

Appeal Decision *ALLOWED*

Site visit made on 29 August 2001

by **George Mapson** DipTP DipLD MRTPI

an Inspector appointed by the Secretary of State for Transport,
Local Government and the Regions

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Date

05 SEP 2001

Appeal Ref: APP/X5210/A/01/1064556
191 Fordwych Road, London NW2 3NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Nicholson against the decision of the Council of the London Borough of Camden.
- The application (Ref PWX0003071/R2), dated 15 February 2001, was refused by a notice dated 20 March 2001.
- The application form describes the proposed development as the *conversion of 2 self-contained flats into 3 self-contained flats and conversion of existing loftspace*.
- The decision notice describes the proposed development along the following lines: *the conversion of the property from 2 self-contained flats into 3 self-contained flats, the erection of a rear dormer and single-storey rear extension, and associated elevational alterations*. As this describes the proposed development more comprehensively, the appeal is determined on the basis of that description.

Summary of Decision: The appeal is allowed and planning permission granted.

Procedural Matters

1. As the development has already started, I shall treat the application as one for retrospective planning permission for the retention of the conversion works.

Site and surroundings

2. No 191 Fordwych Road is a semi-detached, two-storey dwelling. Until the recent unauthorised works were carried out, it was divided into 2 self-contained flats with a total of 3 bedrooms. The ground floor flat had 1 bedroom, the first floor flat had 2 bedrooms.
3. The property lies within a residential area of similar dwellings, many of which are used as flats. The Council says that most of the flatted properties contain 2 units. Those containing 3 units generally date from the 1970s or 1980s, before the Council carried out its survey of heavily parked streets (1992).
4. The site is within a short walking distance (about 5 minutes) of local facilities and bus services on Cricklewood Broadway. It is also within walking distance of Cricklewood railway station (about 8 minutes), Kilburn tube station (about 12 minutes) and Brondesbury railway station (about 15 minutes). These walking times, which were supplied by the appellant, have not been contested by the Council.

The appeal development

5. Alterations and extensions have been carried out to create 3 self-contained flats with a total of 5 bedrooms. Flat A has 1 bedroom and occupies the ground floor. Flat B has 3 bedrooms and occupies the ground and first floors. Flat C has 1 bedroom and occupies the first floor and converted loft.
6. The new building work includes a single-storey flat-roofed rear extension to create a new kitchen and a dormer in the rear roof slope. The Council raised no objections to the ground floor extension, but found the appearance of the dormer unacceptable. This matter has since been resolved. The Council has granted planning permission for the "*conversion of existing loftspace into a bedroom for existing top flat, including formation of a dormer to rear.*"

Main issues

7. The main issue in this appeal is whether the conversion of the property from 2 flats into 3 flats without additional on-site car parking provision would give rise to added pressure for on-street car parking space which in turn would prejudice the safety of road users.

Planning Policy

The development plan

8. The statutory development plan for the purposes of s.54A of the 1990 Act, as amended, is the adopted London Borough of Camden Unitary Development Plan (March 2000). The UDP was published in its final form in May 2001. The policy numbers to which I refer below are those that are set out in the May 2001 version, not those that appear on the decision notice.

Supplementary Planning Guidance

9. The Council refers to its supplementary guidance on residential development (adopted in December 1994 and reprinted in 1996) as a material consideration in this appeal. This document sets out standards for, amongst other things, the design of forecourt car parking and dormer windows.

National planning guidance

10. Another material consideration in this appeal is the Government guidance contained in PPGs 3 and 13. PPG 3: *Housing* (paragraph 41) says that conversions can provide an important source of additional housing. Local planning authorities are encouraged to promote such conversions by taking a more flexible approach to development plan standards with regard to, amongst other things, car parking. PPG 13: *Transport* sets out Government policies for reducing reliance on the car for work and other journeys. Part of its approach is to encourage the fullest use of public transport.

Inspector's reasoning and conclusions

Compliance with the development plan

11. The starting point in considering this appeal is to decide whether the proposal complies with the relevant provisions of the development plan. Policy TR18 deals with car parking for residential conversions and states that the Council will seek, where practicable, to apply its residential parking standards (which are set out in Policy DS8). Where this is not practical, and the site is located in a street defined as heavily parked (as identified in Appendix TR4), the Council will normally seek to limit the number of units resulting from the subdivision in order to prevent an increase in demand for on-street parking.
12. In this case, the provision of on-site parking does not form part of the application proposal. It is not practical any because the depth of the forecourt, which is about 4.0 metres, falls well short of the 4.8

metre minimum depth required by the Council's standards. Consequently, unless parked at an angle, any car parked on the forecourt would be likely to encroach upon the footway.

13. The Council says that the Fordwych Road is included in the UDP's list of "heavily parked streets". It is apparent that this and the adjoining streets do experience pressure for parking space. I saw several examples in the wider area of double parking and footway parking of the type the Council describes.
14. In these circumstances, under the provisions of Policy TR18, the Council would normally seek to limit the number of units resulting from the subdivision to prevent an increase in on-street parking. The policy states that the maximum number of units will normally be equivalent to the number of existing floors of accommodation within the property, excluding any use of the roofspace. As the number of floors at No 191 excluding the roofspace is 2, and the number of units created is 3, the proposal appears to conflict with the policy.
15. However, paragraph 5.89 of the supporting text to the policy refers to an option for the Council to waive the requirement for off-street parking if the site is in a "controlled parking zone" [CPZ] and the development is designated as "car-free". This means that residents of the units would not be eligible for parking permits. If designated a "car-free" development, the appeal development would not conflict with the development plan.

Harm

16. I now turn to consider the harm that would arise were the development to be permitted either without the provision of on-site parking (which is impractical) or without a restriction on on-street parking (that is, without being designated as a "car-free" development).
17. The UDP (paragraph 5.88) points out that some parts of the borough, including I suspect Fordwych Road and the adjoining streets, experience on-street parking levels that result in obstruction, and in extreme cases, can hinder access by emergency services. I share the Council's view that this is a serious problem. It is therefore important in my view to ensure that approval of this development would not exacerbate the present state of affairs. It would be wrong to approve the appeal development without taking account of the parking situation.

Designating the scheme a "car-free" development

18. Fordwych Road is now part of the Kilburn Controlled Parking Zone. This means that residents must apply for permits to park cars on the street at certain times of the day (10.30- 18.30 Monday – Friday).
19. If the appeal development were to be designated as "car-free" - by which I mean that **none** of the flats created would qualify for a parking permit - the harm in terms of congestion and obstruction of traffic would be avoided. In my view, the car-free designation should apply to all three new flats, not just one, because there has been a significant increase in accommodation at the premises.
20. This approach would appear to follow the general thrust of the appellant's case. In his statement, he recognises that prospective occupants of new dwelling units cannot always expect to have parking facilities and that they should be encouraged to forgo the use of cars in urban areas where transport and other facilities are close at hand. This appears to me to be a strong case for designating the scheme a "car-free" development.
21. The Council considers that the appeal development should not qualify for "car free" parking because, in its view, the area does not have a high enough level of public transport. However, the appellant has presented detailed evidence to demonstrate that public transport by bus, tube and mainline rail are adequate in this locality. I see no need to assume that occupants of the flats would need to use a car or that a restriction on parking permits would cause hardship.

22. I have decided that the development should be designated as "car-free". On that basis, the conversion of the property from 2 flats into 3 flats without additional on-site car parking provision would not give rise to added pressure for on-street car parking nor would it prejudice the safety of road users.

Conclusions

23. For the reasons given above and having regard to all other matters raised, I have concluded that the appeal should be allowed.

Conditions suggested by the Council

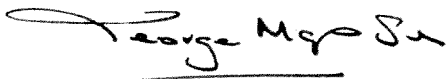
24. The Council has suggested 2 conditions that might be imposed were the appeal to be allowed. These relate to the time-limit for starting the work and to the submission of details of materials. As the development has commenced and is nearing completion, these conditions are now superfluous.
25. The Council also suggested that the appellant should enter into a planning obligation under section 106 of the 1990 Act to ensure that one unit in the property is "car free". Presumably the Council has suggested this approach because it recognises that it would be inappropriate to impose a condition to secure this aim. However, there is no planning obligation before me. It is therefore hard to be sure that such an obligation would meet the usual statutory and policy tests.
26. In any event, I consider that a planning obligation to control parking is unnecessary in this case, because the Council is the issuing authority for parking permits. Its power to issue or withhold permits is, I assume, discretionary. As this decision makes clear, planning permission is granted on the basis that **the whole development**, all three flats, should be designated as "car-free". This decision provides justification for the Council to impose either a complete restriction on the issue of parking permits, or a lesser restriction should it wish to do so – perhaps to meet a special need.

FORMAL DECISION

27. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for the conversion of the property from 2 self-contained flats into 3 self-contained flats, the erection of a rear dormer and single-storey rear extension, and associated elevational alterations at 191 Fordwych Road, London NW2 3NH in accordance with the terms of the application Ref. PWX0003071/R2 dated 15 February 2001, and the plans submitted therewith.

Information

28. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
29. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within 6 weeks from the date of this decision.



INSPECTOR