
Appeal Decision

Site visit made on 13 December 2016

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 13th January 2017

Appeal Ref: APP/H5390/D/16/3159745

50 Dewhurst Road, Hammersmith, London W14 0ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony Cotram against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/03076/FUL, dated 4 July 2016, was refused by notice dated 1 September 2016.
 - The development proposed is excavation of basement under enlarged footprint of house including under front garden and part of rear garden and also front and rear light wells.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In April 2016, planning permission¹ was granted for “the erection of a rear roof extension, increase in pitch of roof slope above back addition; erection of a single storey rear extension, to the side and rear of the existing back addition, excavation of the front and rear garden to form light wells in connection with the enlargement of the existing basement; installation of 2 no windows to replace the existing windows to the side of rear back addition and installation of French doors with Juliet balconies to replace the existing windows to the rear elevation at first and second floor levels; installation of two new windows to flank elevation” at the appeal property.
3. The application subject of this appeal sought consent for the excavation of the front garden and part of the rear garden in connection with the provision of a basement for the property. The extent of the excavation within both gardens would be in excess of that approved under the previous consent.
4. At the time of my site visit, building works were ongoing at the appeal site. Whether those works accorded with the appeal proposal or the previous consent was not evident from my observations. To that end, I have considered the appeal on the basis of the proposal contained in the plans which were before the Council.

Main Issues

5. The main issues are:

¹ 2016/00244/FUL

- Whether the proposal would preserve or enhance the character or appearance of the Lakeside/Sinclair/Blythe Road Conservation Area, including its effect on protected trees.
- The effect of the proposal on the risk of flooding in the area.

Reasons

Conservation Area

6. The Lakeside/Sinclair/Blythe Road Conservation Area (LSBRCA) is predominately characterised by residential properties set in tightly knit patterns of terraced streets. As such there is little visibility of private garden areas from within the public realm. Front gardens are generally shallow, hard-surfaced yards bound by low walls with incidental landscaping. Several properties have light wells to the front which expose basement areas. The character of the streets is augmented by several mature trees which line the pavements. To that end, the significance of the LSBRCA largely derives from the prevailing pattern of leafy and verdant avenues of terraced housing.
7. The appeal site is a two-storey, end-terraced property on Dewhurst Road. Like the majority of properties in the area it has a shallow front garden. There is a mature Crab-apple tree within the pavement to the front of the property which, along with the several other mature trees that line Dewhurst Road, contributes positively to the character and appearance of the area. The tree is afforded statutory protection under Section 211 of the Act by virtue of its location within a conservation area.
8. The proposal would result in the excavation of the entire front garden and around 13m² of the rear garden. The basement would extend around 4m beyond the approved rear extension. As with the approved scheme, light wells would be incorporated both to the front and rear. Design Policy 13 of the Council's Planning Guidance Supplementary Planning Document 2013 (PGSPD) advises that the creation of basement accommodation in existing dwellings beyond the footprint of the property will generally be resisted.
9. The proposed excavations would be within the canopy of the Crab-apple tree to the front of the property. The tree is located towards the edge of the pavement adjacent to the road and is close to the boundary between the appeal site and 52 Dewhurst Road. The appellant indicates that the tree displays signs of rot and die-back. However, I have been provided with no substantive evidence to demonstrate that is the case.
10. Furthermore, no assessment has been provided to assess the impact of the proposed excavation of the front garden on the health and long term survival of the tree. Indeed, given the size of the tree and its proximity to the front yard, it seems to me likely that there would be the potential for the roots of the tree to be affected by the excavation of the front garden. In the absence of any evidence to the contrary, I consider it reasonable to determine that the proposed excavation of the front garden would likely threaten the health and longevity of the tree. Consequently, the potential damage to or loss of the tree would have a harmful effect on the character and appearance of the area.
11. The appellant suggests that a condition could be imposed to require the submission of an arboricultural report prior to the commencement of the excavation works. However, there is limited information about the impact of

the development on the tree and whilst protection measures could potentially be the subject of an appropriate condition, given the close proximity of the proposed works to the tree, there would be a need to establish whether it would be adversely affected by the proposal before such a condition could reasonably be imposed. Indeed, it would not be reasonable to rely on a condition to secure a tree survey as its findings might not be capable of influencing the design, potentially resulting in uncontrolled impacts.

12. Whilst I recognise that the proposal would remove the potential for part of the rear garden to be planted with trees or vegetation, a significant proportion of the rear garden would nevertheless remain. Moreover, the basement to the rear would not be visible from any particular public vantage points and views of the light well would be limited to oblique angles from surrounding properties. The presence of an enlarged basement to the rear would not therefore be readily apparent.
13. I was unable to ascertain the current condition of the front garden due to the ongoing building works, however, it is indicated that entire front garden was previously hard surfaced, except for a planting bed behind the front wall. I have no reason to conclude otherwise. As such, the proposal would not result in the significant loss of existing landscaping and the capacity of the front garden to accommodate planting would not be diminished.
14. Nevertheless, given my findings in respect of the Crab-apple tree to the front of the property, I conclude that the proposal would fail to preserve or enhance the character or appearance of the Lakeside/Sinclair/Blythe Road Conservation Area. Consequently, the proposal would conflict with Policy BE1 of the Hammersmith and Fulham Core Strategy 2011 (CS) which states that development should protect and enhance the character, appearance and setting of the borough's conservation area.
15. It would also conflict with Policy DM A8 of the Hammersmith and Fulham Development Management Policies Local Plan 2013 (DMLP) which states that new basement accommodation in existing dwellings will be permitted where there is no adverse impact on the historic environment, as well as Policies DM G7 and DM E4 of the DMLP which state that the Council will protect the character and appearance of conservation areas and seek to prevent the removal or mutilation of protected trees.

Flooding

16. The appeal site is partially located within Flood Zones 2 and 3. The Council indicates that the proposal would reduce the existing permeable surfacing and planting at the property – wholly in the front garden and partially to the rear. I recognise that this would potentially impede the permeability and water retaining abilities of those parts of the gardens above the basement excavation.
17. However, the front garden is currently hard surfaced. The proposal would not therefore result in a material reduction of permeable area to the front. Furthermore, the proposed plans indicate that the new basement to the rear would be constructed under an existing hard surface which is not permeable and that the area of hard surface in the rear garden would be only marginally increased. A significant proportion of garden would remain capable of absorbing surface run-off.

18. It is indicated the original application was accompanied by a Flood Risk assessment (FRA), however, I have not been provided with a copy. Nevertheless, there is no indication that any relevant statutory consultees have objected on flood risk grounds, nor is there any substantive evidence that the proposal would affect underground water flows. Indeed, I note that the Council's Environmental Policy Team has raised no objection to the excavation works. Consequently, on the evidence before me, I am satisfied that the proposal would not be likely to create unacceptable flood risks to the occupants of the appeal property or that it would increase flood risks to neighbouring properties.
19. I conclude, therefore, that the proposal would not be likely to have harmful effects on the risk of flooding in the area. To that end, the proposal would partially accord with Policy DM A8 of the DMLP in so far as it states that new basement accommodation will be permitted where it does not increase flood risk from any source. It would also accord with Policies CC1 and CC2 of the CS which state the development should contribute towards the adaption to climate change and minimise current and future flood risk.
20. It would also accord with Policy DM H3 of the DMLP which requires development to minimise current and future flood risk. Finally, it would accord with Sustainability Policy 2 of the PGSPD which requires appropriate consideration to be given to managing surface water drainage.

Other Matters

21. I note that basements have been granted planning permission and constructed at several properties on Dewhurst Road. However, I have limited detail of those cases and cannot, therefore, be sure they represent a direct comparison to the appeal property, or indeed that they raised any particular issues in respect of the effect of the proposal on trees.
22. In addition, I have considered the numerous appeals for similar developments elsewhere in the area submitted by the appellant. However, none of those appeals appear to have given rise to comparable issues regarding the effect of the proposed excavation of the front garden on the health and longevity of protected trees and the subsequent effect on the character and appearance of a conservation area. In any case, I have considered this appeal on its own merits.
23. I have considered the concerns of neighbouring residents regarding the potential damage that could be caused by the proposed excavations to the structural integrity of adjacent properties. However, given my findings in respect of the main issue, they do not lead me to any different overall conclusion.

Conclusions

24. Policy DM A8 of the DMLP states that new basement accommodation in existing dwellings will be permitted where: it does not extend beyond the footprint of the dwelling and any approved extension; where there is no adverse impact on the amenity of adjoining properties and on the local natural and historic environment; and, it does not increase flood risk from any source.
25. I have found the proposal would not increase the risk of flooding. Furthermore, there is no evidence that it would have an adverse impact on the amenity of

adjoining properties. Nevertheless, the proposed accommodation would extend beyond the footprint of the dwelling and I have found that it would fail to preserve the character or appearance of the Lakeside/Sinclair/Blythe Road Conservation Area. That is the prevailing consideration. Therefore, the proposal would conflict overall with Policy DM A8 of the DMLP and the development plan when taken as a whole.

26. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR