
Appeal Decision

Site visit made on 12 December 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 17th January 2017

Appeal Ref: APP/H5390/W/16/3159332
13 Aldbourne Road, London W12 0LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Ahmad Fakhri against the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/02733/FUL, is dated 22 March 2016.
 - The development proposed is the erection of a part one, part two storey plus basement single family dwelling in the rear garden and associated landscaping.
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Decision

1. The appeal is dismissed and planning permission for the erection of a part one, part two storey plus basement single family dwelling in the rear garden and associated landscaping is refused.

Main Issues

2. Based upon the submitted evidence, I consider that the main issues are:
 - (a) The effect of the proposed development upon the character and appearance of the area;
 - (b) Whether the appeal proposal would provide acceptable living conditions for future occupants of the proposed development with particular regard to external amenity space, and the effect of the appeal proposal upon the living conditions of the occupants of neighbouring residential properties at 13 and 15 Aldbourne Road and 2 Sedgeford Road with particular regard to outlook, light and noise and disturbance; and
 - (c) The effect of the proposed development upon trees and biodiversity.

Reasons

Character and appearance

3. The appeal site is located at the corner of Aldbourne Road and Sedgeford Road, within a residential area largely comprising rows of 2 storey terraced houses which are laid out in perimeter blocks. At the corner-turn of each street there are spaces between the rear and flank elevations of the respective terraces, affording views into the green space formed by the back gardens in the centre of the perimeter block. Street trees lining Sedgeford Road and Aldbourne Road provide further visual relief to the uniform built environment of the terraces.
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4. The proposed dwelling would be located in the back garden of the house at 13 Aldbourne Road, positioned to the south of 2 Sedgeford Road. The existing back garden of No 13 is not as long as others in the terrace because there is an electricity sub-station located between the northern boundary of the garden and the southern boundary of No 2. This brick built flat roofed building is fairly typical in scale and siting to a number of outbuildings at the end of gardens in the vicinity. The proposed dwelling would be sited adjacent to the sub-station.
5. The dwelling would be of a similar footprint to the neighbouring houses and would occupy a significant proportion of the fairly modest back garden of No 13, thereby eroding the characteristic spacing between buildings at the corner-turns and restricting views into the centre of the perimeter block. It would step forward of the strong front building line along the eastern side of Sedgeford Road, which is formed by the terrace to the north, and so would be highly prominent in views along the street from both the north and south.
6. Although the proposed dwelling would be lower than the ridgeline of its neighbours, it would nevertheless be a full 2 storeys, finishing higher than the eaves of the closet return at the rear of No 13 and broadly in line with the top of the first floor windows of No 2. The dwelling would be around the same width as neighbouring houses. Due to its height and width, the appeal proposal would not appear subservient to neighbouring houses. Furthermore, the proposed development would be substantially higher and wider than the adjacent sub-station and outbuildings on Aldbourne Road, Old Oak Road and Sedgeford Road, and the large element of glazing in the front elevation and imposing form of the mono-pitched roof would not reflect the simple unobtrusive design of these other structures.
7. The proposed materials would be appropriate to the context, and the sedum roof would soften the built form to some degree. Details relating to the design of the proposed glazed lantern and sedum roof could be secured by condition.
8. However, overall, by reason of its siting, scale, form and detailed design, the proposed dwelling would fail to respect the established development pattern and building line of the surrounding area and would appear as a disproportionate, excessively dominant and incongruous feature in the street.
9. For the reasons set out above, I conclude that the proposed development would have a harmful effect upon the character and appearance of the area. As such, the appeal proposal would not accord with the design aims of Policies BE1 and H3 of the Hammersmith and Fulham Core Strategy (Core Strategy), Policies DM A9 and DM G1 of the Hammersmith and Fulham Development Management Local Plan (DMLP) and Policies 3.4 and 3.5 of the London Plan.
10. Although the Council has referred to paragraph 53 of the National Planning Policy Framework (the Framework), I do not consider it to be directly relevant to the appeal proposal because it relates to policy making in respect of inappropriate development of residential gardens, rather than to decision taking. Accordingly, I have not had regard to it on this occasion.

Living conditions

11. The appeal proposal would create a 3 bedroomed family dwelling. The Hammersmith and Fulham Planning Guidance Supplementary Planning

- Document (SPD) requires, in Housing Policy 1, that every new family dwelling should have access to amenity or garden space of not less than 36m².
12. There would be 3 separate areas of external space around the proposed dwelling. To the front, at ground floor level, there would be an area largely taken up with a path to the front door, bin stores and cycle parking. There would also be a small basement courtyard to the front, with access from the 2 bedrooms proposed at this level. A back garden is proposed at ground floor level to the rear which, due to its siting adjacent to the living space, would be likely to serve as the main external amenity space.
 13. This back garden would be very small, at less than 6m². It would be flanked to the west and south by the rear elevation of the proposed dwelling and to the east and north by fairly high boundaries, and would be located entirely beneath the canopy of the maple tree in the garden of 15 Aldbourne Road.
 14. The appellant makes the case that the appeal proposal would exceed the requirements for private open space set out in the Mayor of London's Housing Supplementary Planning Guidance. However, it would fall substantially short of the amenity space requirement for family homes set out in the Council's SPD Housing Policy 1. Furthermore, the limited private garden space that would be provided would be constrained by structures and significantly overshadowed by the adjacent tree.
 15. For the reasons set out above, I conclude that the appeal proposal would not provide acceptable living conditions for future occupants of the proposed development with particular regard to external amenity space. As such, it would fail to accord with the amenity protection aims of Policy DM A9 of the DMLP and SPD Housing Policy 1. The Council has also referred to Policy DM G1 of the DMLP. However, this relates to the design of new development and its compatibility with existing development and so is not directly relevant to the issue of amenity space. I have therefore not had regard to it in this instance.
 16. Turning to the effect of the appeal proposal upon the living conditions of the occupants of neighbouring residential properties, the proposed dwelling would adjoin the boundary with the gardens of Nos 13 and 15 and would be located near the boundary with No 2. As shown on the submitted drawings, the development would protrude above a line drawn at 45 degrees from the boundary of all 3 of these neighbouring properties, contrary to the provisions of SPD Housing Policy 8(i). During my site visit I noted that many of No 2's ground and first floor habitable rooms only have windows on the side elevation. The proposed development would be situated in very close proximity to these windows, and also to the rear facing windows at Nos 13 and 15.
 17. Although it is proposed that the north and east elevations of the dwelling would be set back slightly at first floor level, the overall height and bulk of the development would be far greater than existing outbuildings in the area or than what could be built as permitted development. It would therefore give rise to a greater sense of enclosure within the back gardens of Nos 13 and 15 and would have a dominant and overbearing effect upon outlook from Nos 13 and 15 and from No 2.
 18. Based upon the evidence before me, although the appeal proposal would result in some loss of sunlight and daylight to neighbouring properties, the adjacent houses and gardens would continue to receive an adequate amount of light.

19. The outdoor amenity space to the rear of the proposed dwelling would be located very near to habitable room windows and the courtyard to the side of No 2. The proposed garden would be no nearer to No 2 than the existing garden of No 15. However, because of the constrained nature of the proposed site layout, activity would be concentrated in this small external area, whereas activity within the back garden of No 15 is likely to be more dispersed. This concentration of activity and close proximity to No 2 would be likely to result in noise and disturbance to the occupants of the neighbouring property.
20. For the reasons given above, I conclude that the appeal proposal would have a harmful effect upon the living conditions of the occupants of neighbouring residential properties at Nos 13 and 15 and No 2 with particular regard to outlook, and to the occupants of No 2 with particular regard to noise and disturbance. As such, the proposed development would not accord with the design and amenity protection aims of Policies BE1, CC4 and H3 of the Core Strategy, Policies DM A9, DM G1 and DM H9 of the DMLP, Policy 3.5 of the London Plan and SPD Housing Policy 8(i). The Council has also made reference to paragraph 53 of the Framework however, for the reasons set out earlier I have not had regard to it on this occasion.

Trees and biodiversity

21. The 2 mature lime trees in the footway that bounds the west of the appeal site and the early mature maple tree in the back garden of No 15 make a positive contribution to the landscape value of the site and surrounding area, and are likely to contribute to biodiversity.
22. The appeal proposal includes a basement level, so significant excavation would be required. As set out in the arboricultural impact assessment report, trial pit excavations have demonstrated that there are no significant roots from the street trees within the site and, although one significant root from the maple tree would be affected by the proposed development, the submitted evidence suggests that this is not likely to affect the viability of the tree. Subject to appropriate tree protection measures, the primary impacts of the proposed development upon the trees would therefore appear to be low.
23. However, the entire rear external amenity space and the window serving the kitchen and dining area of the proposed dwelling would be situated beneath the canopy of the maple, and the windows serving the living space and the main first floor bedroom would be immediately to the east of the lime trees. The resultant shading would be likely to lead to pressure from future occupants of the dwelling for these trees to be pruned or felled. I therefore consider that the probable secondary impacts of the proposed development upon the adjacent trees, and consequently the landscape value and biodiversity of the site and surrounding area, would be likely to be significant.
24. Although it is proposed to demolish the existing side and rear extensions to the main house, the appeal proposal would nevertheless result in a greater proportion of the site being developed. However, the proposed incorporation of sedum roofs would minimise any effects on biodiversity arising from the loss of this garden space.
25. Overall, for the reasons set out above, I conclude that the proposed development would be likely to result in harm to adjacent trees and would therefore have a harmful effect upon the landscape value and biodiversity of

the appeal site and surrounding area. As such, it would not accord with the landscape and biodiversity protection and enhancement aims of Core Strategy Policy BE1 and Policies DM G1 and DM E4 of the DMLP.

Other matters

26. Examples of other residential schemes in the surrounding area have been brought to my attention, although I am not aware of the full planning history of these schemes. During my site visit I observed that a 2 storey dwelling is under construction to the rear of 46 Aldbourne Road. However, that development appears to be located within a longer back garden than the appeal proposal would be, and it is seen in the context of the large block of flats adjacent to the site. It would therefore seem that the circumstances of that scheme are not directly comparable with the appeal proposal. In any event I must determine the appeal on its own merits.

Conclusion

27. The appeal proposal would result in the creation of an additional family home, in line with the policy aim to boost significantly the supply of housing set out in paragraph 47 of the Framework, and reiterated in the London Plan and the Core Strategy. The development would be located near to shops, services and public transport links. In these ways, the scheme would make a positive contribution to the economic and social roles set out in paragraph 7 of the Framework.
28. However, for the reasons set out above, the proposed development would not achieve high quality design, would not contribute to conserving and enhancing the natural environment and would not secure a good standard of amenity for all existing and future occupants, contrary to the core planning principles set out in paragraph 17 of the Framework. As a result, the appeal proposal would fail to protect and enhance the natural and built environment, as required by the environmental role set out in paragraph 7 of the Framework.
29. The three dimensions of sustainable development are mutually dependent, and I consider that the conflict with the environmental dimension would outweigh the positive contributions the appeal proposal would make towards the economic and social dimensions through the provision of an additional dwelling in an accessible location. As such, the proposal would not constitute sustainable development when assessed against the policies contained within the Framework as a whole.
30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

C L Humphrey

INSPECTOR