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ENCLOSURE 2

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APPEAL REF : APP/H5390/A/14/220628
234 BLYTHE ROAD LONDON W14 0HJ

Appeal Decision

Site visit made on 3rd September 2014

by C Thorby MRTPI IHBC

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

Decision date: 24 September 2014

Appeal Ref: APP/H5390/A/14/220628
234 Blythe Road, London W14 0HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of prior approval subject to conditions.
 - The appeal is made by Hesmondhalgh Homes against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2013/04467/PD56, registered on 23 October 2013, was approved on 18 December 2013 and prior approval was granted subject to 13 conditions.
 - The development permitted is change of use from office (class B1) to residential (class C3).
 - The conditions in dispute are No's 1 – 13 summarised as: Condition 1 for compliance with the other conditions; conditions 2, 3 and 4 for preventing parking permits; condition 5 for provision of cycle storage; condition 6 for provision of refuse storage; condition 7 for compliance with the flood risk assessment; conditions 8 -13 for investigation and remediation of contaminated land.
 - The reasons given for the conditions are: Condition 1, to ensure transport, contamination and flooding risks are mitigated satisfactorily. Conditions 2, 3 and 4, to ensure parking management and/or to prevent parking stress and protect residents' amenities. Condition 5, to promote sustainable means of transport. Condition 6, to protect residents' amenities and the street scene. Condition 7, to prevent the risk of flooding. Conditions 8 – 13, to ensure that there are no unacceptable risks to people from contamination.
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Decision

- 1) The appeal is allowed and the prior approval Ref 2013/04467/PD56 for change of use from office (class B1) to residential (class C3) at 234 Blythe Road, London W14 0HJ granted on 18 December 2013 by the Council, is varied by deleting conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, substituting condition 7 for the following:
 - 1) Non-return valves should be fitted to the lower flat to provide protection against sewer surcharge flooding.

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. The main issues are therefore the impact on highway and transport, flooding and contamination. Paragraph N allows for the imposition of conditions relating to these matters.

Reasons

- 3) *Conditions 2, 3 and 4.* Although the area is highly accessible, the scheme could bring residents into the area with cars. The appellant indicates that existing office staff can obtain business permits and use the controlled on-street parking spaces. Additionally, a parking survey indicates that there is space available in the area. In these circumstances, and without any evidence to the contrary, it seems reasonable to conclude that there would not be a material increase in parking stress, and an adverse impact on the parking management and the transport network would not occur. Residential amenity is not a matter to be taken into consideration in this case (see paragraph 2 above). Therefore conditions 2, 3 and 4 are unnecessary.
- 4) *Condition 5 and 6.* The applicant has demonstrated cycle and refuse storage can be accommodated at the site without detriment to the highway. Street scene and amenities are not matters to be taken into account in this case (see paragraph 2 above). In any event, for a small site these matters appear to relate to convenience only, rather than a direct impact on transport and highway. Conditions 5 and 6 are therefore unnecessary.
- 5) *Condition 7.* The site is within flood risk zone 3; however, flood defences in the area would reduce the risk of flooding. The flood risk assessment indicates that non-return valves should be fitted to the lower flat as these are necessary to provide protection against sewage surcharge flooding. The other flood risk measures noted in the letter are suggestions only and would not appear to be necessary to make the development acceptable in terms of flooding impact. Therefore, I have amended the condition to relate to the non-return valves only.
- 6) *Conditions 8 – 13.* Although the Council suggest there is potential for the land at or near the site to be contaminated, they have not indicated how this might affect the site/development as the application is for change of use only. The appellant has indicated that there is no intention to break through the unmade ground, and it has not been demonstrated that there is any risk to future residents from contamination. Conditions 8 – 13 are not therefore necessary.
- 7) Condition 1 would not be necessary as it seeks the implementation of the remaining conditions. Conditions 1-13 do not therefore meet the tests set out in the National Planning Policy Framework (NPPF) and are removed. A new condition is attached relating to flood risk.
- 8) 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, flooding or contamination. The creation of residential units in a highly accessible location would meet the aims of the NPPF to promote sustainable means of transport and help meet the need for new housing, thereby meeting its overarching goal to promote sustainable development.

Christine Thorby

INSPECTOR