



Appeal Decision

Site visit made on 12 June 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/H5390/W/23/3332786

78B North End Road, Hammersmith and Fulham, London W14 9ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by W14 Property Ltd against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2023/00622/FUL.
 - The development proposed is conversion of the ground and basement floor levels from vacant taxi dispatch office into a two-bedroom residential unit (class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An Acoustic Assessment ('AA') was submitted during the appeal. The Council has suggested that this is not accepted as evidence. Nevertheless, the AA is intended, in part, to address the Council's first reason for refusal and uses data from the Environmental Noise Impact Report originally submitted with the application. The Council has also had the opportunity to comment on the AA. Moreover, the AA does not alter the nature of the proposal. I have therefore accepted this document in determining the appeal and I do not consider that the interests of any party have been prejudiced by my having done so.

Main Issues

3. The main issues are: i) Whether the proposed accommodation would be of an acceptable quality, and ii) whether the proposal makes adequate provision to restrict residential car parking permits to blue badge holders only.

Reasons

Quality of proposed accommodation

4. The appeal site relates to a large, brick-built building that occupies the corner frontage of both the A4 and North End Road. The appeal site occupies the ground floor and basement level of this building, which are currently vacant.
5. The principal element of the proposal is the change of use of the appeal property into a two bedroom self-contained flat. This new accommodation would be arranged as a lounge/kitchen area with separate utility, toilet /shower and storage area at ground floor level. The basement would accommodate two bedrooms and another toilet /shower facility.

6. Because of the appeal site's proximity to major roads and railway, the appellant's original background sound levels show an adverse impact on the proposed development without mitigation.
7. Accordingly, the AA identifies a number of mitigation measures. This includes in the installation of insulation to the façade of the building. In addition to this, the proposed scheme would utilise triple glazed window units using acoustic glazing, and windows would be fitted to minimise gaps between the window frame and brick work.
8. An evaluation of the separating structures between the proposed development and the neighbouring properties has also been undertaken. This has identified the need to enhance the attenuation between the development and the unit above and a suggested specification has been provided for this.
9. The above mitigation measures would be suitable to protect the internal environment of the development from the maximum identified sound level from passing emergency vehicles, weighted towards the low to mid frequencies of general traffic noise.
10. The inclusion of the above mitigation measures to all habitable rooms will ensure that the internal sound levels are acceptable and will result in a No Observe Effect on the future residents in line with the Noise Policy Statement for England.
11. Furthermore, an assessment of vibration affecting the site from the neighbouring road and rail has also been undertaken as part of the AA. This concludes that vibration levels in all axis for day and night-time periods are significantly below those recommended within the relevant British Standard and will not result in any adverse impact on the development.
12. As such the development will meet the objectives of the National Planning Policy Framework in ensuring that no significant adverse impact is experienced by the future residents.
13. The proposed ground floor living accommodation is largely served by north facing windows, and a rooflight which is dominated by the rear extension of an adjacent property. The bedrooms are served only by lightwells. As such, sunlight availability for the dwelling would be low.
14. However, with reference to the 2016 Housing Supplementary Planning Guidance to The London Plan, the appellant advises that this guidance acknowledges the great difficulty of providing all flats with a south facing aspect and recommends that where a north facing aspect is unavoidable, the living rooms should be provided with good levels of daylight.
15. Based on the submitted Daylight and Sunlight report, an assessment of Average Daylight Factor ('ADF') which is a measure of the percentage of horizontal diffuse illumination outdoors (daylight) received within an internal environment has been undertaken. The assessment would meet the minimum ADF for one of the bedrooms but exceeds this in respect of all other habitable rooms within the proposed dwelling.
16. Nevertheless, London Plan Policy D6(C) states that "Housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be

provided where it is considered a more appropriate design solution to meet the requirements of Part B in Policy D3 'Optimising site capacity through the design led approach' than a dual aspect dwelling, and it can be demonstrated that it will have adequate passive ventilation, daylight and privacy, and avoid overheating".

17. In this case, most of the proposed accommodation is single aspect. In particular, due to the building's location next to a public footway and lack of defensible space, the main windows serving the proposed ground floor accommodation would be exposed to passersby using the public footway. This footway is well used because of its location near a junction and busy road crossing. Therefore, the proposed arrangement would significantly undermine the privacy of future occupiers. Indeed, even though the appeal property was previously used for a lesser sensitive commercial use, the existing windows are part obscure glazed.
18. Consequently, and notwithstanding that the habitable rooms could receive acceptable daylight, given the location of the site, occupiers are likely to use obscure glazing or privacy blinds for these main windows at ground floor level, which is likely to reduce daylight transmission and limit outlook. Moreover, the outlook from the bedrooms would be limited to small, enclosed lightwells, which would be particularly bleak.
19. The appellant suggests that the inadequacy of the outlook would be offset by the generous size of the proposed accommodation. However, the Council has already accepted this in lieu of the lack of private external amenity space. As such, I am not persuaded that the generous size of the accommodation is reasonable atonement for poor outlook and lack of external amenity space.
20. Whilst the appellant is proposing to use a mechanical ventilation system within the development, there would be little opportunity for cross or passive natural ventilation, given the mainly single aspect set-up and limited ability to have opened windows in the warmer summer months due to the location.
21. Drawing on the above reasons, subject to securing the abovementioned mitigation measures, noise and vibration associated with the location of the appeal site would not result in an unacceptable adverse impact on the living conditions of the occupiers of the proposed dwelling. As such, the proposal accords with Policy CC11 of the LP, which says noise and vibration sensitive development should be protected against existing and proposed sources of noise and vibration through careful design.
22. Nevertheless, for the above reasons, the overall quality of the proposed accommodation would be unacceptable. The proposal is therefore contrary to Policy D6 of the London Plan and Policies HO4 and HO11 of the Hammersmith and Fulham Local Plan ('LP'). Together, these aim to secure high quality residential environments, which are well designed internally and externally and fit for purpose to meet the needs of future occupants.
23. The Council's first reason for refusal also refers to policies CC10 and CC13 of the LP. The former relates to improving air quality and the latter deals with the living conditions of surrounding occupiers. As such, these policies are not directly relevant to this main issue.

Parking permits

24. Policy T4 of the LP specifies that car parking permit free measures will be required on all new development unless evidence is provided to show that there is a significant lack of public transport available.
25. The London Plan Policy T6 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, with developments elsewhere designed to provide the minimum necessary parking ('car-lite'). Car-free development has no general parking but should still provide disabled persons parking.
26. The site is in a Controlled Parking Zone in operation 9am to 5pm, Monday to Friday and it falls in an area with very good access to frequent public transport options. This therefore justifies a car-free scheme which can be guaranteed by restricting future car parking permit rights to disabled parking for those possessing a blue badge.
27. The appellant has provided a Unilateral Undertaking ('UU') which intends to restrict residential car parking permit rights to blue badge holders only. Even so, the UU is not signed and dated and therefore is incomplete. Had the proposal been acceptable in respect of the first main issue, I would have afforded the appellant an opportunity to sign and date the UU. However, based on my findings in respect of the first main issue, this is not the case.
28. Because of the incomplete UU, the proposal fails to demonstrate that the scheme would be car-free and would not increase vehicular movements or adversely impact on on-street car parking demands and highway conditions, to the detriment of sustainable transport modes, the free flow of traffic, cyclist, pedestrian and highway safety. This would also increase the risk of poor localised air quality generated by motor vehicle journeys in the area.
29. The proposal is therefore contrary to policies T4 of the LP and T6 of the London Plan. The proposal is also contrary to London Plan policies T4, which also supports car-free development in places that are well-connected by public transport and Policy T2 for reducing the dominance of vehicles on London's streets. Accordingly, the proposal would not support the aims of policies CC10 of the LP and SI 1 of the London Plan for improving air quality.

Other Matters

30. The appeal site is located within the Barons Court Conservation Area. Based on the limited nature and acceptable design of the proposed alterations to the existing building, these would preserve the significance of this heritage asset.

Conclusion

31. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR