



Appeal Decision

Site visit made on 16 November 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2022

Appeal Ref: APP/E5900/W/21/3276998
381A Old Ford Road, London E3 2LU

- 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 Pascal Anson against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/00220, dated 27 January 2021, was approved on 29 March 2021 and planning permission was granted subject to conditions.
 - The development permitted is "the change of use from distribution or storage B8 to residential. Addition of a mansard roof and change of materials on ground floor façade."
 - The condition in dispute is No 5 which states that:
None of the residential units shall be occupied until a scheme to secure their occupation as 'car-free' has been implemented in accordance with details which have first been submitted to and approved in writing by the local planning authority.
The scheme shall ensure that:
 - i. All residential occupiers of the development (not being holders of a disabled person's badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation) including all such future occupiers, shall not apply for or hold an on-street parking permit to park a vehicle on public highway at any time within the administrative district of the local planning authority
 - ii. Any permit that is issued to or held by any occupant of the development shall immediately be surrendered to the local planning authority.
 - iii. The restrictions and requirements of the scheme shall apply to and be communicated to all future residential occupiers of the development including successors in title as well as any person occupying the premises as a tenant or licensee.
 - The reason given for the condition is: To promote sustainable transport and to reduce pressure for on-street car parking in accordance with the requirements of Policies T6 of the London Plan and D.TR3 of the Tower Hamlets Local Plan 2031 (2020).
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Decision

1. The appeal is allowed and the planning permission Ref PA/21/00220, for "the change of use from distribution or storage B8 to residential. Addition of a mansard roof and change of materials on ground floor façade." at 381A Old Ford Road, London E3 2LU granted on 29 March 2021 by the Council of the London Borough of Tower Hamlets, is varied by deleting condition 5.

Preliminary Matters

2. Planning permission was granted for a change of use of the property from a distribution and storage use to residential with roof addition and façade material changes. A condition was attached to require a car-free development

by requiring occupants of the dwelling to be ineligible to apply or have parking permits for the neighbouring streets, except for the holders of disabled person's badge.

3. The appellant is a resident sustainable artist that primarily makes furniture from abandoned materials and there is a question of whether a material change of use would occur, taking into account that homeworking can be considered incidental/ancillary to a residential use. In this instance, there would be no customers coming to the property and materials are reconfigured with hand tools without a requirement for a workshop on the site. Due to the appellant operating singly, there would be no significant traffic generation of vehicles from suppliers and client. Large materials, such as timber, rolls of fabric and concrete, and finished articles are to be transported by the artist's private vehicle.
4. On this basis, there would be no material change of use from the residential use that is authorised by the planning permission. Both this information and that submitted by the Council on the Traffic Regulation Order for the street parking in the area have been considered within this report.

Main Issue

5. The main issue is the effect that removing this condition would have on the promotion of sustainable transport and on-street parking within the area.

Reasons

6. The application site comprises a Victorian semi-detached two storey property and has been vacant for about 2 years at least. Before this and since 1988, the property was used for the storage of insulation materials with ancillary offices at first floor.
7. Policy D.TR3 of the Tower Hamlets Plan (THP) 2031 (2020) requires residential development to be permit-free in terms of on-street car parking and all parking associated with a development to be located off-street. The explanatory text indicates that the policy seeks to ensure that parking is controlled and managed both on-street and off-street to facilitate sustainable travel patterns and address congestion. Across the borough's street network, it further indicates that demand for on-street parking exceeds capacity, creating a significant amount of parking stress. Nevertheless, the text also indicates that some people, businesses and organisations rely on private motor vehicle as their only transport option and if car parking is essential, this should be justified through a transport assessment.
8. Policy T6 of the London Plan (LP) 2021 requires car-free development to be the starting point for all development proposals in places that are or are planned to be well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking. The explanatory text states that to manage London's road network and ensure that people and businesses can move about the city as the population grows and housing delivery increases significantly, new parking provision must be carefully controlled. The dominance of vehicles on streets is a significant barrier to walking and cycling, reduces the appeal of streets as public places, and has an impact on the reliability and journey times of bus services.

9. However, the previous use was for a storage and distribution use, which would have generated parking requirements. Historically, the previous occupier was a builder and was storing and moving insulation materials. The appellant has further indicated the difficulties of transporting materials and especially pieces of art due to their delicate nature. Specific difficulties of using public transport and couriers to transport pieces of art and materials have been detailed. Moving to this location would further establish the appellant's business in the heart of London's creative scene.
10. Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework makes clear that the planning system should be genuinely plan-led. However, the justification put forward by the appellant is compelling and the explanatory text of THP Policy D.TR3 indicates exceptions can be made to car-free development requirements if justified. Both the previous history of the site and the appellant's particular requirements provide this justification. Consequently, there are material considerations that would outweigh the proposal's conflicts with the THP and LP policies, and the development plan taken as a whole. For all these reasons, removing this condition would be justified in this instance.
11. The neighbouring building at 379 Old Ford Road has been converted into flats and would have windows facing onto the flank of the appeal building, including that of the mansard roof. The appeal building would be sited to the east of these flats. However, the appeal development would only face the front part of the converted building and any loss of sunlight would not be harmful to occupiers using bedrooms because the main purpose of such accommodation is for sleeping. For a flat living room at the third floor, there would still be sunlight as the sun moves round from the east to the south. There would be no loss of outlook and ambient light to the occupiers of this flat due to the separation between the developments. Noise and disturbance from building works would be of a short term duration. For all these reasons, the Council's reasoning that there would be no harm to living conditions of flat occupants is not fundamentally flawed and such matters do not alter my conclusions on the acceptability of the proposal before me.

Conclusion

12. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

Jonathon Parsons

INSPECTOR