



Appeal Decision

Site visit made on 22 July 2024

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 September 2024

Appeal Ref: APP/H5390/W/24/3336260

141 Askew Road, Hammersmith and Fulham, London, W12 9AU

- 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 Peter Jones against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2022/00537/FUL.
 - The development proposed is described as "change of use of rear part of the ground and basement level retail (Class E) into 1 x 1 bedroom self-contained maisonette (Class C3) with associated erection of a single storey rear extension, to the side and rear of the existing back addition, plus an external staircase from basement to ground floor level at the rear of the property".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - the effect of the proposal on the living conditions of future occupiers, having particular regard to daylight and outlook.
 - the effect of the proposal on the viability and vitality of the retail frontage.
 - whether the proposal would make adequate provision for fire safety.

Reasons

Living conditions

3. The proposed bedroom would be served by a ground floor window on the rear elevation. Although the window would be next to a boundary wall, it would face a small courtyard garden and would provide the bedroom with an open outlook. Additionally, the daylight study¹ indicates the natural light entering the bedroom would comfortably exceed the minimum levels recommended by the BRE². Living conditions within the bedroom would therefore be acceptable in terms of daylight and outlook.
4. Light would enter the proposed kitchen and living room through glazed sliding doors that would be positioned below ground level. Since the sliding doors would directly face the retaining wall of the light-well, the outlook from these

¹ Internal Average Daylight Study, Base Energy.

² Building Research Establishment.

rooms would be very limited. In my view, the sense of enclosure would be exacerbated by the relatively low ceiling and narrow proportions of the basement level. The rooms would also be gloomy, especially the living room which is further away from the light-well. Indeed, the daylight study shows that the natural light reaching both the kitchen and living room would be well below the levels recommended in the BRE guidance.

5. Hence, I am not convinced that the development would provide a particularly good standard of accommodation for future occupiers. While the bedroom would be acceptable in terms of daylight and outlook, it seems to me that future occupiers would be likely to spend most of their active hours in the kitchen and living room. Although the appellant argues that living conditions in these rooms would be no different from some other basement level flats, the proposal needs to be assessed against the latest development plan policies. This includes Policy D6 of the London Plan³ and Policies HO4 and HO11 of the Local Plan⁴. Together, these require high quality accommodation that meets the needs of future occupants. For the reasons given above, the proposal would fail to comply with the objectives of these policies.
6. I therefore conclude on this issue that the proposal would have a harmful effect on the living conditions of future occupiers.

Retail frontage

7. The appeal property is part a Key Local Centre as defined in the Local Plan. Policy TLC3 says that within these centres *changes of use will be permitted subject to the proposed use being shown to be complementary to the function of the centre, enhancing the centre's viability and vitality and not having an adverse impact on the local area and where it meets the quotas set out below*. The policy goes on to say that in Key Local Centres no more than 50% of the length of the frontage should be in non-Class A1 uses.
8. The Use Class Order⁵ has been amended since the Local Plan was adopted and Class A1 has been replaced with Class E. This includes the retail uses that were formerly part of Class A1, though Class E also encompasses additional activities that were not included in Class A1. Some of these uses were not necessarily anticipated in Policy TLC3 as it specifically refers to Class A1.
9. The proposal would significantly reduce the size of the retail floorspace, which is already relatively modest in size. However, a financial viability assessment⁶ has been provided which compares the proposed retail unit to other kiosk sized units in Askew Road and concludes that it would be readily lettable. Although I have no reason to doubt the findings of this report, it is nonetheless clear that the nature of the retail unit would change substantially. Paragraph 11.10 of the reports suggests some potential uses for the new unit, and notes that the new Use Class E would make it more attractive to a wider range of occupiers. However, some of the uses being suggested for the unit would actually fall into the Sui Generis Use Class rather than Class E.
10. Hence, there is some doubt as to whether the unit would be used for the types of retail activity that previously comprised Class A1. Policy TLC3

³ The London Plan, Mayor of London, March 2021

⁴ Hammersmith & Fulham Local Plan, February 2018

⁵ The Town and Country Planning (Use Classes) Order 1987 (as amended)

⁶ FVA 141 Askew Road, Allsop, 16 June 2021

seeks to ensure that at least 50% of the Key Local Centre frontage is retained for these purposes. It is not entirely clear from the information provided whether the proposal would support this objective.

11. There is also little to show that the proposal would be complementary to the function of the centre in terms of Policy TLC3. Even if the proposed unit were to be used for retail purposes, the small size of the unit would clearly limit what it could be used for. I saw on my site visit that this particular section of retail frontage appeared vibrant, with most of the units being occupied. This includes the appeal property, which supports an established, independent retail business. It is not clear how a significant reduction in the retail floorspace of the unit would be supportive to the vitality of the centre.
12. For these reasons, the proposal would conflict with Policies TLC1 and TLC3. These both aim to support the vitality of the Local Centre. While my attention has been drawn to the recently published SPD⁷, this concerns Hammersmith Town Centre rather than the Key Local Centres and so has little bearing on my decision. I therefore conclude on this issue that the proposal would have a harmful effect on the vitality of the retail frontage.

Fire safety

13. A Fire Safety Strategy was submitted after the Council had refused the application. This clarifies how the development would incorporate the fire safety requirements of Policy D12 of the London Plan. I therefore conclude on this issue that the proposal would make adequate provision for fire safety.

Conclusion

14. I have found that the proposal would harm the living conditions of future occupiers and would harm the vitality of the retail frontage. On the other hand, I have also found that the proposal would comply with policies designed to promote fire safety. As this simply fulfils policy expectations, it attracts little positive weight towards the scheme. The main benefit of the proposal is that it would provide a new residential unit and so would provide a small to boost housing supply. However, this benefit does not outweigh the harm I have identified above. The appeal is therefore dismissed.

Colin Cresswell

INSPECTOR

⁷ Hammersmith Town Centre Supplementary Planning Document, 6 August 2024