at second floor level to the side elevation, replacement of existing windows with timber windows at first and second floor level to the front, side and rear elevations, alterations to the roof of back addition at ground floor level with a flat roof without complying with conditions attached to planning permission Ref 2012/04139/FUL, dated 12 March 2013.
- The conditions in dispute are Nos 15 and 16 which state that: "No occupiers of the two new residential units at second and third floor level 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 demand" and "The two residential flats at second and third floor level 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 flat 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 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 Policy HO3 and TN15 and Standards S8.2 and S18.1 of the Unitary Development Plan, as amended 2007 and 2011, and Policy T1 of the Core Strategy 2011" and "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 Policy TN15 and Standards S8.2 and S18.1 of the Unitary Development Plan, as amended 2007 and 2011, and Policy T1 of the Core Strategy 2011".

Decision

1. The appeal is dismissed.
-

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is whether the conditions are necessary, relevant and reasonable having regard to the effect on on-street parking.

Reasons for the Recommendation

4. The appeal site comprises a three-storey building with basement on the corner of Lillie Road and Pellant Road. The appeal site has a good level of access to public transport services. During my site visit, I observed that surrounding roads were busy with vehicular traffic and that on-street parking spaces were heavily in use.
5. The appellant asserts that their proposed variations of Conditions 15 and 16 would not result in the creation of any additional demand for on-street parking within the area, as the two parking permits available to Flat 1 would be split evenly between Flat 1 and Flat 2. However, if these conditions were varied such that they only apply to Flat 3, as proposed by the appellant, then, despite the current occupier of Flat 1's offer, there would be no mechanism to prevent that occupant from then re-applying for an additional parking permit to utilise their permitted allocation of two permits per household. Furthermore, using the appellant's suggested wording for the conditions, the occupants of Flat 2 would also be able to apply for an additional permit. As such, the proposed variations of Conditions 15 and 16 would allow the occupants of Flats 1 and 2 to apply for a total of four parking permits. Moreover, I am not satisfied that any alternatively worded condition that would meet the tests in paragraph 55 of the National Planning Policy Framework, would facilitate the intentions of the appellant and the occupant of Flat 1 whilst also preventing the possibility of four parking permits being issued to the two properties.
6. Consequently, the proposal would facilitate an increase in the number of parking permits available to Flats 1 and 2 and so would likely increase demand for on-street parking. Maintaining the conditions as they are would not reduce the availability of permits so would place no unreasonable burden upon the occupants of Flat 2.
7. The Council state that night-time on-street parking within the surrounding area is limited, albeit I accept that the data used by the Council's Highways Team is not before me. Although a survey carried out by the appellant suggests that there is more than ten percent availability in night-time on-street car parking in the surrounding area, as required by Policy HO2 of the Local Plan (2018), I am not confident that this survey is sufficiently detailed¹ or robust to satisfactorily demonstrate that the resultant development would comply with this policy in this respect. For example, Chaldon Road, close to the site, was not included in the survey and yet southern parts of Pellant Road further from the site were included. In addition, at the time of my daytime site visit, on-street parking

¹ Meeting the criteria set out in paragraph 18.13 of the Planning Guidance SPD (2018)

spaces were heavily in use and I would expect night-time parking to result in greater use of spaces.

8. I note the strategy-level evidence provided by the appellant which suggests that the use of private vehicles is decreasing across London and within the wider borough. Nonetheless, it was clear to me from my site visit that car use and ownership remains high within the area surrounding the appeal site, and that the removal of restrictions on the availability of parking permits to Flat 2 would be unacceptable for reasons set out above.
9. Conditions 15 and 16 were attached to application Ref 2012/04139/FUL in order to avoid harmful impacts that the approved scheme might have otherwise had on the availability of on-street parking, in accordance with the Council's development plan policies at that time. As the proposed variations of these conditions would remove existing restrictions on parking permits and allow for increased on-street parking, the proposal would cause harm in this regard and would therefore conflict with the relevant policies of the current development plan for the reasons set out above. The Council's reason for refusal was therefore fully justified.
10. In summary, Conditions 15 and 16 as attached to application Ref 2012/04139/FUL are necessary, relevant and reasonable having regard to on-street parking. Varying them would cause unacceptable harm in this regard, and would be contrary to Policies HO2 and T4 of the Local Plan (2018), which state that development should be car-free in areas with less than 10% night-time free space, and that development should generally be car-free unless there is a significant lack of public transport available.
11. The proposed variation of these conditions would also conflict with Key Principle TR3 of the Planning Guidance SPD (2018), which states that development in areas well-served by public transport will be expected to be car-free.

Conclusion and Recommendation

12. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR