



Appeal Decision

Site visit made on 3 November 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/H5390/W/22/3294403

4 Berek Court, 39A Margravine Road, London W6 8LL

- 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 Berekdar Developments Limited against the decision of London Borough of Hammersmith and Fulham.
- The application Ref 2021/02137/FUL, dated 12 July 2021, was approved on 25 October 2021 and planning permission was granted subject to conditions.
- The development permitted is subdivision of Flat 4 Berek Court (a two-bedroom self-contained flat unit) into two one-bedroom self-contained flat units.
- The conditions in dispute are Nos 6, 7 and 8 which state that:
 - 6. *The new units hereby permitted, shall not be occupied until the Council has been notified in writing (and has acknowledged such notification) of the full postal address of the dwellings. Such notification shall be to the council's Head of Development Management and shall quote the planning application number specified in this decision letter.*
 - 7. *No occupiers of the new residential units, hereby permitted, with the exception of disabled persons who are Blue Badge holders, shall apply to the Council for a parking permit or retain such a permit, and if such a permit is issued it shall be surrendered to the Council within seven days of written receipt.*
 - 8. *The new residential units hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the local planning authority to ensure that all occupiers of the new units, other than those with disabilities who are blue badge holders, have no entitlement to parking permits from the Council and to ensure that occupiers are informed, prior to occupation, of such restriction. The relevant dwelling shall not be occupied otherwise than in accordance with the approved scheme unless prior written agreement is issued by the Council.*
- The reasons given for the conditions are:
 - 6. *In order that the Council can update its records to ensure that parking permits are not issued to the occupiers of the new self-contained residential units, hereby approved, and thus ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the already high level of on-street car parking stress in the area; and in order to discourage the use of private cars in the borough in the interests of local air quality, in accordance with Policies T4 and CC10 of the Local Plan (2018).*
 - 7. *In order to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to the level of on-street car parking stress in the area; and in order to discourage the use of private cars in the borough in the interests of local air quality, in accordance with Policies T4 and CC10 of the Local Plan (2018) and Key Principle TR3 of the Planning Guidance SPD (2018).*
 - 8. *In order that the prospective occupiers of the self-contained residential units concerned are made aware of the fact that they will not be entitled to an on-street car parking permit, in the interests of the proper management of parking, and to ensure that the development does not harm the existing amenities of the occupiers of neighbouring residential properties by adding to levels of on-street car parking stress in the area; and in order to discourage the use of private cars in the borough in the interests of local air quality, in accordance with Policies T4 and CC10 of the Local Plan (2018) and Key Principle TR3 of the Planning Guidance SPD (2018).*

Decision

1. The appeal is allowed and planning permission Ref 2021/02137/FUL, for the subdivision of Flat 4 Berek Court (a two-bedroom self-contained flat unit) into two one-bedroom self-contained flat units at 4 Berek Court, 39A Margravine Road, London W6 8LL granted on 25 October 2021, is varied, by deleting conditions 6, 7 and 8.

Background and Main Issue

2. This appeal relates to conditions forming part of planning permission Ref 2021/02137/FUL which was granted on 25 October 2021 (the original permission) for the conversion of a two-bedroom flat to two 1-bedroom flats. An earlier permission at the site related to the construction of two dwelling houses and six self-contained flats (the earlier permission).
3. The appeal property comprises an existing self-contained flat within a large block set behind the frontage of Margravine Road. Conditions 6, 7 and 8 attached to the original permission essentially sought to prevent the occupiers of the two consented 1-bedroom flats at the former Flat 4, other than blue badge holders, from applying for, or holding permits for on-street car parking.
4. Taken together, the reason for the imposition of the three conditions was to ensure that the development did not lead to an increase in demand for car parking, or cause harm to the amenities of neighbouring residents by increasing parking stress. The Council's decision notice also refers to the impact on local air quality. The appellant is seeking to remove all three conditions.
5. Therefore, the main issues of the appeal are whether or not conditions 6, 7 and 8 of the above-mentioned planning permission are necessary and reasonable having particular regard to sustainable transport and parking conditions in the vicinity as well as air quality, in addition to the living conditions of the occupiers of nearby dwellings.

Reasons

6. Policy T4 of the Hammersmith and Fulham Local Plan, February 2018 (Local Plan) states that the Council will 'require 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'. The supporting text indicates that the Council will only consider the issuing of permits for on-street parking in locations where the Public Transport Accessibility Level (PTAL) is 2 or lower. The levels of local parking stress must also be considered when assessing the impact of additional on street parking.
7. Key Principle TR3 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document February 2018 (SPD) similarly states that development in areas well connected by public transport will be expected to be car-free. Parking permits may be issued for residential development subject to them being within areas of PTAL 1-2.
8. The appeal development includes no car parking facilities and so it is likely that car-driving occupiers and visitors would be reliant upon roadside parking spaces nearby. The Council's officer's report refers to high levels of on-road parking stress in the locality. However, there is no substantive evidence before

me that indicates the current capacity/shortfall in spaces, or demonstrates the extent to which the development may affect demand for roadside parking or how it would exacerbate local on-street parking stress.

9. On-site parking on Margravine Road and the surrounding residential streets is primarily for permit holders along with the option to pay and display, or by phone. During my site visit around midday on a Thursday, I noted several unoccupied parking spaces along Margravine Road, while there were more vacant bays a short distance from the appeal site along Claxton Grove. Whilst I appreciate that this is only a snapshot in time of local conditions, the Council have provided no firm evidence that local parking pressure is at a level where there would not be capacity along Margravine Road and surrounding streets, or any details of how parking congestion is currently having a detrimental effect on highway safety.
10. I note that the number of parking permits issued to each property would not be controlled. The proposal is for 2 flats and even if the occupants of the proposed dwellings were to have multiple permits, it is likely that there would still be an adequate number of car parking spaces available in the vicinity of the appeal site to cater for the additional parking demand.
11. The site is not within PTAL 1-2 and there would be conflict with Policy T4 of the Local Plan and Key Principle TR3 of the SPD. However, in this particular case and based on the evidence before me, the disputed conditions would not be necessary to make the development acceptable in planning terms. From what I observed and in light of the lack of evidence to demonstrate parking stress levels, if future occupiers were issued parking permits, the streets near to the appeal site would have sufficient capacity to accommodate the additional car parking that may arise from the development, without demonstrable harm.
12. Removing conditions 7 and 8 would not have an unacceptable adverse impact on parking stress in the area and therefore not lead to an unacceptable effect on the amenities of local residents. Furthermore, from the evidence presented to me, there would not be a harmful impact on highway safety were the likely additional cars parked locally. Consequently, there are considerations in this instance that outweigh the policy conflict.
13. I acknowledge that national and local policies seek to promote sustainable, less polluting modes of transport that contribute to lowering air pollution. However, limited information has been put to me to indicate that removing the disputed conditions would give rise to any significant increases in local air pollution levels. Moreover, even where occupants own a car they may not be used frequently or be used in conjunction with public transport journeys that could be accessed nearby.
14. Given that I have found that conditions 7 and 8 are not required, this therefore renders condition 6, which involves occupiers of the relevant flats submitting address details to the Council, unnecessary.
15. The appellant's case has referred to the disputed conditions being unreasonable and not related to planning. On this matter, I note that the conditions have been worded to place restrictions on future occupiers of the flats, rather than relating to the appeal building or land upon which it is on. Nor is it clear how preventing an occupier from applying for a parking permit could be enforced. As such the relevant conditions would not meet the tests contained in the

Framework and in Planning Practice Guidance (PPG). Notwithstanding this, I have found that the conditions would not be necessary or reasonable given that there would be sufficient parking opportunities in the vicinity for occupiers of the appeal development.

16. For the reasons given above, conditions 6, 7 and 8 are not necessary or reasonable to ensure that the development does not adversely affect neighbouring residential properties by adding to on-street car parking stress in the area. Moreover, insufficient evidence has been presented to demonstrate that the proposal would unacceptably harm local air quality. Therefore, it would comply with Policies T1 and CC10 of the Local Plan which requires proposals to reduce adverse air quality impacts and that traffic generated is minimised so that it does not add to parking pressures on local streets or congestion.
17. The proposal would also comply with the National Planning Policy Framework (the Framework) where it states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The removal of the conditions would accord with the Framework where it requires that planning conditions should be kept to a minimum and only imposed where, amongst other things, they are necessary and reasonable.

Conclusion

18. For the reasons given above I conclude that conditions 6, 7 and 8 should be deleted. Accordingly, the appeal should succeed.

RE Jones

INSPECTOR