The Planning Inspectorate

Appeal Decision

Site visit made on 9 June 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/N5660/W/20/3260975
2 Cavendish Parade, Clapham Common South Side, London SW4 9DW

- 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 Ms A Alachbili against the decision of the Council of the London Borough of Lambeth.
- The application Ref 20/00190/FUL, dated 25 October 2019, was approved on 22 September 2020 and planning permission was granted subject to conditions.
- The development permitted is "Change of use from retail to a Beauty Salon and Nail Bar (Use Class 'Sui Generis') and installation of 2 air-condition units to the rear elevation (part retrospective)".
- The condition in dispute is No 4 which states that: Prior to the commencement of the development hereby permitted, details of the provision to be made for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be implemented in full in accordance with the approved details before the use hereby permitted commences and shall thereafter be retained solely for its designated use.
- The reason given for the condition is: To ensure adequate cycle parking is available on site and to promote sustainable modes of transport. (Policies Q13 of the Lambeth Local Plan 2015 and the London Plan 2016).

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms A Alachbili against the Council of the London Borough of Lambeth. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the condition is necessary, relevant, enforceable, precise and reasonable having regard to the need for cycle parking in connection with the development.

Reasons

4. Policies T1, T3 and Q13 in the Lambeth Local Plan 2015 (the Local Plan), clearly set out that commercial development which generates additional trips must provide cycle storage in order to promote cycling as part of an overall strategy of encouraging sustainable travel and reducing dependency on the private car. This is supported by regional and national policy.

5. I note the suggestion by the appellant that the constraints of the site would make it difficult to provide the cycle parking required by the condition. However, the appellant does not suggest that it is impossible. Other than noting the relative accessibility of the appeal site, the appellant has not adequately demonstrated that the requirement for cycle parking is unnecessary. Given the development plan context, and in light of the development proposed, even allowing for the relatively accessible location of the site, the proposal is required to provide cycle parking, and the condition is therefore necessary.

6. The appellant accepts that the condition is relevant to planning. I agree, and do not consider that the perceived difficulties of meeting the requirements of the condition in any way represent poor decision making, which would alter this finding. The development proposed is commercial, and in line with the requirements of the development plan, is required to provide cycle storage. That the options to provide it are limited or may be difficult does not in itself mean that the condition is not fairly and reasonably related to the proposed development.

7. Although the appellant suggests that the factors which would make the provision of cycle storage difficult would also make enforcement of the condition difficult, I do not agree. The terms of the condition are clear and unambiguous, and I do not foresee any difficulties in enforcing them.

8. Whilst I accept that the discussion in the Officer Report differs from the terms of the Decision Notice, the condition itself is precise and unambiguous. The appellant suggests that the forecourt to the front of the site is not within their control and cannot be used for cycle storage, and that the area to the rear of the site is poorly lit and potentially unsafe. Despite this, the forecourt is included within the red-line area of the planning application, so I consider it reasonable for the Council to impose a condition which could, reasonably, foresee part of that space being used to provide cycle parking. Even if it were not available, the appellant has not demonstrated that it is impossible to provide cycle parking to the rear, only that it would be difficult. Turning to the space at the rear, it seems to me that one of the main objections of the appellant, that the space is poorly lit and potentially unsafe could perhaps be addressed in complying with the condition.

9. I accept that pre-commencement conditions require clear justification, and that care must be taken in their use. However, in this case, there is a clear development plan requirement for cycle parking, and I consider that the approach taken by the Council was appropriate and, in light of the specific requirements of Policy Q13, generous. I also note that the appellant agreed to the terms of this condition prior to the determination of the application. I therefore find that the condition is reasonable in all other respects.

Conclusion

10. For the reasons given above I conclude that the condition meets all of the tests in the Framework and the PPG, and the appeal should therefore be dismissed.

S Dean

INSPECTOR