



Appeal Decision

Site visit made on 13 June 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/F5540/W/22/3310645

37 South Street, Isleworth TW7 7AL

- 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 for planning permission
 - The appeal is made by PH Ground Rent Investments Limited against the London Borough of Hounslow.
 - The application Ref P/2021/3347, is dated 16 August 2021.
 - The development proposed is described as 'Change of use of the basement from Bookmakers ancillary office to E(g) office use and the construction of a side door opening'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by PH Ground Rent Investments Limited against the London Borough of Hounslow. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council failed to determine the application within the prescribed period, however, it has submitted a Statement of Case as part of the appeal. This advises that had the Council determined the application, planning permission would have been refused. Putative reasons for refusal are given and identify that the principal concerns relate to the main issues set out below.

Main Issues

4. The main issues are the effect of the proposed access arrangements to the office on the living conditions of the occupiers of 37a South Street (No 37a) and 35 South Street (No 35) having particular regard to privacy, noise, safety and security.

Reasons

5. The appeal site includes a terraced property, with commercial use at the ground floor and basement levels and residential use above at first floor level. Access to the basement area, which is used for storage and ancillary office space to the betting shop above is from within the building. Access to the first floor residential accommodation (No 37a) and the residential properties at No 35 and their rear gardens is gained via a locked gated access to a covered shared passageway between the properties. The appeal proposals seek to

- change the use of the basement to an independent self-contained office, including a separate pedestrian entrance door to the side of the building from the shared passageway.
6. The existing communal space between the buildings is accessed by a lockable timber door leading from South Street to the private courtyard area. It is used primarily by occupiers of the 4 residential units, who each have keys, although there is a fire escape door in the rear elevation of the betting shop which would allow access to the rear garden area of No37a and shared passageway in the case of an emergency.
 7. The proposed office space would be modest in size in terms of floor area and the hours of operation could be controlled through a planning condition. Notwithstanding this, the proposal would be likely to introduce additional activity associated with the commercial use. This would include the potential for frequent comings and goings, including employees, visiting customers and deliveries into the secluded private residential space over and above the existing domestic use of the area by a small number of residents. Consequently, this would result in a loss of privacy to the existing residents, including the potential for overlooking of the private garden areas from the passageway through the existing gates. While there is currently a degree of mutual overlooking of these spaces, this is limited to the occupiers of the residential properties.
 8. The appeal site is located in a neighbourhood centre where such uses are commonplace. Nevertheless, the introduction of additional movements and activity associated with the use, in the area which is distinctly different in character by virtue of its separation from the public realm by the gated access, would also give rise to the potential for noise and disturbance of the existing occupiers through additional uncontrolled activity in the passageway.
 9. Moreover, in the absence of information relating to how the means of access to the passageway would be managed, the future employees, who would be unknown to the existing residents, would have unlimited access to the space. Given that the area is currently a secure environment with a locked gated access, the proposal would therefore diminish the safety and security currently enjoyed by the existing residents of the properties.
 10. It has not been shown that an adequate control mechanism in the form of an Operational Management Plan could be put in place to prevent unsociable activities or loitering in the space by employees and visitors. As such, I am not able to draft a suitable condition that would meet the tests in terms of being precise or enforceable.
 11. I therefore conclude that the proposal would harm the living conditions of the occupiers of Nos 35 and 37a having regard to privacy, increased noise and failure to provide a safe and secure environment. Accordingly, it would conflict with Policy CC2 of the London Borough of Hounslow Local Plan 2015-2030 in so far as it expects development to have a positive impact on the amenity of current residents, including among other things, to provide adequate levels of privacy. The proposal would also fail to accord with Policy D11 of the London Plan 2021 which sets out that developments should include measures to design out crime.

Other Matters

12. I acknowledge that the proposal for an independent office use would be likely to offer employment opportunities, however given the scale of the development this would be of limited weight. In addition, changes to the refuse strategy which may address concerns in that regard, would be a neutral matter given that it is a normal policy requirement.
13. I understand that the installation of the proposed side access door opening for use in association with the existing betting shop would be lawful by virtue of the lawful development certificate (Ref 01031/37/LAW1). Access to the existing basement is currently obtained via the main front entrance to the betting shop and through an internal door. The use of the space is therefore not reliant on the provision of a new side door. Moreover, there is no substantive evidence that there is a greater than theoretical possibility, or that if the appeal is dismissed, that the provision of the entrance door would be pursued and that the continued use of the basement as ancillary office/storage space would generate a significant level of use of the door. Consequently, I find the ability to instal the door is neutral in the determination of the appeal.
14. Whilst I appreciate concerns regarding matters relating to land ownership and rights of access, these are not determinative in the appeal and should be resolved outside of the appeal process.

Conclusion

15. Whilst the proposal may offer economic benefits through employment opportunities, this would carry limited weight in the planning balance due to the modest scale of the development. Set against this, I have found that there would be harm to the living conditions of the occupiers of neighbouring properties and, therefore, the proposal would conflict with the development plan taken as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

Emma Worley

INSPECTOR