



Appeal Decision

Site visit made on 14 December 2015

by **George Arrowsmith BA, MCD, MRTPI**

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

Decision date: 3 February 2016

Appeal Ref: APP/X5210/W/15/3133949

Carob Tree, Highgate Road, London, NW5 1QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Fruition Assets Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/6953/P, dated 31 October 2014, sought approval of details pursuant to conditions Nos 9 and 10 of a planning permission Ref 2011/3819/P, granted on 30 March 2012.
 - The application was refused by notice dated 5 March 2015.
 - The development proposed is "*Change of use of upper floors from ancillary restaurant accommodation (Class A3) to create three (2X2 and 1X3 bed) self-contained flats (Class C3) including rear (south) extensions at first and second floor level and roof extension to create new third floor level with external terrace areas and associated alterations including new entrance on Highgate Road (west) elevation*".
 - The details for which approval is sought are:
(condition 9) *location, design and method of waste storage and removal (including recycled materials &*
(condition 10) *cycle storage area for a minimum of 4 cycles*
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Decision

1. The appeal is dismissed and approval of the details submitted in pursuance of conditions 9 and 10 attached to planning permission Ref 2011/3819/P dated 30 March 2012 is refused.

Procedural Matter

2. In the written material before me the terms 'waste' and 'refuse' are used interchangeably. For consistency I have used the term 'waste' throughout this letter.

Main Issues

3. The main issues are, i) whether the proposed cycle store would be difficult to use and insecure and would consequently discourage the ownership and use of cycles and/or, ii) whether the proposed waste and cycle store would be harmful to the appearance of the property and the street scene and would fail to preserve the appearance of a conservation area.
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Reasons

4. The appeal property is at the corner of Highgate Road and Swains Lane and is in the Dartmouth Park Conservation where, in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
5. The proposal is to provide a joint waste and cycle store on the property's Highgate Road frontage. Applications have previously been made to discharge conditions 9 and 10. The applications were refused and appeals against the decisions were subsequently dismissed. The appeals were considered as part of a consolidated decision in which my colleague also allowed an appeal relating to a single storey side extension to the property.
6. Two of the applications dismissed on appeal showed waste and cycle storage on the Highgate Road frontage in the same position as that now proposed. My colleague dismissed the appeals because he considered the associated landscape proposals to be insufficiently detailed and because no cover was shown for the cycle store. Despite dismissing the appeals for these detailed reasons he considered that the proposals were "broadly satisfactory". In reaching his conclusion he noted that the only concern that the Council had indicated about the adequacy of the arrangements for cycle storage related to the stands not being covered.
7. There a discrepancy between the finding that the relevant proposals for waste and cycle storage on the Highgate Road frontage were broadly satisfactory and the Council's current claim that the facility now proposed in the same position would be "physically constrained and technically inadequate". The officer's report on the current application suggests that the matter was not adequately explored as part of the earlier appeals. I am not provided with the full details of the evidence presented in those earlier appeals and I must in any event consider the adequacy of the proposed arrangements on the evidence before me.
8. Although the first reason for refusal refers to the adequacy of the proposed cycle and waste stores the Council appear to have no objection to the arrangements for waste storage. This is confirmed by paragraph 3.1 in the case officer's report.

Adequacy of the proposal for cycle storage

9. The Council support the first reason for refusal by referring to the guidance on cycling facilities in in Camden Planning Guidance 7 (CPG7). In this context I agree with the appellant that the document is just guidance, and I do not consider that a failure to comply with guidance automatically makes a proposal unacceptable. Here there is some contradiction between the word 'guidance' in the CPG's title and the frequent use of the word 'must' in its text. Nevertheless, without evidence to the contrary, I take the view that a cycle storage area needs to have dimensions similar to those detailed in CPG7 to function efficiently.
10. In interpreting the dimensions in the CPG it is important to recognise the configuration of the storage spaces proposed, with 3 of the cycles being stored

in a staggered diagonal line. For this reason I am not convinced that it is necessary for the space to be kept clear of obstruction around each stored cycle to extend to the full 1800mm length recommended in CPG7. Similarly, I am not convinced that it is necessary to maintain a 300mm offset from a wall since that dimension appears to relate to stands that are parallel to the wall. Even so, reducing the width of the clear space from the recommended 500mm to the 456mm calculated in the Council's appeal statement might cause some slight inconvenience.

11. The CPG says that aisles around the cycle store should be at least 1800mm wide. Here the proposed aisle width of 1010mm falls well short of the guidance. In practice this would mean that cycles would have to be reversed into or out from the store, which would cause some inconvenience. It would be particularly difficult to manoeuvre a cycle into or out from space 4 especially since the submitted drawing No 15HR_MJ01 indicates that the spaces would have lockable sliding doors. Whilst I do not consider that the level of inconvenience would be sufficient to prevent the use of the cycle store I am satisfied that it would present a disincentive to the ownership and use of cycles and would therefore conflict with the sustainable travel objectives of policy CS11 in the Council's Core Strategy.
12. I recognise that there is a fall-back position established by permission ref 2014/3451. This permits a cycle and waste store within the property's rear yard accessed from Swains Lane. I do not have details of this approved scheme but I am aware that it would preclude the permission for a side extension granted by the earlier appeal decision. I have no evidence relating to the need for this extension. I have no doubt that it would be commercially beneficial for the property owners but I have no evidence of any wider social or economic harm that would result if the permission cannot be implemented. In the circumstances I consider that the deficiencies in the proposed cycle store and the effect these would have on the ownership and use of cycles justifies the refusal of permission.
13. The Council also argue that the position of the storage area on an open street frontage raises security issues. I do not consider this a significant objection to the proposal given that cycles could be locked to their stands and that the cycle enclosure would have sliding lockable doors. My finding on this aspect of the proposal does not however override my finding that the cycle storage arrangements are unacceptable because of their cramped nature.
14. As noted above I am not provided with full details of the evidence that was before my colleague in the previous appeals. The appellant has however provided me with the layout drawings for the Highgate Road storage proposals that were considered in those appeals (Drawing No:15/HR/P/132). The cycles shown on those drawings are shorter than those shown on the current plan. They are also shown stored parallel to the side wall of the store thus allowing a wider access aisle between the cycles and the waste bins. It would not be possible to accommodate the longer, and in my view more accurately scaled, cycles shown on the current plan in the same configuration. In these respects the information available to me is significantly different from that before my colleague when he was considering the earlier appeals.

Appearance

15. The Council raise a number of issues about the adequacy of the proposed landscaping scheme. The main one is that, due to concerns about technical deficiencies and security, a larger and more incongruous storage structure would be needed and that the proposed landscaping scheme would be inadequate to mitigate the visual impact of this larger structure. This would however be a different proposal and the objection on this ground is therefore irrelevant to the proposal before me.
16. Other issues raised by the Council relate to the wire used to support ivy plants and the type of cherry tree proposed. Whilst these matters are not irrelevant they are not of sufficient concern to justify rejection of the landscaping scheme. With regard to the wider issue of the implementation and maintenance of the scheme the Council accept that this could be secured by the proffered Deed of Variation. I am therefore satisfied that the proposal would not harm the appearance of the parent building or the wider street scene and would preserve the character and appearance of the Dartmouth Park Conservation Area. It would therefore comply with the objectives of core strategy policy CS14 and policies DP24 and DP25 in the LDF Development Policies. As with my finding on the security of the cycle store this conclusion does not affect my view that the proposal is unacceptable for another reason.
17. Although there is no objection to the proposal for waste storage it is an integral part of the comprehensive scheme shown on Drawing No 15HR_MJ01, with the consequence that it is not feasible to allow the appeal in respect of that one issue.

George Arrowsmith

INSPECTOR