



Appeal Decision

Site Visit made on 10 May 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 14th May 2021

Appeal Ref: APP/L5810/W/20/3262674

First and Second Floors, 296 Sandycombe Road, Richmond, TW9 3NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant, subject to conditions, of approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
 - The appeal is made by Mr Alastair Graham AR&V Investments against the decision of London Borough of Richmond upon Thames.
 - The application Ref 20/2284/GPD15, dated 13 August 2020, was granted approval by notice dated 5 October 2020 subject to conditions.
 - The development granted approval is conversion of 87 square metres of floorspace from B1(a) to C3 (residential) to create 1 studio unit and 1 x 1 bedroom unit.
 - The conditions in dispute are Nos U0088583, U0088584 and U0088586 which state that:
 - "U0088583 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 occupier of the development shall obtain a resident parking permit within any controlled parking zone which may be in force in the area at any time, nor a season ticket/enter into a contract to park in any car park controlled by the Council."
 - "U0088584 None of the buildings hereby approved shall be occupied until arrangements for the internal storage and disposal of refuse/waste have been made in accordance with details to be submitted to and approved in writing by the Local Planning Authority."
 - "U0088586 No building/dwelling/part of the development shall be occupied until internal cycle parking facilities have been provided in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the position, design, materials and finishes thereof. The approved details shall be retained thereafter."
 - The reasons given for the conditions are:
 - U0088583 "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 Council's car parking policy and standards."
 - U0088584 "To safeguard the appearance of the property and the amenities of the area."
 - U0088586 "To accord with this London Plan and Council's policy to discourage the use of the car wherever possible."
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Decision

1. The appeal is allowed and the application for prior approval Ref 20/2284/GPD15, dated 13 August 2020, for conversion of 87 square metres of floorspace from B1(a) to C3 (residential) to create 1 studio unit and 1 x 1 bedroom unit at first and second floors, 296 Sandycombe Road, Richmond, TW9 3NG, granted by the Council on 5 October 2020 under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning

(General Permitted Development)(England) Order 2015, as amended, is varied by deleting conditions Nos U0088583, U0088584 and U0088586.

Applications for costs

2. An application for costs was made by Mr Alastair Graham AR&V Investments against the London Borough of Richmond upon Thames. This application is the subject of a separate Decision.

Main Issue

3. The Council granted approval for the change of use of the appeal property from B1(a)¹ office to C3 residential under a development order. The main issue in this appeal is whether the three disputed conditions are necessary, reasonable, and enforceable having regard to on-street parking and the free and safe flow of traffic, the character and appearance of the area, and to discourage the use of the car.

Reasons

4. The appeal site is part of the first floor and the second floor of an end terrace property at the junction of Sandycombe Road and Elizabeth Cottages. There is a flat on the first floor, which is not part of the appeal proposal, and a laundrette/dry cleaners at ground floor. Entry to the first and second floors is via communal stairs through a door from Elizabeth Cottages.

Parking permits

5. Many of the nearby streets are subject to Traffic Regulation Orders such that parking is mainly either prohibited or requires a parking permit.
6. The change of use would, based on the Council's parking standards, require two off-street parking spaces. There is no opportunity to park vehicles within the site. No Parking Survey was submitted with the application and the Council considered that the surrounding streets to the appeal site could not accommodate this shortfall in parking.
7. An earlier Parking Impact Report for a similar proposal at 300-302 Sandycombe Road appeal Ref APP/L5810/W/17/3177299 (the earlier appeal) was carried out in March 2017. However, whilst the appellant considers that circumstances had not changed in the intervening period it was not possible to be sure of this without an up to date assessment. The Technical Note: Parking Assessment October 2020 was submitted with the appeal before me. This identifies the level of parking stress near the appeal site as ranging from 64% to 70%. Taking this into account the Council confirms that condition No U0088583, which prevents residents from applying for a parking permit or season ticket to park in Council carparks, is unnecessary. I see no reason to conclude differently.

Refuse/waste

8. There is no external space associated with the building and the proposed flats would be accessed from a small hallway. There is nowhere, therefore, that a refuse enclosure could reasonably be provided outside the proposed units. It

¹ The Use Classes Order has been amended and offices now fall under Class E. This has no implications for the assessment of the proposal.

would be necessary for future occupants to make appropriate arrangements within their respective units to store refuse prior to collection days. However, requiring details of the particular arrangements inside an individual unit would be unreasonable as the disposition of belongings within a residential unit is a matter of personal preference and enforcing particular arrangements would be unduly intrusive.

9. The Council raises concern about items being left on the street. However, if this were to happen it could be dealt with under other legislation. I conclude therefore that condition No U0088584, requiring details of internal refuse/waste storage, is unreasonable and unenforceable.

Cycle parking

10. The proposal would, based on the Council's parking standards, require one cycle storage space for each unit. There is no external space associated with the building where cycles could be stored. The proposed flats would be accessed from a small hallway and, as shown on the plans, the stairs are relatively narrow with tight bends. Consequently, whilst acknowledging that it could be feasible to store cycles indoors, such as on wall mounted cycle racks, I conclude that in this case it would be very difficult for future occupiers to carry cycles into the living accommodation proposed and that enforcing particular arrangements inside the units would be unduly intrusive. I conclude therefore that condition No U0088586, requiring details of internal cycle storage, is unreasonable and unenforceable.

Other Matters

11. No 296 Sandycombe Road is in the Kew Gardens Conservation Area which is centred on the nearby historic listed Kew Gardens Station building. The proposed conversion, with no external changes to the building, would have no effect on the character or appearance of the Conservation Area as a whole.
12. My attention has been drawn to development plan policies that are considered to be relevant to the appeal and I have taken them into account as material considerations. However, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply as the principle of development is established through the grant of permission by the Order. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

Conclusion

13. As set out above I conclude that the disputed conditions do not meet the relevant tests for the imposition of conditions in the Regulations, the National Planning Policy Framework and the Planning Practice Guidance. I conclude that the appeal should be allowed and the planning approval varied by the removal of the disputed conditions.

S Harley

INSPECTOR