
Appeal Decision

Site visit made on 8 September 2014

by Christina Downes BSc DipTP MRTPI

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

Decision date: 14 November 2014

Appeal Ref: APP/L5810/A/14/2217587

Bridge House, 69 London Road, Twickenham, TW1 3QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 3, Class J of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by Raphael Freshwater Memorial Association against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 14/0381/P3JPA, dated 29 January 2014, was refused by notice dated 18 March 2014.
 - The development proposed is change of use from offices (Class B1a) to residential dwellings (Class C3) to accommodate a total of 41 dwellings. Refuse storage, car, motorcycle and bicycle parking provided at ground floor level.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class J of the Town and Country Planning (General Permitted Development) Order (as amended) for the change of use from Class B1(a) (offices) to Class C3 (dwelling houses) at Bridge House, 69 London Road, Twickenham, subject to the conditions on the Schedule at the end of the decision.

Application for costs

2. An application for costs was made by Raphael Freshwater Memorial Association against Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate Decision.

Procedural Matters

3. The description of the proposal in the application has been amended to more closely reflect the provisions of the Town and Country Planning (General Permitted Development) Order (as amended) (the GPDO). Paragraph J.2 makes clear that an application for prior approval under this section of the GPDO should be considered having regard only to transport and highway impacts of the development, contamination risks on the site and flooding risks on the site. The Council's refusal was on the basis of the first two matters.

Reasons

4. Bridge House is a large office building that is within the town centre and adjacent to Twickenham Bridge. It is currently being partially occupied on a

temporary basis and comprises four floors of offices with undercroft parking. There is no dispute that the lawful use is for Class B1(a) offices.

Transport and highway impacts

5. The information provided indicates that the amount of traffic generated by the proposed residential use is likely to be significantly less than the lawful use as offices. The Council has not objected to the use on this ground and there is no evidence that harmful highway impacts would arise in this respect. The Council's main concern is with parking provision. It seems to me that this is a legitimate consideration as shortfalls can lead to congestion and safety issues as drivers search for spaces or encounter difficulty in accessing spaces when kerbside availability is restricted.
6. Following the comments of the Highways Officer the layout of the basement car park was amended to retain the in and out accesses, widen some spaces and rearrange others to improve accessibility and circulation. As a result there would be 28 on-site car parking spaces provided. Policy CP5 in the Core Strategy relates to sustainable travel and encourages new car free housing in Twickenham town centre where there is good public transport accessibility. Policy DM TP 8 in the Development Management Plan refers to compliance with parking standards. These are on the basis of a maximum requirement, although the policy indicates that the provision will be expected to be met unless it can be shown that there would be no adverse impact on the area in terms of street scene or on-street parking.
7. The information provided indicates that the Borough has a high level of car ownership. The appeal site is within a Controlled Parking Zone (CPZ) where there is residents' parking between 0830 and 1830 hours. However it is agreed that new occupiers could be discouraged from applying for permits through the imposition of a planning condition or Planning Obligation. The concern is that there would be no control over parking outside of CPZ hours.
8. The Council assumes that all new occupiers would own at least one car. However I do not consider that the evidence supports such an assertion. In the Borough as a whole some 75% of households own cars. However this is an average and in areas of high accessibility I would expect it to be less. Indeed in the Twickenham Riverside ward about 30% of households are car-free. If a similar ratio were to be applied, which is not unreasonable, the occupiers of 12 of the flats would not own a car. If each of the remaining households did have a car then the on-site parking would be 1 space short. Of course it is possible that some households could have more than one vehicle. For 3 bedroom flats, of which 4 are proposed, the car parking standards suggest 1.5 spaces per unit. Applying this maximum requirement would result in a further 2 spaces and the development would therefore have a shortfall of 3 on-site spaces.
9. The Appellant undertook a parking survey outside CPZ hours in accordance with the methodology in the Supplementary Planning Document: *Developer's Transport*. This indicated that there were 21/ 22 available spaces within 200 metres walking distance of the appeal site on the 2 nights surveyed. The parking survey showed around 116 parking spaces within this area. This would indicate that there is currently a saturation level of around 82%. If 3 of these spaces were used by occupiers of the development the saturation level would increase to 84%. This would be well below the 90% definition of "heavily parked" in the *Front Garden and Other off Street Parking Standards*, which

seems to be the relevant guide used by the Council. I appreciate that the Council has raised some queries about the survey and has put forward different figures in respect of the total number of spaces within the parking beat area and the number that were available on the relevant nights. The Council's figures would appear to suggest that the parking beat area was less extensive than that of the Appellant. However the results in terms of the saturation level with 3 additional vehicles does not seem to be very different.

10. I consider that the CPZ restrictions would be a significant disincentive to owning a car. Many occupiers working in central London would not have car parking spaces provided during the day. Furthermore it seems probable that those choosing to live in this location, opposite the station and close to main bus routes, would not choose to drive their car to work. Even assuming they did so and could park it somewhere else during the day they would have to remove it in the early morning and could not return until early evening. That would not take account of what would be done with the car during periods of sickness, holidays or on Saturdays, for example. I consider that for most new occupiers car ownership would just be too inconvenient.
11. In addition, many would be attracted to this development because of its accessibility. The vicinity has a PTAL rating of 5 and there is an excellent choice of bus routes and Twickenham railway station is virtually opposite the site. Although there is a barrier across the centre of London Road at this point, there are pedestrian crossing facilities close at hand making the station an easy transport option for new residents. Furthermore the town centre with its shops, services and other facilities is a short walk from the site.
12. For all of the above reasons I conclude that there would be no adverse transport or highway impacts or conflict with relevant development plan policies, including those referred to above.
13. The Council has referred to a recent appeal decision where prior approval was not given for conversion of offices to residential on the grounds of inadequate parking provision. However in that case the area was less accessible with a PTAL rating of 4. In such situations Policy DM TP 8 indicates that full standards should be met for car parking. The information appears to indicate that the Council has granted permission for other residential schemes in the vicinity with parking shortfalls, including the nearby former Sorting Post Office.

Contamination

14. The application was accompanied by a Site Environmental Risk Assessment. This concluded that the risk of contamination from uses on or adjacent to the site would be low. Potential impact would be further limited by the low permeability of the underlying geology. The existing areas of hardstanding would not be disturbed and residential uses would be above ground floor level. The Council has noted that part of the site was once used for rubber manufacturing and that the railway is nearby. Whilst it seems to me unlikely that contamination would be an issue it is necessary to impose conditions to cover the matter taking a precautionary approach.

Planning Obligation

15. The Appellant has submitted a Planning Obligation by Unilateral Undertaking. This contains a number of covenants and I have considered them taking

account of the statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in Paragraph 204 of the Framework. Although I have concluded that there would be sufficient kerbside parking spaces to meet the residual needs of the development outside of the period covered by the CPZ restriction that is on the basis that the car-free units are likely to be unattractive to car owners in view of the very good accessibility of the site. For the reasons given above, it is necessary and reasonable that occupiers of this development should not be allowed to apply for parking permits.

16. However I have several concerns about the wording of the obligation and whether it would be effective, especially in view of the High Court judgement *Westminster City Council v SSCLG & Mrs Marilyn Acons*. In the circumstances I sought further comments from the parties and the Appellant has submitted advice from Counsel on the matter. I have had regard to this and the conclusion that a planning condition could be a reasonable alternative to the submitted obligation. The Planning Practice Guidance advises that a negatively worded condition requiring an agreement to be entered into prior to development commencing can be appropriate in exceptional circumstances. Such circumstances would apply in a situation such as this which accords with the Government's objective of adding flexibility to changes of use in order to significantly boost the supply of housing.
17. A Transport Contribution of £37,272 is included to mitigate the effect of additional pedestrian trips to the town centre and their impact on the quality of the pedestrian environment. Policy CP16 in the Core Strategy indicates that new development will be expected to contribute to any additional infrastructure generated by the development in accordance with the *Planning Obligations Strategy*, which sets out the basis for the payment. The Council has referred to the recently adopted *Twickenham Town Centre Area Action Plan* and the implementation of a town centre improvement plan.
18. It is indicated that the contribution would be spent on helping to improve the footway and lighting along Station Approach. The contribution is on the basis of 10 x 3 bedroom units but the proposal is for 4 x 3 bedroom units. The contribution would therefore be too high. Furthermore, although it has been adjusted to include an allowance for the existing B1 floorspace I am not convinced that the new residential occupiers would require the proposed improvements any more than the office workers who previously occupied the building. In the circumstances the Transport Contribution has been insufficiently justified both in terms of its necessity and also in terms of it being fair and reasonable.
19. The Unilateral Undertaking also includes an obligation to establish or extend a Car Club for those occupiers who do not have access to on-site parking. I have had regard to the Council's Car Club Strategy. However in view of my conclusions relating to the availability of kerbside parking spaces and the relatively small requirement that is likely to arise for them, I do not consider that this obligation would be necessary in order for the development to go ahead.
20. For all of the above reasons it is concluded that the obligations relating to parking permits, the Transport Contribution and the car club do not comply

with Regulation 122 of the CIL Regulations or Paragraph 204 of the Framework. They will not be taken into account in this decision.

Planning Conditions

21. Although this is an appeal relating to the Prior Approval procedure it is possible to attach conditions that relate to the three relevant matters for consideration. Conditions relating to the housing mix and refuse storage are not within that category. I have already commented on the need to restrict parking permits and I have imposed the condition suggested by the Appellant but slightly reworded to include the statutory clause relating to disabled people. As a revised parking arrangement was submitted within the building itself, it is reasonable to secure this by condition. Taking a precautionary approach, the suggested conditions relating to contamination are justified.
22. I have had regard to all other matters raised in the representations but have found nothing to change my conclusion that the appeal should succeed.

Christina Downes

INSPECTOR

SCHEDULE OF CONDITIONS

1. There shall be no occupation of any part of the building for residential purposes until a scheme (*the parking control scheme*) for the control of parking arising from the approved use has been submitted to and approved in writing by the local planning authority. The parking control scheme shall:
 - a) Provide for the retention and control of the use of the existing parking spaces solely for parking by the residential occupants of the building and their visitors;
 - b) Prevent occupancy of the building by any person not allocated one of the existing spaces unless and until provision is made to ensure that residential use of the building does not take place by any person who has applied for, or otherwise obtained, a parking permit (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation).The development shall be occupied at all times in accordance with the parking control scheme.
2. Before the development is first occupied the 28 car parking spaces shown on Drawing No: 5339 Z (SK) 20 P-1 shall be provided for the use of 28 separate flats within the building hereby permitted. They shall thereafter be retained for this purpose.
3. No development shall take place until:
 - a) a desk study detailing the history of the site, hazardous materials and substances used, together with details of a site investigation strategy based on the information revealed in the desk study, has been submitted to and approved in writing by the local planning authority;
 - b) an intrusive site investigation has been carried out comprising: sampling of soil; soil vapour; ground gas; surface water and groundwater in locations and at depths to be first agreed by the local planning authority.

Such work to be carried out by suitably qualified and accredited geo-environmental consultants;

- c) written reports of: the findings of the above site investigation; a risk assessment for sensitive receptors together with a detailed remediation strategy designed to mitigate the risk posed by the identified contamination have been submitted to and approved in writing by the local planning authority.
4. No part of the building shall be occupied until:
- a) the remediation works have been carried out in accordance with the approved remediation strategy. If during the remediation or development work new areas of contamination are encountered, which have not previously been identified, then the additional contamination shall be fully assessed in accordance with Condition 3 b) and c) above. A remediation scheme shall be submitted to and approved in writing by the local planning authority and fully implemented thereafter;
 - b) a verification report, produced on completion of the remediation work, has been submitted to and approved in writing by the local planning authority. This report shall include: details of the remediation works carried out; results of the verification sampling, testing and monitoring; and all waste management documentation showing the classification of waste, its treatment, movement and disposal in order to demonstrate compliance with the approved remediation strategy.

(End of conditions 1-4)