



Appeal Decision

Site visit made on 16 September 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Appeal Ref: APP/E5900/W/22/3297711

63 Cephas Avenue, Tower Hamlets, London E1 4AR

- 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 Place2Live Limited against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/22/00191, dated 4 February 2022, was refused by notice dated 1 April 2022.
 - The application sought planning permission for Rear basement extension and other associated works to facilitate the conversion of the existing dwelling house into 1 x 3 bed flat and 1 x 1 bed flat without complying with a condition attached to planning permission Ref PA/21/00369, dated 7 May 2021.
 - The condition in dispute is No. 2 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, D.TR3 of the Tower Hamlets Local Plan 2031 (2020).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the condition is necessary having regard to the delivery of sustainable development and the effect on the transport and highway network.

Reasons

3. The appeal property is located on the corner of Cephas Avenue and Osier Street. It was granted planning permission in 2021 for a rear basement extension and other associated works to facilitate the conversion of the existing

dwellinghouse to 1no. three-bedroom flat and 1no. one-bedroom flat. A condition was imposed on this planning consent requiring the units to be 'car-free'. This condition ultimately restricts occupants from obtaining an on-street parking permit. This is the condition in dispute.

4. Policy D.TR3 of the Tower Hamlets Local Plan (2020) states that residential development is required to be permit-free in terms of on-street car parking.
5. Policy T6 of The London Plan (2021) states that car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport. The evidence shows that the site has a PTAL (Public Transport Accessibility Level) rating of 5 – very good.
6. The appeal site is close to Stepney Green station. I walked between the appeal site and the station and estimated this to be a less than 5-minute walk. There are also several bus stops on Mile End Road with the westbound stop almost directly opposite the junction between Cephass Avenue and Mile End Road, with the eastbound stop located next to the station.
7. Having regard to the above development plan policies, and the public transport provision, removing the condition would be in direct conflict with the development plan and undermine the approach to deliver car-free sustainable development.
8. I observed on my mid-morning weekday site visit that there were moderate levels of on-street parking. It would, however, be reasonable to assume that there would be higher levels of on-street parking at evenings and weekends when more residents will be in their homes. Without any convincing evidence either way in terms of potential harm to highway safety, removing the condition would nevertheless increase parking stress in the area.
9. Although each application and appeal should be determined on its own individual planning merits, removing the condition could be used in support of such similar cases. I consider that this is not a generalised fear of precedent, but a realistic and specific concern given the shared characteristics that will exist with other sites. Allowing this appeal would make it more difficult to resist further applications to remove such conditions, and I consider that the cumulative effect would contribute to an overall harm in terms of failing to provide sustainable developments and contribute to parking stress.
10. The appellant considers that the condition fails the tests set out in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) as it restricts the actions of individuals rather than being applicable to land or buildings. Whilst conditions cannot be used to control the actions of individuals, the condition in this case makes a clearly specified and distinct connection with the appeal property itself. The condition is therefore not unreasonable for this reason.
11. The appellant has referred to an appeal¹ where the Inspector considered that a condition that would have the effect of preventing an occupant from applying for a permit, took an unreasonable approach in doing so, as it impeded the actions of a person and is not a restriction on land or buildings. Although I do not have full details of the case, I acknowledge the appeal and have considered the findings in my decision. I am not, however, bound by this decision, and for

¹ APP/H5390/W/21/3277054

the reasons I have given above, I am satisfied that the mechanism to deliver car-free housing makes a clear connection with the appeal property and thus is not unreasonable and is relevant to planning. Additionally, the Council have also referred me to an appeal decision² where such a condition had been imposed. It would have been incumbent on the Inspector to consider any conditions they imposed against the tests in the Framework.

Conclusion

12. Removing the condition would therefore be contrary to the requirements of Policy D.TR3 of the Tower Hamlets Local Plan (2020) and Policy T6 of The London Plan (2021) and there are no other considerations, including the National Planning Policy Framework, that outweigh this conflict.
13. I therefore find that the condition is necessary and reasonably related to the subject matter having regard to the requirement to deliver sustainable development and the highways impacts of the development.
14. For the reasons given above, and having had regard to all other matters raised, I conclude that the condition should be retained in its current form and accordingly the appeal is dismissed.

A M Nilsson

INSPECTOR

² APP/E5900/W/19/3224823