

Appeal Decision

Site visit made on 3 September 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/U5930/W/24/3341801

Former Public Conveniences, 1-3 Crownfield Road, London E15 2BJ

- 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 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 Alexander Ritson against Waltham Forest London Borough Council.
 - The application Ref is 232035.
 - The application sought planning permission for 'demolition of a single storey public convenience and the construction of a part two and part three storey building to provide four flats (C3 use) with associated landscaping, cycle parking and refuse facilities' without complying with a condition attached to planning permission Ref 210472, dated 26 August 2021.
 - The condition in dispute is No 2 which states that: *The development hereby approved shall be carried out in accordance with the following drawings: 319-000; 319-001; 319-010; 319-020; 319-100; 319-101; 319-102 Rev A; 319-104; 319-200; 319-201; 319-202; 319-300; Internal Daylight Assessment Planning (Feb 2021); Outline Construction Logistics Plan (March 2021).*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is allowed and planning permission is granted for demolition of a single storey public convenience and the construction of a part two and part three storey building to provide four flats (C3 use) with associated landscaping, cycle parking and refuse facilities at 1-3 Crownfield Road, London E15 2BJ in accordance with application Ref 232035 without compliance with condition 2 previously imposed on planning permission Ref 210472, dated 26 August 2021 and subject to the conditions listed in the attached schedule.

Preliminary Matters

2. The appeal is against the failure of the Council to determine the planning application. I saw that the building had been constructed and was occupied. However, I noticed some variance between the plans and what has been built.

For the avoidance of doubt, I have determined the appeal on the basis of the development described and as shown on the submitted plans.

Background and Main Issue

3. Planning permission was granted for the demolition of a single storey public convenience and the construction of a part two and three storey building to provide four residential units (Use C3) – 2 x 1-bedroom and 2 x 2-bedroom flats with associated landscaping, cycle parking and refuse facilities¹. A subsequent application² under section 96A³ changed the wording of the original description to 'demolition of a single storey public convenience and the construction of a part two and part three storey building to provide four flats (C3 use) with associated landscaping, cycle parking and refuse facilities.'
4. This appeal relates to an application⁴ to change the ground floor unit from a one bedroom to a two-bedroom unit, as a result of the plant room and internal bin store being removed. The external changes applied for: two additional high-level windows added to the ground floor southern elevation; a patio door set back by 1.2 metres with a small balcony and glass panel; an obscure glass panel on the northern elevation; and an external bin store area to the side of the building have been implemented.
5. Whilst the Council had not determined the planning application, it has stated that the proposed development is acceptable with regard to the effects on character and appearance, residential impact and internal space standards, car and cycle parking facilities, refuse and recycling. I have no reason to dispute these findings. However, the original permission⁵ was subject to a planning obligation⁶ which included a contribution towards the cost of highway and public realm improvements, the provision of car free housing and a highways condition survey. The Council has indicated that the application subject to this appeal required a deed of variation to the previously signed planning obligation. No such deed has been submitted.
6. Therefore, on this basis I consider that the main issue is whether the proposal makes adequate provision for car free housing, highway and public realm improvements.

Reasons

7. The site has a Public Transport Accessibility Level (PTAL) 3 rating. It has bus stops close to the site, with other underground and rail transport links in walking distance. The development does not, however, have any on-site car parking. The original planning obligation required the development to be car free, with no occupier, other than one entitled to a disabled person's badge, able to apply for a residential parking permit within the Controlled Parking Zone within the borough, and any new occupier should be informed of this prior to occupation. The obligation also included a contribution towards the cost of highway and public realm improvements and a monitoring fee, as well

¹ Ref 210472

² Ref 233116

³ Town and Country Planning Act 1990

⁴ Ref 232035

⁵ Ref 210472

⁶ Section 106 of the Town and Country Planning Act 1990 (as amended)

as the requirement of a highway condition survey being undertaken prior to the proposal being implemented.

8. Whilst the Council has submitted a copy of the original agreement, no substantive evidence has been provided as to whether any contributions have been paid towards highway and public realm improvements and whether the highway condition survey has been undertaken. Moreover, I have not been provided with any evidence that indicates that there are parking issues within the area to the extent that the issuing of permits for prospective occupiers of the development would result in unacceptable parking and congestion impacts. Consequently, I do not have sufficient evidence that the variation to the obligation is justified.
9. Therefore, I conclude that based on the evidence before me, it has not been demonstrated that a deed of variation to the planning obligation is necessary.

Other Matters

10. A third party has commented that the building is affecting sunlight into their property. However, as the application only sought to alter the ground floor layout of a previously approved scheme, the proposed development would not affect sunlight into adjoining properties.

Conditions

11. The guidance in the Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73A should reinstate the conditions imposed on earlier permissions that continue to have effect. However, I have seen that the development has been built and is occupied. Moreover, the Council has provided a list of conditions⁷, a number of which are compliance conditions following the discharge of the original condition. Therefore, I have considered these and amended where necessary to accord with the PPG and the tests for conditions set out in paragraph 56 of the National Planning Policy Framework.
12. As the development has been built, it is not necessary to impose a time limit condition. Furthermore, as the application sought revisions to the scheme, condition 2 has been amended to include the revised drawings, as well as those from the original permission that remain relevant. Condition 7 was for a Construction Method Statement during the demolition of the public convenience and construction of the flats. However, as the proposal has been constructed, this condition is no longer necessary.

Conclusion

13. For the reasons given above, I conclude that the appeal is allowed.

M J Francis

INSPECTOR

⁷ Appendix A

Schedule of conditions

- 1) The development shall be carried out in accordance with plans titled:
AR1, AR2, AR3, AR4 dated 23 June 2022
1508-C-SK001 dated 11 August 2021
Hard and soft landscaping plan for 1-3 Crownfield Road – E15 2BJ
319-000 dated 16 February 2021
319-001 dated 16 February 2021
319-010 dated 16 February 2021
319-020 dated 16 February 2021
319-101 dated 16 February 2021
319-102, Rev A, dated 16 February 2021
319-104 dated 16 February 2021
319-300 dated 16 February 2021
Internal daylight assessment planning, February 2021
Outline Construction Logistics Plan, March 2021.
- 2) The samples and schedule of materials to be used in the construction of the external surfaces of the development hereby approved in application 213685 shall be carried out in accordance with the approved following details and thereafter retained as such for the lifetime of the development.
Dark brick: Ibstock Staffordshire Blue Brindle Dragface 2221
Light brick: Ibstock Sandalwood 273
Mortar: PAREX Historic Mortar Mid Grey
Zinc cladding, gutters and standing seam roof: SIG EIZinc Rainbow Brown
Aluminium framed powder coated casement windows and doors – anthracite grey RAL 7016
Brick/metal bin stores – as per above brick details and aluminium powder coated anthracite grey door details
Axial rainscreen support system
Email clarifying materials details dated 12 January 2022.
- 3) The details of hard and soft landscaping hereby approved in application 213685 shall be carried out in accordance with the approved following details and thereafter retained as such for the lifetime of the development.
Updated hard and soft landscaping plan for 1-3 Crownfield Road E15 2BJ (attached to email from applicant dated 9 January 2022).
- 4) Prior to occupation, the development shall achieve a Certificate of Compliance to the relevant Secure by Design Guide approved in writing by the Local Planning Authority in conjunction with the Metropolitan Police. The development shall be carried out in accordance with the approved details and thereafter shall be fully retained and maintained as such for the lifetime of the development.

- 5) Within the residential units hereby approved, the following internal noise levels shall be achieved and not exceeded with the windows closed:
35dB(A) Leq 16 hours 07:00hrs-23:00hrs in living rooms, while 30dB(A) Leq 8 hours in bedrooms and no individual noise event to exceed 45dB(A) max (measured with F time weighting 23:00 hrs-07:00hrs. External noise affecting gardens, balconies or amenity spaces shall not exceed 55dBLAeqt.
- 6) The construction logistics plan hereby approved in application Ref 213685 shall be carried out in accordance with the approved: Revised Construction Logistics Plan, dated January 2022.
- 7) Notwithstanding the details in the plans hereby approved, prior to the commencement of works, a Refuse and Recycle Management Strategy incorporating full details of the measures to store and collect refuse and recyclable materials of the development, shall be submitted to and approved in writing by the Local Planning Authority. The strategy must also include the design, construction and means of access for collection by refuse operatives and vehicles. The development shall be implemented in accordance with the approved details and the refuse/recycling stores brought into use prior to the occupation of the development hereby permitted and thereafter retained.
- 8) The cycle storage hereby approved in application Ref 213685 shall be carried out in accordance with the approved following details and thereafter retained as such for the lifetime of the development: Proposed bike store plan and section (Drawing No: 319-950, dated 18 November 2021).
- 9) All window reveals on the external faces of the development hereby permitted shall be set within 100mm (minimum) reveals from the face of the building and shall thereafter be maintained.

End of conditions