
Appeal Decision

Site visit made on 12 May 2014

By C Thorby MRTPI IHBC

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

Decision date: 9 July 2014

Appeal Ref: APP/X5210/A/14/2213792

Address: Marlborough House, 179 – 189 Finchley Road, London NW3 6LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class J of the Town & Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by Rainbow Overseas Properties against the decision of the London Borough of Camden Council.
 - The application Ref 2013/7304/P, dated 11 November 2013, was refused by notice dated 15 January 2014.
 - The development proposed is change of use from office use (B1) at second and third floor levels to residential use.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Paragraph J of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)(GPDO) for change of use from office use (class B1) at second and third floor levels to residential use at Marlborough House, 179 – 189 Finchley Road, London NW3 6LB in accordance with the details submitted pursuant to Schedule 2, Part 3, Class J of the GPDO.

Main issues

2. The provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) require the local planning authority to assess the proposed development solely on the basis of its impact on the transport and highway, and contamination and flooding risks. There is no contamination or flooding risk and the main issue is, therefore, the impact on transport and highway.

Reasons

3. Finchley Road is a major transport route in London with a heavy traffic flow and where strict parking restrictions apply locally. While the scheme would bring new residents into the area, it would convert 875 metres of existing office floor space with no off street parking to a residential use, similarly without any provision for parking. In these circumstances, and, without any evidence to the contrary, it seems reasonable to conclude that a material increase in traffic generation or its movement would not be likely. As there would be no harm to the transport network or highway safety from the vehicle parking, there would

be no justification for seeking to prevent, through a legal agreement, new residents obtaining parking permits.

4. The parking controls in the area should ensure that construction and service related traffic would have to park in appropriate places at appropriate times and there is no evidence that service or construction traffic would impact negatively on the transport network or safety of users of the highway. The appellants have demonstrated that bin and cycle storage can be provided. However, these matters appear to relate to convenience only, rather than an impact on transport and highway. In the event that bins are placed obstructing the highway, this could be controlled under other legislation.
5. In the light of this, the planning obligations for a construction management plan, servicing management plan and suggested conditions for cycle parking would not be necessary. I have, therefore, not taken into account the obligation or imposed the suggested condition in reaching my conclusion.
6. The development plan policies and guidance referred to by the Council are noted, but they do not demonstrate or substantiate an adverse impact on transport or highway matters. The creation of residential units in a highly accessible location in Central London would meet the aims of the National Planning Policy Framework (NPPF) to promote sustainable means of transport and help meet the pressing need for new housing, thereby meeting its overarching goal to promote sustainable development.

Conclusion

7. I conclude that the appeal should be allowed and approval granted. In granting approval the Appellant should note that the GPDO requires at Paragraphs J1 that the residential development shall be completed on or before 30th May 2016 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer; the address or location of the development, and the date of completion.

Christine Thorby

INSPECTOR