
Appeal Decision

Site visit made on 15 September 2016

by Daniel Hartley MTP MBA MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/H5390/D/16/3156644
44 Micklethwaite Road, London SW6 1QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alexis Scorer against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/01254/FUL, dated 17 March 2016, was refused by notice dated 13 May 2016.
 - The development proposed is excavation to create a single storey basement under the house and part of the rear garden including accommodation and light wells.
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Decision

1. The appeal is allowed and planning permission is granted for the excavation to create a single storey basement under the house and part of the rear garden including accommodation and light wells at 44 Micklethwaite Road, London SW6 1QD in accordance with the terms of application Ref 2016/01254/FUL, dated 17 March 2016, subject to the attached schedule of conditions.

Main Issues

2. The main issues are effect of the proposal upon (i) the character and appearance of the area including whether not the proposal would preserve or enhance the character or appearance of the Sedlescombe Road Conservation Area; (ii) biodiversity and (iii) the potential precedent effect of allowing planning permission.

Reasons

3. The appeal site is located in a residential street and is a semi-detached house. It falls within the Sedlescombe Road Conservation Area (CA) and includes projecting bay windows to the front at ground and first floor level. It is proposed to form a light well in both the front and the rear gardens and to form a basement under the house and out into the rear garden. The basement into the rear garden would project about 8.9 metres beyond the rear building line of the extensions at ground floor level.
4. I note that the Council does not raise an objection to the proposed front light well or to the basement underneath the house. I am aware of the planning history relating to this site, including a previous planning permission for such development (Ref 2016/00299/FUL), and I have no reason to depart from the views expressed by the Council about this development. In the context of the

surrounding area, I am satisfied that the front light well and basement below the dwelling would not cause harm to the character and appearance of the property or the street-scene. In respect of the Sedlescombe Road Conservation Area (CA), I consider that the effect of such development would be neutral.

5. The area of dispute between the main parties relates to the proposed rear basement. This includes a light well, although I note that planning permission has been approved under 2016/00299/FUL for similar development. Given this planning permission, which constitutes an obvious fall back position, I have no concerns about this aspect of the development. In any event, I do not find that it conflicts with any of the relevant planning policies referred to by the Council.
6. In respect of the rear basement, I have taken into account Policy DM A8 of the Hammersmith and Fulham Development Management Local Plan 2013 (LP) and Supplementary Planning Document Design Policy 13 2013 (SPD) which contain a general presumption against extending basements beyond the footprint of host building. However, the objective behind such policies is to prevent any cumulative adverse impact upon drainage and the cumulative impact on groundwater flows in the area increasing the likelihood of flooding existing basements.
7. In respect of the above, I note that the appellant submitted a flood risk assessment. There are no objections from any statutory bodies in respect of flooding. Furthermore, much of the land to which the basement relates is currently hard surfaced and therefore is not particularly permeable. In the case of this appeal, the rear garden is very large and the unaffected part of the garden would continue to be permeable. I do not find that there is any compelling evidence before me to indicate that the proposal would cause harm to the area in respect of flooding matters.
8. The Council has raised concerns about the use of 1.0 metre of top soil above the basement. At this depth, they contend that this would afford limited opportunities for soft landscaping. I agree that at this depth tree planting would certainly be limited. However, much of the affected garden is currently hard surfaced and therefore the situation after the proposed rear basement was constructed would not be materially worse than it is now. I don't doubt that it would be possible to at least grow grass on land above the basement (thereby ensuring that land above the basement is green) and, in any event, there would remain a large expanse of the remaining garden area which would not be developed and that would continue to be capable of being soft landscaped (including tree and shrub planting). Overall, I do not consider that the biodiversity of the garden would be significantly compromised by the proposed development. Hence, I do not consider that there would be significant conflict with Policy 13 of the SPD.
9. The proposed basement would be subterranean and hence would not be visible from surrounding residential properties. I consider that the proposed basement would have a neutral impact upon the character and appearance of the CA. It is not clear why the Council considers that the proposal is "overdevelopment" or indeed what harm would be caused if this was the case. The proposal essentially relates to a proposal that is underground. Therefore, I can find no reason to substantiate the Council's view that the proposal would be "overdevelopment".

10. Whilst I have found some conflict with the SPD and LP in respect of the general presumption against extending basements beyond the footprint of the existing property, on the evidence before me, I do not consider that the proposal would conflict with the aims of such policy documents which seek to preserve and enhance the character and appearance of areas and to ensure that unacceptable harm is not caused in respect of flooding, amenity and biodiversity matters. Furthermore, I have found that the proposal as a whole would have a neutral impact upon the character and appearance of the CA.
11. For the reasons outlined above, I conclude that the proposal would accord with the design and conservation aims of Policies BE1 of the Hammersmith and Fulham Core Strategy 2011; Policies DM A8, G3 and G7 of the LP and Policies 13 and 14 of the SPD. I have determined this appeal on its individual planning merits (including an assessment of the size of the rear garden and the extent of existing hard surfacing) and do not consider that there is a sustainable case for refusing planning permission on the basis that a precedent might be set for similar development.

Conditions

12. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance. The Council suggested a planning condition relating to the light well being no larger than shown on the approved drawings. This is not a necessary planning condition as such a proposal would amount to different development. The Council has enforcement powers to deal with unauthorised development.
13. Planning permission is granted subject to the standard three year time limit condition. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect.
14. In the interests of the character and appearance of the CA, planning conditions are necessary in respect of wooden window frames and the installation of a metal grille to the front light well. In the interests of the living conditions of the occupiers of neighbouring residential properties it is necessary to confine the additional accommodation to that which is ancillary to the primary use of the property as a dwelling house.

Conclusion

15. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: Drawing Nos 495/A/1.0000, 495/A/1.0001, 495/A/1.0003, 495/A/1.3004 and 495/A/1.1005.
- 3) The new windows at basement level to the front elevation shall be timber frame construction to match the existing windows in the elevations above.
- 4) No part of the basement approved shall be occupied or used until a metal grille is installed over the front light well flush with the surrounding ground area and thereafter the grille shall be permanently retained in place. At no time shall railings or any other vertical element be constructed around the front light well.
- 5) The enlargement of the basement accommodation hereby approved shall only be used in connection with, and ancillary to, the use of the residential dwelling at No 44 Micklethwaite Road. The basement accommodation shall not be occupied as a self contained flat that is separate and distinct from the dwelling at No 44 Micklethwaite Road.