



Appeal Decision

Site visit made on 23 November 2021

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/H5390/W/21/3273910

52 Vespan Road, London W12 9QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Copeman against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2020/02923/FUL, dated 9 November 2020, was refused by notice dated 17 March 2021.
 - The development proposed is described on the application form as 'change of use from single house to two self contained flats with private entrances, single storey rear extension, ground floor front extension, first floor front extension, 500mm recessed from new ground floor front extension, rear terrace over existing first floor, loft extension with mansard roof at rear and velux at front'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from single house to two self contained flats with private entrances, single storey rear extension, ground floor front extension, first floor front extension, 500mm recessed from new ground floor front extension, rear terrace over existing first floor, loft extension with mansard roof at rear and velux at front at 52 Vespan Road, London, W12 9QQ in accordance with the terms of the application, Ref 2020/02923/FUL, dated 9 November 2020, subject to the conditions appended to this decision.
2. At the appeal stage, amended plans with updated floor space figures were submitted. Whilst these did not form part of the original planning application, and an appeal should not be used to evolve a scheme, these predominantly illustrate updates to very minor floorspace and level changes. There has been the opportunity for comment on them at appeal, and I have taken them into account.

Preliminary Matters

3. The Council does not object to the proposed single storey, first floor or roof extensions or rooflights and first floor terrace, and from my site visit those elements of the proposal would assimilate to an acceptable standard with the surrounding area (where roof alterations and extensions of varying types are a characteristic feature).

Background

4. Policy HO2 of the Hammersmith and Fulham Local Plan (adopted 2018), amongst other things, permits conversions of existing dwellings into two or more dwellings where the net floor area of the 'original dwelling' is more than

120 square metres (sqm) in size. The objective of this policy is to ensure the Council achieves its housing target of an additional 1,031 dwellings per annum, without losing smaller single houses considered to provide an important source of accommodation suitable for families.

5. A key point of contention between the parties relates to the term 'original', and whether the former ground floor shop is 'original' relative to the main house (the term original being used within the wording of Policy HO2 in the context of net existing floorspace).
6. I note that the Local Plan does not, under either policy HO2 or within its glossary, set out a definition of 'original'. The Council, in its officer's report, has therefore considered this to mean when originally built. The appellant is of the view that 'original' should mean the later date of 1 July 1948, as referenced in the National Planning Policy Framework and in legislation (albeit in different contexts).
7. Although there is no definition of 'original' within the Local Plan, I do not consider it appropriate to automatically apply the 1948 date. The reference to 1 July 1948 is not directly relevant in this case. Notwithstanding this, irrespective of when the shop unit was constructed, noting that it is undisputedly historic¹, I return to the aims of policy HO2. This is fundamentally to prevent the conversion of smaller properties within the Borough where they already provide family accommodation to ensure mixed communities. The Local Plan definition of family sized housing, consistent with that in the London Plan adopted in March 2021, is that which has three or more bedrooms.

Main Issue

8. Against the context above, the main issue is the effect of the proposal on family housing provision within the Borough.

Reasons

9. No 52 comprises a three-bedroom end-of-terrace dwelling in a street of similarly sized properties. An historic single-storey former shop unit exists to the side of the property (notwithstanding my subsequent reasoning, I have referred to that element of the property as the 'shop' in this decision). Importantly, the shop is integrated internally with the main dwelling, and there is no dispute that this element should now be considered as part of the residential unit. The entire property is, however, vacant and in a poor state of repair. An historic permission for the conversion of the property to two self-contained flats appears never to have occurred².
10. Details of the existing property were submitted at the time of the original planning application, setting out its existing net floor area. This was stated to be 127.8sqm formed of cellar, ground floor (including former shop unit) and first floor areas. Numerically, those measurements do not appear to be disputed by the Council.
11. The appellant has since set out within their appeal statement that the original measurements were not as accurate as they were once thought to be due to

¹ Historic maps showing the building being constructed between 1896 to 1915 and any reference to a separate 'Vespan Stores' ceasing in 1911.

² Ref 1972/00906/HIST

scaling off sales particulars rather than based on fresh on-site measurements. An updated set of measurements has been undertaken and provided. It includes the cellar, ground and first floors, together with the attic floor. This updated figure totals 131.97sqm. Noting my reasoning in paragraph 2 in respect of the ground and first floor, those figures are only fractionally different from the original measurements.

12. By contrast, the Council contends that the existing internal area should be considered as 100.1sqm. That is discounting any contribution from the attic, shop (some 8.4sqm floorspace), and cellar (some 9.37sqm based on the appellant's updated figures in section 8.4 of their statement of case). I saw that the attic was unconverted and inaccessible apart from a hatch, and appears never to have been used as habitable space. I therefore agree that should not be included in a calculation of floorspace. Discounting the attic from the overall updated figure gives a total area of 120.37sqm.
13. There is compelling evidence indicating that the shop unit is historic, and historically integrated. Whilst evidence has not been provided to confirm if the shop unit was built at exactly the same time as the main house, the unaltered and historic arrangement at 52 Vespan Road is highly unusual and very few comparable examples of this layout and integrated function would likely be found.
14. Significantly, this is not a case where the property has been 'artificially' extended in recent times through the increase of floorspace to a figure above 120sqm, and subsequently opening up the opportunity to subdivide the property into two or more flats. The site circumstances, to my mind, are almost unique. The existing floorspace has been in-situ for an unquestionably long period of time.
15. Although it forms a very modest element of the scheme, I accept the cellar is limited in head height and could not be used as it stands for habitable space³. However, it is accessible and has been so historically. It could therefore readily be used for storage or functional purposes, as is intended via the scheme before me. There appears to be no specific provision in respect of policy HO2 requiring a certain use or specification of internal space in order to 'count' towards the calculation of the 120sqm threshold.
16. Based on the above, I conclude that the original property in this instance may reasonably be said to provide more than 120sqm of net floorspace and, by consequence, that the proposal is acceptable. The proposal would create two flats (one additional residential unit overall) with one of these providing 3-bedroom accommodation, reflecting the relevant provisions of policy HO2.
17. Consequently, I conclude that the proposals would accord with the relevant provisions of policy HO2 of the Hammersmith and Fulham Local Plan (adopted 2018), which in summary seeks to ensure a suitable provision of family housing in the Borough.

Other Matters

18. A neighbour has objected, raising Party Wall Act issues and concerns around loss of light and privacy as a result of the development, together with

³ Noting that the existing and proposed section plans differ little (comparing plans 2060.10 B and 2060.19 B), and there is nothing to suggest that proposed works in that respect would be unachievable.

disruption to the quiet enjoyment of the neighbouring property during construction. Planning permission would not however override any Party Wall Act processes, which is governed by separate legislation.

19. I acknowledge that construction would cause some disruption, however this would be temporary and would be mitigated by a Construction Method Statement which is the subject of a condition. Whilst I accept the proposal would result in some change relative to the existing nature of the site, I am not of the view that the resultant building or use would entail any unacceptable effects to the occupants of neighbouring properties, taking account of the prevailing nature of the area and living conditions here.

Conclusion

20. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

21. The Council has provided a list of 24 conditions that it suggests should be applied in the eventuality that the appeal were to be allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance, and consider in that context that only 10 are necessary. I have amended the wording of some, and combined provisions of others, in that context also (without altering their fundamental aims). Numerical references to conditions are to those appended to this decision as opposed to the numbering of those advanced by the Council.
22. In addition to requiring commencement within the relevant statutory period, I have imposed a condition requiring adherence to the relevant plans for certainty (conditions 1 and 2). Following my reasoning above, conditions 3, 4, 6 and 8 are necessary in order to protect the character and appearance of the area⁴. Condition 8, and also condition 5, are necessary to ensure appropriate living conditions for neighbouring occupants are preserved (through construction and thereafter).
23. Given the detail and specifications set out in the plans, the provisions of conditions 2 and 3, and given that no argument has been made that the property is itself or is located within a heritage asset, conditions suggested by the Council in respect of timber frame detailing, external finish, raised party wall, rooflight detailing and slate finishes, are unnecessary. Similarly, conditions suggested by the Council regarding potential use, or expansion of, roof areas or extensions are unnecessary as they are premised on hypothetical eventualities (and also given the provisions of conditions 2 and 3).
24. Whilst I have had regard to the provisions of Local Plan policies CC11 and CC13, neither are so specific as to require noise attenuation in excess of Building Regulations as the Council have suggested should be required (and hence such a condition is not justified). Similarly, although policy CC1 encourages energy efficiency in non-major development 'where feasible' there is no evidence before me specifically justifying the provision of 'zero emission air/water source heat pumps or electric boilers' as the Council has suggested

⁴ Including with regard to the duty placed on me by section 197 of the Town and Country Planning Act 1990 as amended in respect of condition 6.

be required (in addition to the provisions of Building Regulations in this respect). No water tanks or enclosures are proposed in respect of the balcony, and thus a condition regulating their emplacement as ventured by the Council is unnecessary, as well as such a condition potentially preventing the use of the balcony for domestic items potentially being unreasonable.

25. Whilst limited site-specific information is available regarding parking pressure, the appeal site nevertheless falls within a controlled parking zone (CPZ). I note that Local Plan policy T4 requires 'car parking permit free measures on all new development unless evidence is provided to show that there is a significant lack of public transport available.' There is no such evidence before me, noting with reference to supporting Local Plan paragraph 14.19 that the site has a PTAL rating of 3. I note that London Plan policy T6 sets out how 'car-free development should be the starting point for all development proposals', and that the appellant has agreed to such provisions in respect of the new unit that would result from executing the proposal. In that context, a condition requiring that the additional unit created be car-free is justified and necessary (which would be secured via condition 7). Conditions 9 and 10 are further necessary to ensure appropriate provision is made for dedicated bicycle and refuse storage.
26. I note that the appellant has also agreed to the terms of conditions 4, 5 and 6⁵. Those conditions must necessarily apply before any development hereby permitted is undertaken as any works related to those conditions have the potential to adversely affect the character and appearance of the area, affect those nearby or the wellbeing of trees.

A Price

INSPECTOR

⁵ In line with Section 100ZA of the Town and Country Planning Act 1990 as amended.

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2060.11C; 2060.12E; 2060.13C; 2060.14C; 2060.15C; 2060.16B; 2060.17B; 2060.18B; 2060.19B; 2060.21C; 2060.22C; and 2060.23A.
3. The external surfaces of the development hereby permitted shall match those used in the existing building.
4. No development shall commence until detailed drawings of a scale of 1:20 and samples of the materials to be used in the construction of the replacement shopfront have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples, which shall be implemented before the new residential units hereby permitted are brought into use as such, and shall thereafter be retained.
5. No development shall commence, including any works of demolition, until a Demolition and Construction Method Statement (DCMS) has been submitted to, and approved in writing by the local planning authority. The DCMS shall include details of measures for controlling: dust, noise, vibration, lighting, delivery locations and advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. No works associated with the development hereby permitted, including deliveries or vehicle movements, shall take place outside of the following times: 0800-1800 Mondays to Fridays and 0800-1300 on Saturdays. No works associated with the development hereby permitted, including deliveries or vehicular movements, shall take place on Sundays or public holidays. The approved DCMS shall be adhered to throughout the construction period for the development hereby permitted.
6. No works or development shall commence until an Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority. The approved Arboricultural Method Statement and Tree Protection Plan shall be adhered to throughout the construction period of the development hereby permitted.
7. Neither residential unit hereby permitted shall be occupied until the Council has been notified in writing of the full postal address of both to allow the local planning authority to exclude the property from the list of those eligible for residents' parking permits (and the Council has acknowledged such notification). Notification shall be made to the local planning authority's head of development management and shall quote planning application Ref 2020/02923/FUL and appeal Ref APP/H5390/W/21/3273910. The new residential unit hereby permitted shall not be occupied as such until arrangements have been made to secure it as 'car-free', in accordance with a scheme previously submitted to, and agreed in writing by, the local

planning authority. The agreed scheme shall ensure that (i) no occupiers of the new residential unit hereby permitted shall apply for, obtain, or hold, an on-street parking permit to park a vehicle on the public highway within the administrative area of the local planning authority (with the exception of those who are Blue Badge holders) (ii) if such a permit is issued that it is surrendered to the Council within seven days of receipt, (iii) any occupiers of the new residential unit hereby permitted are informed, prior to occupation, of such restriction. The new residential unit hereby permitted shall be maintained as 'car-free' in accordance with the agreed scheme in perpetuity.

8. No residential use of the roof terrace hereby permitted shall take place until details and samples of the obscure glazed screening to be used have been submitted to and approved in writing by the local planning authority, and that screening has been implemented. Once implemented in accordance with the approved details and samples, the obscure glazed screening shall thereafter be maintained as such.
9. Neither residential unit hereby permitted shall be occupied until space has been laid out within the site for four bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
10. Neither residential unit hereby permitted shall be occupied until space has been laid out within the site for the storage of domestic refuse and recycling and that space shall thereafter be kept available for the storage of domestic refuse and recycling.