



# Appeal Decision

Site visit made on 26 July 2021

**by B Davies MSc FGS CGeol**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 September 2021**

**Appeal Ref: APP/H5390/W/21/3268258**

**Flat A, 29 Oaklands Grove, London, W12 0JD**

- 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 S Artzrouni against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2020/03155/VAR, dated 28 November 2020, was refused by notice dated 25 January 2021.
- The application sought planning permission for *conversion of single dwelling house into 2x one-bed flats and 1x two-bed maisonette, demolition of existing boiler room and upper ground floor rear extension, erection of a three storey rear extension at lower ground floor, upper ground floor and first floor levels, replacement of roof covering to main house without complying with conditions attached to planning permission Ref 2014/00523/FUL, dated 14 April 2014.*
- The conditions in dispute are Nos 7, 8 and 9 which state that:
  - 7) *No occupiers of the two 1-bedroom flats at lower ground and upper ground floor levels (as indicated on drawings: MA27-11507 and MA27-115-08) 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.*
  - 8) *The new residential flats 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 the occupants of the two 1-bedroom flats at lower ground and upper ground floor levels (as indicated on drawings: MA27-11507 and MA27-115-08) 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 new residential units shall not be occupied otherwise than in accordance with the approved scheme unless prior written agreement is issued by the Council.*
  - 9) *The two new 1-bedroom flats at lower ground and upper ground floor levels (as indicated on drawings: MA27-11507 and MA27-115-08) hereby approved shall not be occupied until the Council has been notified in writing (and has acknowledged such notification) of the full postal address of the units. Such notification shall be to the council's Head of Development Management and shall quote the planning application number specified in this decision letter.*
- The reasons given for the conditions are:
  - 7) *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 DM A1, DM A9, DM J2 and DM J3 of the Development Management Local Plan (2013) and policy T1 of the Core Strategy (2011).*
  - 8) *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 policies DM A9, DM J2 and DM J3 of the Development Management Local Plan (2013) and policy T1 of the Core Strategy (2011).*

*9) In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the two new 1-bed residential units hereby approved, 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 DM A9, DM J2 and DM J3 of the Development Management Local Plan (2013) and policy T1 of the Core Strategy (2011).*

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## **Decision**

1. The appeal is allowed and planning permission is granted for conversion of a single dwelling house into 2x one-bed flats and 1x two-bed maisonette, demolition of existing boiler room and upper ground floor rear extension, erection of a three storey rear extension at lower ground floor, upper ground floor and first floor levels, replacement of roof covering to main house at 29 Oaklands Grove, London, W12 0JD in accordance with the application Ref 2020/03155/VAR, dated 28 November 2020, without compliance with condition numbers 7, 8 and 9 previously imposed on planning permission Ref 2014/00523/FUL dated 14 April 2014.

## **Preliminary matters**

2. The National Planning Policy Framework (the 'Framework') was revised on 20 July 2021 and the new London Plan (2021) published during the appeal period. Both parties have had the opportunity to comment on the implications of this for their case.
3. The local development plans referred to in the original permission have been superseded by the Hammersmith and Fulham Local Plan (2018) (the 'LP'). This is supported by a new Hammersmith and Fulham Supplementary Planning Document (2018) (the 'SPD').

## **Main issues**

4. The main issues are:
  - whether or not a mechanism to control parking is necessary to protect the area from parking stress and improve environmental quality, and,
  - if so, whether or not the disputed conditions provide such a mechanism.

## **Reasons**

5. The appeal relates to the lower ground floor flat of a three-storey building situated within a long terrace of identical houses, many of which appeared to have been converted to flats. There is no dedicated parking associated with Flat A, 29 Oaklands Grove.
6. Parking along the street is within a Controlled Parking Zone that restricts parking between 9 am to 5 pm on Monday to Friday to permit holders, or those that 'pay and display' for up to 8 hours. Parking spaces were available at the time of my site visit in the afternoon. No parking survey is before me on which to base a broader assessment of the availability of spaces.

7. I understand from the appellant's submission that because of the restrictions their car is not parked nearby. Obtaining a permit would therefore lead to an additional car on the street.

*Need for a mechanism to control parking*

8. Policy T4 of the LP requires that all new development has 'car parking permit free measures', unless evidence is provided to show that there is a significant lack of public transport available. Furthermore, Policy T6 of the London Plan (2021) states that car-free development should be the starting point in all places that are well-connected by public transport.
9. The site is located less than 150 metres north of busy, commercial Uxbridge Road, with its numerous shops and restaurants. There is a bus stop nearby at the junction of Oaklands Grove and Uxbridge Road, and the nearest tube station is approximately half a mile away. The Public Transport Accessibility Level (PTAL) for the area immediately around the site is 3 (moderate). On this basis, I am satisfied that there is not a significant lack of public transport available.
10. The area is in proximity to both the PTAL 2 and 4 zones. I have reviewed the appellant's information regarding bus times, but I remain satisfied that the appeal site has good public transport links and that the flexibility allowed in policy and guidance for PTAL 1-2 permit parking does not apply. Moreover, the guidelines in Key Principle TR3 of the SPD state that in PTAL 1-2, the smaller residential units, which I consider this to be, will generally be permit free. For these reasons, even if the site was in a PTAL zone 2, there is not clear support for removal of the restriction.
11. The appellant states that they were not made aware of the restriction on parking before renting the house. The production and employment of the scheme required by Condition 8 is a matter for the Council, and beyond the scope of this decision. I appreciate the additional difficulties the appellant has encountered using public transport to reach their car during the COVID pandemic, but I consider this discomfort to be a transient state, and insufficient to outweigh the long term objectives of local policy.
12. I have no reason to doubt that there is often parking available on the street. However, the reason to control car parking is no longer confined to protection of the area from parking stress. There is increased emphasis found in Policies CC1 and CC10 of the more recent LP on a behavioural shift away from private vehicles in order to improve air quality and contribute to reduction of greenhouse gas emissions. In addition, Policy T6 of the London Plan (2021) states that dominance of vehicles on the streets is a significant barrier to walking and cycling, providing further support for a reduction in private vehicle ownership.
13. I conclude that a mechanism to control parking is necessary to accord with the objectives of Policies T1, T4, CC1 and CC10 of the LP, and T6 of the London Plan.

*Disputed conditions*

14. To meet the requirements of 'car parking permit free measures', the development was permitted on the basis that the occupants would not be eligible for a resident's parking permit.

15. The issuing of permits is the responsibility of the highway authority and enforced through Traffic Regulation Orders (TROs). The Council therefore needs precise details of the property's address and the developer's responsibilities will have been discharged on providing this.
16. The Council has confirmed that the new address of the site has previously been submitted, that its TRO database has been amended to include the property and that it uses its powers under highways legislation to determine if the occupants qualify for a parking permit. Condition 9 is therefore no longer required.
17. I have had regard to all of the appeals on similar cases brought to my attention, and I concur that Conditions 7 and 8 as written are unlikely to meet the 6 tests in the Framework with regard to necessity, enforceability and reasonableness. Notwithstanding this, I am satisfied that the requirement for permit free measures is secured via the entry on the TRO database and there is therefore no requirement for these conditions.

### **Conditions**

18. The Planning Practice Guidance<sup>1</sup> recommends that the grant of permission under section 73 of the Act should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permission that continue to have effect.
19. There were 11 conditions on the original permission. In addition to the 3 conditions that are the subject of this appeal, I have also removed Condition 1, relating to the expired commencement date. I have amended the wording of Condition 1 to reference the plans in the original permission in the interests of certainty.
20. I have no information before me regarding the status of the uncontested conditions but am satisfied that they meet the 6 tests in the Framework and have therefore reimposed them on the new permission. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
21. The Council has confirmed that details of the other 1-bedroom flat have been provided for the purposes of the TRO database. I have therefore applied the new permission and conditions to the development as originally referenced, for the purposes of clarity.

### **Conclusion**

22. There is need for a mechanism to control parking associated with the appeal site to make the development acceptable in planning terms. However, I am satisfied that control of permits associated with this address will continue to be achieved via the TRO. There is therefore no requirement to meet the disputed conditions and the appeal is allowed.

*B Davies*

INSPECTOR

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<sup>1</sup> Paragraph: 040 Reference ID: 21a-040-20190723, Revision date: 23 07 2019

### **Schedule of Conditions**

1. The development shall be carried out and completed only in accordance with the drawings MA27-115-07; MA27-115-08; MA27-115-09 Rev A; MA27-115-10; MA27-115-11 and Daylight, Sunlight and Overshadowing Report.
2. Any alterations to the elevations of the existing building shall be carried out in the same materials as the existing elevation to which the alterations relate.
3. The rear extension hereby approved shall be erected in stock brick to match the existing building
4. No water tanks, water tank enclosures or other structures shall be erected upon the flat roofs of the extensions hereby permitted.
5. No alterations shall be made to the roof of the rear extensions hereby approved in connection with its use as a roof terrace or other form of open amenity space. No railings or other means of enclosure shall be erected on the roofs and no alterations shall be carried out to the rear elevation of the application property to form access onto the roofs.
6. The residential units hereby permitted shall not be occupied until details of adequate storage of refuse and recyclables for the occupiers of the flats hereby approved have been submitted to and approved in writing by the Council, and no part of the residential units shall be occupied or used until the waste storage arrangements have been provided in accordance with the approved details. The waste storage arrangements shall thereafter be retained.
7. The residential units hereby permitted shall not be occupied until details of two secure cycle parking spaces to be provided in connection with the proposed residential dwellings have been submitted to and approved in writing by the Council, and such details as are approved shall be implemented prior to the occupation or use of the flats and permanently retained thereafter for such use