



Appeal Decision

Site visit made on 3 May 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/E5330/W/22/3311357

1-3 Love Lane, Woolwich, Greenwich SE18 6QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr C O'Brien against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 22/3049/MA, dated 12 September 2022, was refused by notice dated 7 November 2022.
 - The application sought planning permission for: "Retrospective application for change of use from light industrial to offices without complying with a condition attached to planning permission Ref. 17/1558/F, dated 4 August 2017."
 - The condition in dispute is No 2 which states that: *"No development shall take place until arrangements have been made to secure the proposal as 'car-free' in accordance with a detailed scheme or agreement which has been approved in writing by the Local Planning Authority. The approved scheme/agreement should ensure that all future occupiers of the approved development cannot apply for, or obtain an on-street parking permit to park a vehicle on the surrounding public highway and no parking shall occur off street within the existing car parking area. The scheme shall be implemented prior to the occupation of the development hereby permitted and shall be so maintained unless otherwise agreed in writing by the Local Planning Authority."*
 - The reason given for the condition is: *"To promote sustainable transport by reducing the need for car travel and ensure compliance with Policy 6.9 of the London Plan and Policies IM(b) and IM(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (adopted 30th July 2014)."*
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Decision

1. The appeal is allowed and planning permission is granted for change of use from light industrial to offices at 1-3 Love Lane, Woolwich, Greenwich SE18 6QT in accordance with the application, Ref 22/3049/MA, made on the 12 September 2022 without complying with condition Nos 1 and 2, set out in planning permission 17/1558/F granted on 4 August 2017 by the Council of the Royal Borough of Greenwich, but otherwise subject to the following condition:
 - 1) The office use hereby permitted shall cease within 30 days of the date of the failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within 3 months of the date of this decision a scheme or agreement for the development to be 'car-free', which shall ensure that all future users of the approved development, including owners and employees (whether full or part time, permanent or temporary) cannot apply for, or obtain an on-street parking permit to park a vehicle on the surrounding public highway, except a disabled person's badge issued pursuant to section 21 of the

Chronically Sick and Disabled Persons Act 1970 or similar legislation, shall have been submitted for the written approval of the local planning authority, and the scheme or agreement shall include a timetable for its implementation.

(ii) If within 9 months of the date of this decision the local planning authority refuse to approve the scheme or agreement, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

(iv) The approved scheme or agreement shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved car-free scheme or agreement specified in this condition, that scheme or agreement shall thereafter be adhered to in perpetuity.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge.

Preliminary Matters

2. The description of development in the banner heading refers to the proposal as 'Retrospective', this is not an act of development and I have therefore removed reference to this in my formal decision. I have also assessed the appeal on the basis that the development has commenced.
3. Since the original grant of planning permission for the development, The London Plan, The Spatial Development Strategy for Greater London, adopted March 2021 (the LP) has been adopted which has superseded the previous London Plan. The Council has advised of the policies of the LP relevant to this appeal and the appellant has had the opportunity to comment on them. In accordance with Section 38(6) of the Planning and Compulsory Purchases Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, I have determined the appeal on this basis, taking material considerations into account.

Background and Main Issue

4. Planning permission¹ was granted retrospectively in 2017 for the change of use of the building on the appeal site from light industry to office use and the Council imposed condition 2 as a pre-commencement condition requiring the development to be car-free. The appellant is seeking to remove the disputed condition.
5. Accordingly, the main issue is whether condition 2 is reasonable and necessary in the interests of sustainable travel and to reduce the need to travel by car.

¹ Ref.17/1558/F

Reasons

6. When planning permission was granted in 2017, the development had already occurred. As such, the wording of the disputed condition requiring no development to take place is imprecise and does not meet the tests for conditions set out within paragraph 56 of the National Planning Policy Framework (Framework).
7. Notwithstanding this, the reason for the disputed condition was to promote sustainable transport by reducing the need for car travel in accordance with the development plan policies in force at that time.
8. Although the development plan has changed in the intervening period, its policies continue to seek to reduce car journeys and congestion and promote sustainable travel on existing public transport networks in well-connected areas. Of particular note is Policy IM(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies, adopted July 2014 (CS) requires development, including employment uses, that has a high level of public transport accessibility and within CPZ's to be car-free, to reduce commuting to work by private car. Policy IM4 of the CS reinforces this and requires new development to contribute to improved accessibility and reduce the use of private cars. In addition, Policy T6 of the LP further states car-free development is the starting point for all new development in places that are well-connected to transport systems. Moreover, Policy 6.2 of the LP requires office development in town centres and areas such as Greenwich to be car-free.
9. The appeal site is located in a controlled parking zone (CPZ) and within Woolwich Town Centre. There is very limited on-street parking in the nearby area. The appeal site is well connected to public transport systems, being near to several bus stops, Woolwich-Arsenal station, Woolwich Station and water taxis, and reflected in its high PTAL rating of 6B.
10. Against this policy background, and in the absence of any evidence to show why it is not possible to commute to or from the appeal site other than by car or of any specific business needs that requires access to a car, movements to and from the site should be car-free in the interests of sustainable travel in this well-connected area, in accordance with the development plan.
11. To conclude, condition 2 is reasonable and necessary to promote sustainable travel and to reduce the need to travel by car, in accordance with Policies T6 and T6.2 of the LP and Policies IM(c) and IM4 of the CS which amongst other things collectively seek to ensure well-connected development, particularly within CPZ's, contributes to reducing the need to use private cars to travel, and promotes the use of sustainable transport.
12. The Council have referred to the proposal being contrary to Policy T5 of the LP and Policy IM(b) of the CS. These policies are focussed on promoting cycling provision, and are not determinative as to whether the office development should be car-free in this case.
13. I have therefore imposed condition 1 above to ensure that a car-free scheme or agreement is submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and

implementation of the car-free scheme or agreement before the development takes place. I have however amended the wording of the condition, deleting reference to off street parking because this aspect of the condition is not enforceable or reasonable, but have retained the reference to parking permits. The parties have had the opportunity to comment on this condition before this decision has been made and I have taken the representations made into account.

14. I did not find it necessary to re-impose condition 1 of the earlier permission (Ref. 17/1558/F) relating to the development being undertaken in accordance with the approved ground floor plan, as the development had already commenced and was in use.

Other Matters

15. The site is located within the Woolwich Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The CA comprises a mixture of buildings, many being tall, with some arranged around busy roads, open areas and transport networks.
16. In this case, the proposal relates to the use of a building as offices, and the condition in dispute relates to it being car-free, in particular it prevents parking permits being obtained for on-street parking within the CPZ. The use of the building as an office has already been granted planning permission, its use would not be out of character with or harmful to the CA. The restriction to obtaining a parking permit would ensure the development did not add to existing on-street parking in the area. Consequently, the effect of the proposals upon the CA would be neutral in this case. I also find that the proposal would ensure the character and appearance of the CA is preserved, consistent with my duty under the Act.
17. Whether or not, the Council's approach followed the Planning Practice Guidance (PPG) in respect of condition 2, both before and at the time of making their decision in 2017, or whether the condition was or was not justified by superseded policies, does not have a bearing on this particular appeal. I have assessed the planning merits of the condition against the current adopted development plan and found that a car-free development condition, albeit re-worded, is reasonable and necessary, and it meets the relevant tests within paragraph 56 of the Framework. Furthermore, the appellant was able to appeal against the condition at the time the 2017 permission (Ref. 17/1558/F) was granted, or to apply to the Council to seek to remove it at that time, which they chose not to do, until recently.
18. The appellant has made reference to an earlier application (17/0566/CE) to establish a lawful use in the building, saying that the Council did not question the lawfulness of parking at the site. That application was refused in 2017 and preceded the permission in question, I am not persuaded that argument justifies the development without a car-free condition.
19. I note the appellant's comments about potential costs associated with any such agreement or scheme for car-free development. What is fair and reasonable in terms of costs is a matter between the parties and not a determinative

planning issue on this appeal. It is also for the appellant to decide the precise mechanism to submit to the Council to secure the development as car-free, be that as a detailed scheme or agreement.

20. Whilst there have been no third-party objections to the proposal, this neither weighs in favour or against the proposal.
21. Although consultation responses from Transport for London and the Highway Authority have not referenced all the stated planning policies, I am content that a car-free development condition is justified by policies in the development plan.
22. The appellant has stated that no parking permits have been applied for since 2017 from occupiers of the appeal site and that the Council can refuse such permits in any case. Be that as it may, this does not provide justification for removal of the condition as requested.

Conclusion

23. For the reasons given above, and considering the development plan as a whole, and all relevant considerations, I conclude that the appeal should succeed and I shall exercise the powers transferred to me accordingly and grant a new planning permission without the disputed conditions but with a substituted condition to reflect my decision above. This planning permission will sit alongside the 2017 planning permission which remains extant and unaltered.

A Hunter

INSPECTOR