
Appeal Decision

Site visit made on 28 March 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 20 April 2017

Appeal Ref: APP/H5390/W/16/3166365

Flat 1, Hamlet Court, Hamlet Gardens, London W6 0SY

- 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 Miss Lucy Stewart against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/03350/FUL, dated 13 July 2016, was refused by a notice dated 14 October 2016.
 - The development proposed is to replace existing living room window with French door/windows (in the same style).
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Decision

1. The appeal is allowed and planning permission is granted for replacement of existing living room window with French door/windows (in the same style) at Flat 1, Hamlet Court, Hamlet Gardens, London W6 0SY in accordance with the terms of the application, Ref 2016/03350/FUL, dated 13 July 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Scale 1:1250; Proposed French Door & Side Windows, Scanda Window and Door Services Ltd; Existing and Proposed Front Elevation for New French Window, Flat 1, Scale 1:50; and Floorplan, Flat 1.
 - 3) The development hereby permitted shall not commence until details, including samples of any new materials to be used, glazing bar sections and casement arrangements for the French doors/windows have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Main Issue

2. The main issue with this case is the effect on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

3. The appeal premises is a basement flat with a paved front garden area enclosed by a retaining boundary wall. It is positioned below street level and
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the only access currently available to this garden area is through the flat's front living room window.

4. I understand that by providing direct access to the front garden, its use as an external amenity area is likely to intensify; however, its existing use as a front garden would not change. Despite the current difficulty in accessing this garden area, there is no reason why it cannot currently be utilised as an area for sitting out. Moreover, this appeal case is not for a change in the use of this land.
5. I noted on my site visit that the front garden areas of neighbouring properties have direct access to them, and are currently utilised for sitting out. I recognise that those front entrance gardens are communal; however they are relatively private due to frontage planting and have the same relationship to adjoining residential occupiers as the appeal premises. There is no evidence that their use causes harm to the living conditions of adjoining residents.
6. I have had regard to the size of the front garden and its position below street level which gives it an enclosed feel. However, it is clearly open to views from the street and is not therefore a private space which is likely to be used for large gatherings. Moreover, the relationship between this garden area and adjoining residents is a common relationship in flatted developments both at the front and the rear of properties. Indeed, the appeal premise also has access to a private rear yard which is similarly located close to adjoining residents. Consequently, the creation of a new doorway to provide access to the existing front garden would not result in significant noise and disturbance to neighbouring residents.
7. I conclude that the proposed development would not cause harm to the living conditions of neighbouring residents, with particular regard to noise and disturbance. I therefore find no conflict with the development plan, and in particular policies DM A9, DM G3, DM H9 and DM H11 of the London Borough of Hammersmith & Fulham Development Management Local Plan, 2013 which seek, amongst other things, to ensure that new development does not result in undue detriment to the general amenities enjoyed by existing surrounding occupiers of their properties, including by any material increase in noise generating development and should take into account good neighbourliness. I do not find conflict with Housing Policy 8 of Hammersmith & Fulham's Planning Guidance Supplementary Planning Document, July 2013 as this appeal does not relate to the creation of a roof terrace or balcony.

Other Matters

8. I have regard to objections from third parties which relate to matters of ownership and rights to utilise the appeal site. However, these are private legal rights which are not a matter for my consideration.
9. The site lies within Westcroft Square Conservation Area. I note that the Council did not raise any objections to the design of the proposed French door/window, nor do they consider that the proposal would cause harm to the character or appearance of the Conservation Area. I see no reason to disagree.

10. In reaching this conclusion I have applied the statutory test set out at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Conditions

11. The Council has suggested a number of conditions which I have considered against advice in the National Planning Policy Framework and Planning Practice Guide. As a result I amended and amalgamated some for clarity, and to avoid repetition.
12. I have imposed a condition specifying the approved plans as this provides certainty.
13. A pre-commencement condition is necessary to require details of any new materials to be used to be agreed, to preserve the character and appearance of the Conservation Area.

Conclusion

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

Elizabeth Pleasant

INSPECTOR