
Appeal Decision

Site visit made on 5 September 2016

by D M Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 29 September 2016

Appeal Ref: APP/X5210/W/16/3151322
58 Mill Lane, London, Camden NW6 1NJ.

- 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.
 - The appeal is made by Mr D Gilbert against the Council of the London Borough of Camden.
 - The application Ref 2014/7919/P, is dated 23 December 2014.
 - The development proposed is a change of use at basement level from retail (Class A1) to provide 1 residential (Class C3) unit (1 x 3 bed), enlargement of existing front lightwell, single storey rear extension at lower ground floor level and installation of rear rooflight at ground floor level and new double mansard to create additional bedroom to top floor flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Appeal Form as this is more accurate than the version provided on the Application Form.
3. The appeal is made against the failure of the Council to determine the application within the prescribed period. Following the submission of the appeal, the Council provided a statement outlining their concerns in relation to the proposal. The Council has confirmed that had it been in a position to determine the application, it would have been refused due to the Appellants failure to enter into a legal agreement to secure the unit as 'car-free'. In the absence of such an agreement it is argued that the development would exacerbate existing parking stress in the area and promote the use of unsustainable modes of transport.
4. The application as submitted sought a change of use of both the ground floor and basement from retail to residential. However, the scheme was subsequently amended to retain the retail floorspace on the ground floor. As a consequence there is no dispute between the parties that the principle of a residential use at basement level is acceptable. I have dealt with the appeal on that basis.

Main Issues

5. In light of the above, I consider the main issue is whether the proposal would be in an appropriate location to justify car free development.

Reasons

6. According to the Application Form the proposals would result in the creation of one additional residential unit, taking the total number at the property to four. There is no off-street parking for current or future occupiers and the site and the surrounding streets are within a Controlled Parking Zone with resident permit holder restrictions in place.
7. In order to ensure that no additional stress is placed on local parking provision, the Council requires a legal agreement or unilateral undertaking to ensure that future occupiers would be aware they could not obtain resident parking permits. I agree with the Council that given the advice in the "*Planning Practice Guidance*" regarding the use of negatively worded conditions, it would not be appropriate for me to address the matter by way of planning condition.
8. With regard to car parking, Policy CS11 of the "*Camden Core Strategy 2010*" (the CS) and Policy DP18 of the "*Camden Development Policies*" (the DP) seek to minimise provision for private parking in new developments, through, amongst other things, car free developments in the borough's most accessible locations where additional demand would exacerbate on-street parking conditions or highway safety. The supporting text explains that to implement car-free development, the Council needs to remove entitlements for parking permits from future occupiers. This will be achieved through seeking a legal agreement with the developer.
9. I find these objectives to be consistent with the aims of the "*National Planning Policy Framework*" in terms of managing patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus development in sustainable locations.
10. The Council point out that the appeal property has a Public Transport Accessibility Level (PTAL)¹ rating of 4 which is defined as 'good.' The Appellant does not challenge this. Whilst it might be 'standard practice' for the Council to require car free housing in areas with a PTAL rating of 4 or higher, this is not explicitly stated in Policy DP18 nor any other policies that have been brought to my attention. Nonetheless, I acknowledge that the approach of using PTAL as a basis for informing decisions regarding accessibility is not unreasonable.
11. When I visited the area, I saw that the appeal property is located within a high street with a range of shops and services on its door step. It also has good public transport accessibility with frequent bus services and underground/overground stations within walking distance nearby. I therefore see no reason to disagree that the site occupies an accessible location where future occupiers of the development would have genuine alternatives to car based travel.
12. In terms of parking stress, I observed on my mid-morning site visit that on-street parking along Mill Lane and the surrounding streets was at or very near to capacity. It would not be unreasonable to consider that demand for parking would be higher at peak periods (i.e. early mornings and late evenings). My observations are consistent with the Council's figures which show a ratio of parking spaces to issued permits in the locality of 94%.

¹ PTAL is a way of measuring the density of the public transport network at any location within Greater London and is a generally accepted method of establishing how accessible a location is.

13. I appreciate that the Appellant's survey shows a different picture, however, the assumption that 5 metres of kerb space equals one parking space is flawed and not reflective of the dimensions set out in "*Manual for Streets*". Furthermore the survey only provides a snap-shot of the parking situation in the early hours over two consecutive nights. Accordingly this reduces the weight I attach to it.
14. I appreciate that the parking requirements generated by an additional residential unit would be limited. Nonetheless, there would be harm to wider environmental interests, the promotion of which is an objective of both national and local policy. Moreover, the argument that the impact would be insignificant is not a good one in principle as it could be oft-repeated to the overall detriment of on-street parking conditions and highway safety.
15. A legal agreement has not been submitted by the Appellant and I therefore conclude that the development would not be 'car free'. Consequently, it would fail to avoid reliance on private car use in favour of more sustainable modes of travel in an area where public transport accessibility is high. The development would also result in an increase in demand for on-street parking, where significant parking pressures already exist. The proposal would thus conflict with Policies CS11 and CS19 of the CS and Policy DP18 of the DP.

Conclusion

16. For the reasons given above and taking account of all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector