



Appeal Decision

Site visit made on 8 November 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2022

Appeal Ref: APP/H5390/W/21/3278277

The Fulham Centre, 20 Fulham Broadway, London SW6 1AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application 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 Jody Bishop (Romulus Construction Ltd) against the decision of the Council of the London Borough of Hammersmith & Fulham.
- The application Ref 2020/03054/VAR is dated 19 November 2020.
- The application sought planning permission for Variation of condition 2 and 16 of planning permission ref 2019/00664/VAR granted 24 October 2019 to allow amendments to the approved drawings to include: introduction of new landscaped roof terraces on the sixth floor of the restored and extended Fulham Centre building and on top of the new entrance pavilion at second floor level, and to change the revolving door to the pavilion entrance to a sliding door without complying with conditions attached to planning permission Ref 2020/01025/VAR, dated 4 August 2020.
- The conditions in dispute are No.s 2, 12 and 26 which state that:
- 2) The development shall not be erected otherwise than in accordance with the following approved drawings: 1409_PL_1100F; 1101E; 1102E; 1103E; 1104E; 2100E; 2101E; 2102E; 2103E; 3100E; 3101E; 5101.
- 12) The development shall be completed in accordance with the "Secured by Design" details, as approved by 2019/03610/DET and permanently maintained thereafter.
- 26) All external entrance doors hereby approved shall be designed and installed so that they can only open inwards (with the exception of the existing fire exit door on Jerdan Place) and thereafter shall be retained in this form.
- The reasons given for the conditions are:
- 2) In order to ensure full compliance with the planning application hereby approved and to prevent harm arising through deviations from the approved plans, in accordance with Policies DC1, DC2 and DC8 of the Local Plan 2018.
- 12) To ensure that the development incorporates suitable design measures to minimise opportunities for, and the perception of, crime, in accordance with Policies 7.3 and 7.13 of the London Plan (2016) and Policies DC1 and DC2 of the Local Plan 2018.
- 26) To ensure pedestrian flow is not unduly affected, in accordance with Policy T3 of the Local Plan (2018).

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jody Bishop (Romulus Construction Ltd) against the decision of the Council of the London Borough of Hammersmith & Fulham. This application will be the subject of a separate Decision.

Procedural Matters

3. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted a statement which sets out its putative reasons for refusal. These constitute the matters of disagreement with the appellant and form two of the main issues in this case.
4. The original approval appears to have been subject to subsequent full planning and S73 permissions. The evidence indicates that the original planning agreement has been subject to variations over time with the agreement made between all the relevant parties.
5. A unilateral undertaking which seeks to vary the previous agreements accompanies this appeal. Whether the works that the unilateral undertaking relates to can be secured against this proposal must also therefore form a main issue, given that allowing the appeal would create a new standalone permission.

Main Issue

6. The first main issue therefore is the effect of the proposed parking space in relation to traffic generation, air quality and whether its provision would undermine the Council's objectives of encouraging modal shift away from private vehicles and supporting sustainable forms of travel. The second is whether the submitted unilateral undertaking would secure the required highways works.

Reasons

7. The building to which the proposal relates sits on an island between Fulham Broadway, Vanston Place and Jerdan Place. The existing building is undergoing refurbishment and extension to create a six-storey commercial building. Once completed, it is anticipated that the ground floor will be occupied by A2 units with the upper floors provided as office accommodation. The building would not be of insubstantial size.

Traffic generation, air quality & modal shift

8. The proposals for the site have been subject to various amendments, one of which appeared to include within it the provision of an onsite parking space for the purposes of servicing the office.
9. Within this context, the provision of one on-site parking space to assist with the operational requirements of the building allowing maintenance personnel to park a vehicle off-street, including those off-loading materials and tools, with access controlled by the on-site management team at the development does not seem unreasonable.
10. The evidence indicates that the additional vehicular movements arising as a result of the proposal would be minimal and the effect on air quality would also

be minimal. The proposal would not therefore conflict with Policy CC10 of the Hammersmith and Fulham Local Plan (2018) (HFLP) or Policy SI 1 of the London Plan 2021 (LP). Amongst other matters, these policies seek to protect air quality.

11. One parking space in relation to such a large building where most using the building would be likely to make use of the easily available public transport would not undermine the Council's objectives in relation to modal shift and support for sustainable forms of transport.
12. The LP was introduced in 2021 and superseded the previous version. Policy 6.2 relates to office parking and requires that within the Central Activities Zone and inner London offices should be car free and thus provide no car parking spaces.
13. However, there will clearly still be some operational car parking requirements at premises and part F of the policy makes allowances for this, advising that operational parking requirements should be considered on a case-by-case basis. As previously indicated, the parking space, which could be closely managed would not be unreasonable in relation to such a building. The proposal would therefore accord with Policy 6.2 of the LP.
14. The proposal would not therefore result in any significant traffic generation, would not undermine air quality, and would not undermine the Council's objectives of encouraging modal shift away from private vehicles and supporting sustainable forms of travel.

Planning agreements/unilateral undertaking

15. The proposal would involve various necessary works within the adjacent highways which the site is closely bounded by. Allowing the appeal would create a new planning permission allowing the appellant the potential choice of which of the planning permissions to progress.
16. The appeal is not accompanied by a planning agreement relating to this application, but rather a unilateral undertaking which seeks to vary the terms of the pre-existing planning agreements in relation to highway works. However, a unilateral undertaking cannot be used to modify the earlier planning obligations as the Council would have to be a party to this.
17. Therefore, allowing the appeal would create a new planning permission for which the required highway works could not be secured against. The proposal is not therefore acceptable in terms of the planning agreement/unilateral undertaking arrangements before me.

Other matters

18. The site falls within the Walham Green Conservation Area (the Conservation Area). I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The changes would be minor and the physical impact of the provision of the parking space would be limited. I therefore have no reason to disagree with the Council in their conclusion that the proposal would preserve the character and appearance of the Conservation Area.

19. In relation to nearby listed buildings, for the same reasons, and having special regard to the to the desirability of preserving listed buildings, their setting and features of special architectural or historic interest, I have no reason to disagree with the Council that the proposal would not harm the setting of nearby listed buildings.

Conclusion

20. Taking all relevant matters into account, whilst the proposal accords with the development plan policies that have been put before me, due to the planning agreement/unilateral undertaking arrangement that is before me, there is no guarantee that the required highway works could be secured against this application and the appeal is therefore dismissed.

T J Burnham

INSPECTOR