
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: 21 September 2016

Appeal Ref: APP/X5990 /D/16/3153670
27 Bark Place, London W2 4AT

- 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 Arthur Ware against the decision of City of Westminster Council.
 - The application Ref 16/00736, dated 27 January 2016, was refused by notice dated 12 April 2016.
 - The development proposed is the reconfiguration of the front garden including part infill of front light well to form single storey residential extension connected to main dwelling house at lower ground level.
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Decision

1. The appeal is allowed and planning permission is granted for the reconfiguration of the front garden including part infill of front light well to form single storey residential extension connected to main dwelling house at lower ground level at 27 Bark Place, London W2 4AT in accordance with the terms of application Ref 16/3153670, dated 27 January 2016, subject to the attached schedule of conditions.

Main Issues

2. The main issues are the effect of the proposal upon biodiversity and whether or not the proposal would preserve or enhance the character or appearance of the Bayswater Conservation Area.

Reasons

3. The appeal property falls within a long terrace of properties in Bark Place and is a four storey mid terraced dwelling. It falls within the Bayswater Conservation Area (CA). The dwelling is different to others in this street in so far that almost all of the front of the house is down to lower ground level (a large light well) and with the only area at pavement level leading up to the main entrance of the property at ground floor level. There is no soft landscaping associated with the front of the appeal property. This differs from other properties in this street which have well established bushes and trees abutting the pavement and then smaller light wells.
4. In general terms, there is some consistency in design amongst the long terrace of traditionally built houses on Bark Place. Such properties have attractive ground floor bay windows and first floor arched windows and the existence of

mature landscaping positively adds to the verdant character of the area. The landscaping in this street helps to soften the built up urban environment. Collectively the design of the properties, and the landscaping, give the street and this part of the CA its distinctive character.

5. It is proposed to partly infill the existing front light well with a single storey and flat roofed addition to the dwelling to form a study with WC/shower room. A layer of top soil (approximately 300 mm) is proposed above the study to create a "green roof". In addition, it is proposed to plant three boxwood trees running parallel with the pavement which would be maintained at a height of 1.4 metres. All hard standing areas to the front of the dwelling would be finished in sandstone pavements. As part of the appeal submission the appellant has commented that it would be possible to increase the amount of top soil to 550 mm as a result of increasing the concrete upstands surrounding the planting bed by 150 mm and dropping the ceiling height of the proposed study by 100mm. The appellant states that *"this would allow for a more intensive green roof solution (or similar) details of which could be secured by means of a planning condition in relation to hard and soft landscaping"*.
6. I note that there is a difference of opinion in respect of interpreting the Council's policies. The appellant considers that the proposal is an "infill" proposal and hence should not be considered against the basement policies referred to by the Council.
7. The "Basement Development in Westminster" Supplementary Planning Document 2014 (SPD) states that *"in the majority of cases, a minimum 1.0m soil plus 200mm drainage layer will provide sufficient soil volumes to support tree growth and health to maturity"*. In this case the proposed top soil would fall short of this requirement. However, I do not consider that one could reasonably conclude that the proposed study amounts to a basement as it would not be constructed underground. The SPD defines a basement as *"any excavation to form new or additional floorspace under the ground level of an existing property or within its curtilage and under its garden"*. Furthermore, and, in any event, even if one were to conclude that this policy is relevant and applicable, I consider that the following material planning considerations justify allowing the proposal.
8. Firstly, the appeal site uniquely includes a large and uncharacteristic existing light well. The proposal would seek to reduce the light well to a size that better reflects the scale of light wells in the rest of this street. This weighs in favour of allowing the proposal as it would ensure some design uniformity in the street-scene.
9. Secondly, there is currently a noticeable absence of any landscaping or "greenery" to the front of the appeal property. This detracts from the verdant character of the wider environment. The front of the property is hard landscaped and I consider that it is reasonable to conclude that in its current form it is very unlikely to be planted in the future. I have no reason to doubt the evidence submitted by the appellant who indicates that the front of this property has been in its current form for 33 years or more. Whilst the amount of top soil proposed would be relatively shallow, I do consider that it would have the potential to support at least grass (ie a "green roof") and that some small shrubs/plants would flourish. I do, however, agree with the Council that 300 mm of top soil would unlikely support larger trees. However, in context of

the character and appearance of the site now, there is undoubtedly an opportunity to “green up” the front of this property. At the very least this would include a green roof with the potential for some small bushes or trees to the front. The appellant has shown some small boxwood trees fronting the pavement. I do not consider that they would look out of place in the street-scene. Even if these did not survive within 300mm of top soil, there is no reason why they could not survive in planters.

10. I am satisfied that in principle the proposal provides a suitable opportunity to improve the appearance of this street and that there would be some biodiversity gain. The appellant has indicated that he would accept the imposition of a planning condition which would enable hard and soft landscaping details to be considered in greater detail. I note that this may even include the potential to increase the amount of top soil to 550 mm which would have the potential to support more planting. I consider that the imposition of a planning condition is necessary so that the Council can fully consider material samples in respect of the proposed hard landscaping, the exact depth of the top soil and more precise soft landscaping details (for example the “green roof”) including a consideration of final plant/tree/grass species and drainage/maintenance details. Subject to the imposition of such a planning condition, I am satisfied that overall the proposal would represent an improvement to the character and appearance of the area and that it would lead to some biodiversity enhancement. In respect of the latter issue, as there would be some enhancement the proposal would therefore accord with the biodiversity aims of Policy S38 of Westminster’s City Plan: Strategic Policies 2013 (City Plan)
11. For the reasons outlined above, and notwithstanding any possible conflict with the SPD in respect of top soil depth, I conclude that the proposal would lead to some biodiversity enhancement and the relative greening up of the front of this property. Both the greening up of the front of the property, coupled with a reduction in the size of the light well, would ensure that the appeal property was more aligned with the overall character and appearance of the street-scene. I acknowledge that the proposal would not facilitate the erection of large trees, but nonetheless it would allow for some greening up and hence this would represent an improvement on what exists now. In this regard, I consider that there would be a marginal enhancement to the character and appearance of the CA. Therefore, the proposal would accord with the collective design, biodiversity and conservation aims of Policies 5.10 and 7.19 of the London Plan 2016; Policy S38 of the City Plan; Policies DES 1, DES 9, ENV 4 and ENV 13 of the Unitary Development Plan 2007 and the National Planning Policy Framework.

Other Matters

12. I have considered the representations made by other interested parties. I note the concerns raised about setting a precedent. However, each application should be considered on its individual planning merits and in this case there are a number of unique characteristics associated with the appeal property which ensure that it stands apart from other dwellings in this street.
13. For the reasons outlined in the decision, I do not consider that the proposal would be unacceptable in design terms. In terms of structural issues, I have no reason to disagree with the Council’s Building Control service who is

satisfied with the method of underpinning. I acknowledge that it will be necessary for further details to be considered by the Council in terms of the effect of the proposal on adjacent properties, but these are matters which would need to be separately considered, and approved, under the Building Regulations.

14. None of the other matters raised outweigh my conclusions on the main issues.

Conditions

15. 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.

16. 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.

17. In the interests of the character and appearance of the CA, it is necessary to impose a materials condition. In the interests of the living conditions of the occupiers of the neighbouring residential properties, an hours of construction condition is necessary.

18. The appellant has agreed to the imposition of further planning conditions in respect of hard and soft landscaping details. In the interests of the character and appearance of the CA, I consider that it is necessary to impose such conditions so that the Council has sufficient control/details relating material samples, the green roof, planting, the exact depth and type of top soil, drainage and the future maintenance of the green roof/planting areas.

Conclusion

19. For the above reasons, 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: Site location and block plan; DWG-01-Existing Front Elevation; DWG-02- Proposed Front Elevation; DWG-03-Existing Upper Ground Floor Plan; DWG-04-Proposed Upper Ground Floor Plan; DWG-05 Existing and Proposed Lower Ground Floor Plans; DWG-06-Existing and Proposed Front Light Well Section and DWG-07-Existing and Proposed Front Light Well Section.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only: between 08.00 and 18.00 Monday to Friday; between 08.00 and 13.00 on Saturday; and not at all on Sundays, bank holidays and public holidays. You must carry out piling, excavation and demolition work only: between 08.00 and 18.00 Monday to Friday; and not at all on Saturdays, Sundays, bank holidays and public holidays. Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).
- 5) Notwithstanding the approved plans no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include a full specification for the green roof, planting within the green roof, the drainage of the green roof/planting areas and a sample of the sandstone paving to be used for hard standing areas. The development shall be carried out in accordance with approved hard and soft landscaping details.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees, plants or grass which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.