



Appeal Decisions

Site visit made on 16 April 2019

by Tim Belcher FCII, LLB(Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 15 May 2019

Appeal A Ref: APP/F5540/W/18/3205581

37 Kingsley Road, Hounslow, TW3 1PA

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 ("the 1990 Act") against a refusal to grant planning permission.
- The appeal is made by Tabassum Shabbir against the decision of the Council of the London Borough of Hounslow ("the Council").
- The application Ref 00667/37/P2, dated 20 March 2018, was refused by notice dated 10 May 2018.
- The development proposed is the change of use from a two bedroom house into an office (B1) and a 1 bedroom flat and formation of a loft with a rear dormer.

Summary of Decision: The appeal was withdrawn.

Appeal B Ref: APP/F5540/W/18/3213008

37 Kingsley Road, Hounslow, TW3 1PA

- The appeal is made under Section 78 of the 1990 ("the 1990 Act") against a refusal to grant planning permission.
- The appeal is made by Tabassum Shabbir against the decision of the Council.
- The application Ref 00667/37/P3, dated 5 July 2018, was refused by notice dated 11 September 2018.
- The development proposed is the change of use of a two bedroom dwelling to a travel agent office (Use Class A2) and a 1 bedroom flat (Use Class C3). Erection of a 0.5m first floor rear extension and a rear roof dormer.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Appeal C Ref: APP/F5540/C/18/3205764

37 Kingsley Road, Hounslow, TW3 1PA

- The appeal is made under Section 174 of the 1990 Act as amended by the Planning and Compensation Act 1991.
- The appeal is made by Shabbir Ali against an Enforcement Notice issued by the Council.
- The Enforcement Notice was issued on 4 June 2018.
- The breach of planning control as alleged in the Enforcement Notice is without planning permission, the change of use of the property from residential (C3) to a travel agent's office (A2) and the installation of an unauthorised shop front and signage.
- The requirements of the Enforcement Notice are: I. Cease the use of the property as a mixed-use property being a travel agency office (A2). II. Remove the shop frontage and reinstall windows, doors and frontage to a pre unauthorised development standard. III. Remove the advert signage at the front of the property and all associated paraphernalia associated with the A2 use. IV. Revert the use of the property back to a single family dwelling. V. Remove all the resultant debris from the Land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in Section 174(2) (c), (f) & (g) of the 1990 Act.

Summary of Decision: The appeal is dismissed, and the Enforcement Notice is upheld

with corrections and variations.

Procedural Matters – Appeal A

1. The appeal was withdrawn, and I will take no further action in respect of that matter.

Procedural Matters – Appeals B & C

2. In my Appeal Decision I will refer to:
 - a) The proposed flat as “the Flat”.
 - b) The land and buildings within the area edged red on the plan attached to the Enforcement Notice as “the Appeal Site”.
3. The Enforcement Notice requires, amongst other things, the cessation of the use of No. 37 “as a mixed-use property being a travel agency office (A2)”. No. 37 is being used wholly as a travel agent’s office. Therefore, the words “mixed-use property being a” in paragraph 5. I. of the Enforcement Notice should be deleted.
4. The Council confirmed that they do not wish to pursue the requirements specified in paragraph 5. II or 5. III of the Enforcement Notice. Accordingly, these requirements can be deleted from the Enforcement Notice. Consequently, requirement 5. V is no longer appropriate and can also be deleted from the Enforcement Notice.
5. Requirement 5. IV of the Enforcement Notice requires the use of No. 37 to revert to a single family dwelling-house. Section 173(4) of the 1990 Act explains the purposes for the steps specified in an Enforcement Notice. Those purposes do not include requiring the lawful use of a property to be resumed where a breach of planning control has occurred. Accordingly, I am of the view that this requirement should be deleted.
6. I consider that the corrections and variations to the Enforcement Notice explained above can be made without injustice to either Tabassum Shabbir or Shabbir Ali (“the Appellants”) or the Council.

Relevant Background Matters

7. 37 Kingsley Road is:
 - a) Located within a residential terrace.
 - b) Is used as a travel agent’s office.
 - c) Abuts residential dwellings on either side.
 - d) Is close to a defined small Neighbourhood Shopping Centre.
 - e) Is about 160m from the boundary of Hounslow Town Centre.

Policy

8. The Development Plan for the area includes Policies SC1, SC3, SC5, TC1, TC2, TC3, TC4, TC5, CC1, CC2, EQ5, EC2, ED1 and paragraph 4.3 of the London Borough of Hounslow Local Plan (“the Local Plan”).

9. I have also been referred to various paragraphs of the National Planning Policy Framework.

Reasons – Appeal B

Does the change of use of No. 37 result in the loss of a satisfactory dwelling of a type and in a location which the Council considers suitable for continued residential use?

10. The Local Plan explains that there is a strong need for small family dwellings in the Borough. Prior to the change of use of No. 37, the building comprised a two-bed house.
11. The proposal includes extensions at first and second floor level. Consequently, the Flat would have:
- a) Accommodation over three floors.
 - b) About 67 square metres of internal floorspace.
 - c) One bedroom.
 - d) A rear garden of about 21 square metres which would include secure usable outdoor private amenity space and storage space for bins and cycles.
12. I therefore conclude that the proposal would provide a one bedroom dwelling which would be a satisfactory replacement for the former dwelling at No. 37. Accordingly, the proposal does not result in the loss of a dwelling and there is no material conflict with the Local Plan.

Is the size of the Flat sufficient to meet the demands of everyday life for the intended occupants?

13. The Local Plan explains that:
- a) New housing development will contribute to improving the quality and design of housing in the Borough.
 - b) The minimum internal space standards for all new residential conversions, as set out in the Nationally Described Space Standards (“the Space Standards”) will be applied.
14. I am advised by the Council that for a one bed flat the Space Standards would require 58 square metres of floorspace. Appeal B provides about 67 square metres of internal floorspace albeit spread over three levels.
15. I therefore conclude, for the reasons explained above, that the Flat would be of a sufficient size to meet the demands of everyday life for its intended occupiers. Accordingly, there would be no breach of the relevant parts of the Local Plan.

Does the change of use of No. 37 undermine the hierarchy of town centres in the Borough?

16. The Local Plan explains, amongst other things, that:
- a) The Council will maintain a network of successful Town Centres, each with their own role and function, to provide the shops, services and facilities needed to meet the needs of the Borough’s population.

- b) The Council will promote the regeneration of its Town Centres and support the vitality and viability of the Town Centres and promote them as places that provide a diverse retail service, business, cultural and leisure offer.
 - c) The Council will support its regeneration objectives by directing the growth of retail uses to the Town Centres making the most of their accessibility and maximising the opportunity for business opportunities and linked trips.
 - d) The Council will seek to maintain and enhance the fundamental retail role of Town Centres, while ensuring that they are responsive to changing needs and provide scope for a diversity of uses, in appropriate places, that contribute to their vitality and viability.
 - e) The Council will secure the business opportunities stimulated by the London Borough of Hounslow's location close to Heathrow Airport and central London by ensuring that sufficient capacity is provided for anticipated sectors of employment growth. This will be accomplished by, amongst other things, promoting new office-based employment in the Borough's four town centres.
 - f) Outside Town Centres there are small businesses which contribute to the diversity of the local economy. A good quality range of office space will be required to meet the ever-changing needs of business in terms of size, location and costs. Whilst there is less evidence of demand for offices in out-of-centre locations, small scale offices in such locations contribute to the diversity of the local economy.
17. The Council have explained that the Appeal Site is not within a Town Centre and that it is within such Centres that you would expect a travel agent's office (such as that at No. 37) to be provided.
18. The Appellants have explained that they are a small travel agency business which is located in a mixed-use location close to Hounslow Town Centre.
19. It has not been demonstrated that the Local Plan precludes small businesses from locations outside Town Centres. There is no evidence before me that the location of the travel agent's office at No. 37 causes any harm to the vitality or viability of Hounslow Town Centre or any other Town Centre in the Borough.
20. I therefore conclude that the continued use of No. 37 as a travel agent's office would not undermine the hierarchy of Town Centres in the Borough. Accordingly, the use of No. 37 as a travel agent's office is not contrary to the relevant parts of the Local Plan.

Does the change of use have a serious and adverse effect on the living conditions of neighbouring occupiers having regard to noise or disturbance from pedestrian and vehicular activity associated with the travel agent's office use of No. 37?

21. The Local Plan explains that the Council will seek to reduce the impact of noise generating uses and require the location and design of new development to have considered the impact of noise on surrounding uses according to their sensitivity.

22. There is no evidence before me as to the number of visitors that come to the travel agent's offices at No. 37. No such visits occurred during the time I was in the area carrying out my site visit.
23. What is clear is that Kingsley Road is already busy with both traffic and pedestrians. There is controlled on-street parking restrictions in the area. Further, I understand that No. 37 has been used for commercial uses since about 2012. I did not receive any representations from any nearby occupiers complaining about any adverse impact relating to the travel agent's office use and neither did the Council produce any such representations that they had received.
24. In my assessment the activity generated by customers coming to or leaving the premises will not have a serious or adverse effect on the living conditions of neighbouring occupiers having regard to noise, disturbance from pedestrian and vehicular activity within the vicinity of No. 37. Accordingly, I find no conflict with the relevant parts of the Local Plan.

Is the development harmful to the character and appearance of the area?

25. The Local Plan explains that:
- a) The Council recognises the context and varied character of the Borough's places, and it will seek to ensure that all new development conserves and takes opportunities to enhance their special qualities and heritage.
 - b) The Council will retain, promote and support high quality urban design and architecture to create attractive, distinctive, and liveable places.
26. Having read the representations and inspected the area at my site visit I have concluded those parts of Kingsley Road close to No. 37 contain a mixture of uses including commercial, retail and residential. There are other isolated commercial uses scattered within the residential terraces along Kingsley Road including estate agent's offices, another travel agent's office, a cosmetic clinic, solicitors' offices and offices for accountants/tax advisers. All of these uses generate signage which advertises the uses carried on. The Appeal Site is close to Hounslow Town Centre and a small Neighbourhood Centre and there is new and substantial development being carried out in the area.
27. The Appeal Site is also close to an open area of land used for the parking of double decker buses and this use forms part of the streetscene's character and appearance.
28. I do not consider that the use of No. 37 and its associated signage appears to be isolated, incongruous or out of character in what is already a mixed use area.
29. I therefore conclude, for the reasons explained above, that the use of the Appeal Site is not materially harmful to the character or appearance of the area and does not conflict with any policies of the Local Plan that I have been referred to relating to this issue.

Other Matters

30. Access to the Flat would be via the front of the premises at No. 37 (albeit that a rear access would remain available). The doorway from the front of No. 37

would be into a common lobby allowing access to either the travel agent's office or the Flat. This is entirely appropriate.

31. I agree with the Council that had the access only been via the rear of No. 37 this would have been wholly unsuitable and dangerous given the obstruction over those parts of the rear access which are not within the control of the Appellants. These dangers would have been exacerbated during the hours of darkness.

Overall Conclusions – Appeal B

32. I therefore conclude for the reasons given above that the appeal should be allowed.

33. I have not imposed conditions in respect of Appeal B relating to:

- a) Covered cycle parking because there is a secure building within the Appeal Site in which the cycles can be stored.
- b) Agreeing arrangements with the Council for storing and collection of waste and recycled materials. The commercial use of No. 37 has been operational since about 2012 and arrangements for the collection of their waste are likely to be in place. The collection of waste from the Flat would be no different to that which exists for other nearby houses in this part of Kingsley Road.

Reasons – Appeal C – Ground (c) that there has not been a breach of planning control.

34. This Ground of Appeal no longer needs to be determined as the Council have withdrawn the requirement regarding the removal of advertising signs at the Appeal Site.

Reasons – Appeal C – Ground (f) that the steps required to comply with the requirements of the Enforcement Notice are excessive and lesser steps would overcome the objections.

35. The excessive steps which the Appellants have referred to have now been deleted for the reasons explained above. Therefore, this Ground of Appeal does not need to be addressed any further.

Reasons – Appeal C – Ground (g) that the time given to comply with the Enforcement Notice is too short.

36. The Appellants requested a compliance period of nine months mainly to accommodate finding alternative premises. However, as planning permission for the use will be granted this consideration no longer applies. Notwithstanding that, I consider that the compliance period should be extended to 6-months as it will be necessary for the Appellants to provide the Flat in accordance with the plans submitted in respect of Appeal B.
37. If it transpires that additional time is required, the Appellants should approach the Council and explain why and provide evidence (if appropriate) as the Council have powers in Section 173A of the 1990 Act to extend the compliance period where necessary.

Overall Conclusions – Appeal C

38. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the Enforcement Notice with the corrections and variations explained above.

Section 180 of the 1990 Act

39. Section 180 of the 1990 Act explains that where after the service of an Enforcement Notice planning permission is granted for any development carried out before the grant of that permission the Enforcement Notice shall cease to have effect so far as it is inconsistent with that permission.

40. Accordingly, if the Appellants implement the permission granted by this Appeal Decision within the 6-month compliance period they will not be in breach of the Enforcement Notice in relation to the limited use of No. 37 as a travel agency office.

Formal Decision – Appeal B

41. The appeal is allowed, and planning permission is granted for:

- a) the change of use of a two bedroom dwelling to a travel agent's office and a 1 bedroom flat, and
- b) the erection of a 0.5m first floor rear extension, and
- c) a rear roof dormer

at 37 Kingsley Road, Hounslow, TW3 1PA in accordance with the terms of the application, Ref 00667/37/P3, dated 5 July 2018, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Reasons: To comply with Section 92 of the 1990 Act.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SHABBIR/PLAN/OO1; SHABBIR/PLAN/OO2; SHABBIR/PLAN/OO3; SHABBIR/PLAN/OO4 & SHABBIR/PLAN/OO5.

Reasons: To ensure that the planning permission is carried out in accordance with the planning permission. This is imposed for the avoidance of doubt and in the interests of proper planning.

- 3) The materials to be used in the construction of the external surfaces of the rear roof dormer and the first floor rear extension hereby permitted shall match those used in the existing building.

Reasons: To safeguard the visual amenity of the area.

Formal Decision – Appeal C

42. It is directed that the Enforcement Notice be corrected and varied by:

- a) The deletion of the words "a mixed-use property being" in Paragraph 5.I.
- b) The deletion of Paragraphs 5. II, 5. III, 5. IV and 5. V.

Subject to these corrections and variations the appeal is dismissed, and the Enforcement Notice is upheld.

Tim Belcher

Inspector