



Appeal Decisions

Site Visit made on 14 December 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2022

Appeal A Ref: APP/J1915/W/21/3274346

Pimlico House, Gascoyne Way, Hertford, SG13 8EA

- 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 Russell Kilikita against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0219/VAR, dated 27 January 2021, was refused by notice dated 29 April 2021.
 - The application sought planning permission for "demolition of existing building & erection of 3 storey offices (B1) & 34 no. 1&2 bed flats with landscaping and car parking at basement and surface level – amended scheme" without complying with a condition attached to planning permission Ref 3/01/1225/FP, dated 20 May 2003.
 - The condition in dispute is No 6 which states that: Prior to the first occupation of the development hereby permitted spaces shall be provided within the application site for the parking of cars as shown on the plans accompanying the application and such spaces shall be retained at all times for use in connection with the development hereby permitted. The office spaces No's 3 to 7 as marked on plan no. 5155/P/001F shall be available for use by residents at weekends and after 6pm Monday to Friday.
 - The reason given for the condition is: To ensure adequate off street parking provision for the development, in the interests of highway safety, in accordance with Policy M8 and Appendix IV of the East Herts Local Plan.
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Appeal B Ref: APP/J1915/W/21/3274499

Pimlico House, Gascoyne Way, Hertford, SG13 8EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr R Kilikita (11/12 Wells Terrace Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2272/ODPN, dated 12 November 2020, was refused by notice dated 5 January 2021.
 - The development proposed is change of use of Pimlico House from B1 use to C3 use to provide 10 x 1 bedroom flats and the provision of 10 secure cycle parking spaces.
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Appeal C Ref: APP/J1915/W/21/3276812

Pimlico House, Gascoyne Way, Hertford, SG13 8EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- The appeal is made by Mr R Kilikita (11/12 Wells Terrace Ltd) against the decision of East Hertfordshire District Council.

- The application Ref 3/21/0881/ODPN, dated 30 March 2021, was refused by notice dated 21 May 2021.
 - The development proposed is change of use from offices to seven self-contained flats.
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Decision

1. Appeal A is allowed and the planning permission Ref 3/01/1225/FP for demolition of existing building & erection of 3 storey offices (B1) & 34 no. 1&2 bed flats with landscaping and car parking at basement and surface level – amended scheme at Pimlico House, Gascoyne Way, Hertford, SG13 8EA granted on 20 May 2003 by East Herts District Council is varied by deleting condition 6.
2. Appeal B is dismissed.
3. Appeal C is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use from offices to seven self-contained flats at Pimlico House, Gascoyne Way, Hertford, SG13 8EA in accordance with the terms of the application Ref 3/21/0881/ODPN dated 30 March 2021 and the plans submitted with it, together with the following condition:
 - 1) Prior to the first occupation of the dwellings hereby approved, details of the provision of two electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The agreed charging points shall be installed prior to the first occupation of the dwellings and retained in functioning order thereafter.

Preliminary Matters

4. The appellant provided an amended plan, Ref 4894/PD05B, with Appeal C addressing the Council's second and third reasons for refusal. The Council accepts that the amended plan addresses the reason for refusal relating to the internal dimensions of the proposed dwellings. In accordance with the principles established in *Wheatcroft* I find that interested parties would not be prejudiced by accepting this revised drawing in my determination of this appeal. I do not therefore need to address the second reason for refusal for Appeal C further. The Council has not stated whether the revised plan addresses its third reason for refusal and have also questioned the level of natural light to a ground floor flat. I shall return to this matter below.
5. Drawing 5155/P/001F shows five parking spaces. At the time of my visit there were six parking spaces on site. I shall also return to this matter below.

Background and Main Issues

6. Appeal A seeks to remove a condition imposed on the original mixed-use permission for the site that requires parking associated with the commercial use of Pimlico House to also be made available for residents of the flats. Appeals B and C seek the change of use of Pimlico House to residential. As all three appeals relate to the same property, and the outcome of both Appeals B and C is directly related to that of Appeal A, it is appropriate to deal with the three appeals in a single decision.
7. The main issue in relation to Appeal A is whether the condition is necessary in the interests of highway safety, precise and enforceable.

8. A main issue in relation to both Appeal B and Appeal C is the transport and highways impacts of the proposed developments. The second main issue relating to Appeal C is whether it would include the provision of adequate natural light in all habitable rooms of the dwellinghouses.

Reasons

Appeal A – Removal of condition

9. The condition the subject of this appeal secures the use of parking spaces for residents of the development. The National Planning Policy Framework (the Framework) states that conditions imposed on a planning permission should be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
10. The condition was originally sought by the Highways consultee, who support its retention. However, this is not justified in the evidence before me by reference to the Council's parking standards. It is not therefore clear that the development would result in the displacement of parking onto the public highway to an extent resulting in unacceptable harm to highway safety.
11. In addition, the condition is not precise or enforceable as it only states a start time for when the spaces can be used by residents with no end time. While the wording of the condition could be made more precise to address this, it is not clear how the condition could be enforced, as there is no apparent means of identifying residents' vehicles, nor details of how the Council could control parking at the site. The Council has referred to a Breach of Condition notice, but from the evidence before me this relates to enforcement measures by a private company seeking to prevent resident parking.
12. I am mindful that the use is existing, with use of the spaces by residents of the site sufficiently well established that it is defined in the property deeds. The condition is therefore relevant to planning and to the development permitted.
13. Nevertheless, as the condition is not necessary in the interests of highway safety, precise or enforceable, it does not meet the tests set out in the Framework.

Appeals B and C – Transport and highways impacts

14. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) permits the change of use of office buildings to dwellinghouses, subject to the prior approval of the transport and highways impacts of the development, amongst other considerations.
15. For Appeal B the Council's parking standards require a minimum of eight parking spaces. For Appeal C a minimum of five spaces is required. While the appeals seek prior approval rather than planning permission, the Council's standards provide a reasonable basis for assessing the likely parking need generated by the development, and the resulting impact on the public highway.
16. Eight parking spaces are marked out on site. However, space CP3 is significantly shorter than the recommended length for an off-street parking bay. It is likely that its use would cause conflict with space CP2 given their proximity and relative orientation to one another. While the space is already marked out on site, it is not clear that all five spaces on the forecourt can be

used at the same time. For the purposes of these appeals, therefore, only seven of the eight spaces can be considered usable.

17. I am mindful that implementation of either of the proposed developments would result in the cessation of the commercial use of Pimlico House, and any associated parking. However, it would also mean that the existing residents of the site would lose access to these parking spaces outside office hours. While it is not clear from the evidence submitted how heavily these spaces are used, residents have stated that they are in regular use, and therefore some displacement of existing parking would occur.
18. The Transport and Highways Impact Assessment submitted by the appellant indicates that there are generally spaces available in the area around the appeal site. However, the nearest parking on Pegs Lane and the access road immediately next to the site is subject to parking restrictions, while the unrestricted parking on West Street had too few spaces available during either night of the parking survey to accommodate cars displaced from all five parking spaces. More unrestricted parking was available on Castle Street, but I note that this lies on the far side of the dual carriageway next to the site, making it substantially less convenient for residents of the existing and proposed flats. Parking on single yellow lines is an option at similar times to the restrictions on the shared parking spaces, however these are also restricted on Saturdays and therefore are not as convenient as the shared spaces.
19. The appellant has suggested that as Appeal B proposes one-bedroom flats close to the centre of Hertford then occupiers may not have or need private cars. However, there is no guarantee of this, and the parking standards already take account of the proximity of the site's location in accepting less than one space per dwelling.
20. The development proposed in Appeal B would fail to provide sufficient on-site parking to meet the Council's standards. There is only limited capacity for on-street parking in the vicinity of the site, and existing resident parking would be displaced by the development. The development would therefore be likely to result in additional congestion with drivers seeking spaces and conflict with other road users, to the detriment of highway safety. The transport and highways impacts of the development would therefore be unacceptable.
21. The development proposed in Appeal C would provide sufficient parking to meet the Council's standards. On balance, additional parking demand including that resulting from existing users, could be accommodated through on-street parking in the vicinity of the site. This development would not therefore be harmful to highway safety, and its transport and highways impacts would be acceptable.

Appeal C – Living conditions

22. The revised plan provided by the appellant with this appeal shows a one-bedroom flat on the top floor of the building and revised layout to flat U.01 on the ground floor. This revised layout would provide adequate natural light to all habitable rooms to these flats as required under Class O of the Order, and therefore acceptable living conditions.

Other matters

23. The use of five parking spaces on the forecourt of Pimlico House by residents is recognised in property deeds. This is a private matter between residents and the site owner, and not a consideration in the determination of these appeals.

Conditions

24. Paragraph O.2(2) of the Order requires that the development must be completed within a period of three years starting with the prior approval date, which for the sake of certainty is the decision date given above.
25. I have had regard to the conditions suggested by the Council with regards to Appeal C and considered them against the tests set out in the Framework, amending the wording as required.
26. I have imposed a condition requiring the inclusion of electric vehicle charging points at the site to support sustainable travel.
27. I have not imposed the suggested condition requiring storages for sixteen bicycles. Storage for ten bicycles is proposed, including eight secure spaces within the building, and there is no evidence to suggest this would be an inadequate provision.

Conclusion

28. For the reasons set out above, Appeal A and Appeal C succeed, but Appeal B fails.

M Chalk

INSPECTOR