

Appeal Decision

Site visit made on 25 April 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 3 May 2017

Appeal Ref: APP/N5090/W/17/3167172

Land to the east of 14 Hadley Highstone, Dury Road to Great North Road, Barnet EN5 4PU

- 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 Yllis Alla against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/3947/FUL, dated 15 June 2016, was refused by notice dated 26 September 2016.
 - The development proposed is the construction of a detached three bedroom house comprising part basement, ground floor and attic storey in roof space.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of application drawing P-101 Rev B was submitted with the appellant's final comments. It does not alter the proposal, but corrects an error in the originally submitted version of the drawing relating to the positioning of a yew tree on the basement plan. The Council was given an opportunity to comment on the revised drawing but did not respond. Since the revised plan does no more than correct an error, I consider that it would not prejudice the interests of anyone concerned with the appeal to take it into account.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character and appearance of the Monken Hadley Conservation Area, including its effect on the protected Yew tree within the site;
 - whether the proposal would offer satisfactory living conditions of future occupiers with particular regard to natural light and airflow in the proposed basement accommodation;
 - the effect of the proposal on the living conditions of the occupiers of 18 Hadley Highstone and 8 Mill Corner with regard to outlook and privacy and 14 and 16 Hadley Highstone with regard to outlook.
-

Reasons

Character and Appearance

Conservation Area

4. The Conservation Area is extensive and appeal site is located towards its northern end. Here Hadley Highstone is lined by, primarily residential, buildings with a range of age and styles. Most have two storeys although there are occasional examples of one and a half properties. Development behind the frontage buildings in Mill Corner, although less formally sited, is arranged around the cul de sac. This pleasing juxtaposition and mix of buildings contributes to the heritage significance of the Conservation Area.
5. The appeal site is located off of a private drive to the rear of the two storey semi-detached dwelling at No 14. Whilst the tarmac surfacing of the site is a minor visual detractor, its openness helps to maintain the distinction between the frontage buildings and those to the rear. The yew tree, which is visible from Hadley Highstone, as well as being an attractive example in its own right, also helps to mark this distinction. Overall therefore, the appeal site makes a positive contribution to the significance of the heritage asset.
6. The proposed dwelling would take up most of the area of the main body of the site with only narrow spaces to its eastern, western and northern boundaries. As such, it would significantly close down the space between the rear of No 14 and 8 Mill Corner. No 14 has short rear garden and the proximity of the proposed building to its rear boundary would create a cramped and awkward relationship between the buildings. Furthermore, the proposed site layout, with the new building sited to the rear of the frontage property and accessed from a private drive, is not characteristic of the area. I note that the Inspector who considered an earlier appeal for a slightly smaller commercial building on the appeal site¹ came to a similar conclusion.
7. As a dwelling, the proposed building would be fairly modest in scale. Nevertheless, it would be too large to be seen as an ancillary building. Nor would its appearance or separate access and curtilage allow it to be viewed in that way. There is nothing to suggest that the appearance of the building would be objectionable. However, that does not overcome my concerns regarding the harmful effects of the scale, siting and layout of the proposal on the significance of the Conservation Area.

Yew Tree

8. The yew tree within the site is subject to a Tree Preservation Order and I have already found that it contributes positively to the character of the Conservation Area. The tree has a crown spread of some 4m to the north and 3m to the west; the proposed building would fall within this spread. Although the proposed basement would be set back further from the tree, it would still intrude into the notional root protection area shown on revised drawing P-101 Rev B.
9. The proposal is supported by a Tree Report² and 'Response to LPA tree comments' dated April 2017. The Report notes that it is likely that the tree has

¹ Appeal reference APP/N5090/A/13/2204201

² Tretac December 2016

been root pruned to the east when the retaining wall on the appeal site's eastern boundary was constructed. It also considers that root pruning may have occurred when the site was tarmacked. The report also finds that the current health of the tree demonstrates that it is tolerant of root pruning and that most structural roots are generally within 2m of the base of the stem. However, there is no evidence that the actual root spread of this tree has been investigated.

10. The retaining wall, which is very close to the eastern side of the tree has, inevitably, affected root spread in that direction. Although the basement is further back, at ground floor level the proposed building would be less than 1m from the base of the tree. I recognise that the proposed removal of the tarmac surfacing would benefit the tree. Nevertheless, and notwithstanding the Arboricultural Method Statement set out in the Tretec Report, based on the evidence available, I am not convinced that the combined impacts of the existing retaining wall and the proposed building on the roots of the tree would be conducive to its long term health.
11. Moreover the crown of the tree would spread across the front elevation of the proposed building, extending over one window serving the ground floor bedroom and shadowing the other, for much of the morning at least. The tree would also be in close proximity to one of the first floor bedroom windows, again reducing the light reaching it. A tree this close to the building also has the potential to cause physical damage. As such, it would be reasonable to expect future occupiers to press for the tree to be removed or significantly lopped. Having regard to these considerations, I consider that the Council would find it difficult to resist that pressure, even though the tree is protected.
12. Overall, therefore, I find that it has not been adequately demonstrated that the proposal would allow for the long term retention of the yew tree, at least without a significant reduction in its size. The loss or significant reduction in the size of the tree would have a harmful effect on the character and appearance of the Conservation Area.
13. Consequently, I find that the proposal would not preserve or enhance the character and appearance of the Conservation Area. As such, it would conflict with Policies CS1 and CS5 of the Council's Core Strategy 2012 (CS) and Policies DM01 and DM06 of its Development Management Policies 2012 (DMP). Together, these policies require development to preserve or enhance local character, to respect the scale and pattern of surrounding buildings and spaces and to protect the significance of heritage assets. Nor would the proposal comply with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas, or National Planning Policy Framework (the Framework) paragraph 131, which has similar aims.

Living Conditions of Future Occupiers

14. The proposed basement would accommodate a kitchen/dining area, which is likely to be used for significant periods, as well as a utility/toilet. Natural light to the kitchen/dining area would be provided by a glazed slot in the ceiling running the full width of one end of the room. The appellant advises that the glazed area would equate to 14% of the floor area and that vertical lighting is more efficient than lighting from windows. However, no daylight or sunlight

assessment has been provided. Externally, the glazing would be positioned in the narrow space between the rear boundary wall of No 14, which is at least 2m high, and the flank wall of the proposed building. Given their height and proximity, these structures would shade the glazing for much of the day. Moreover, since the glazing would be located at one end of the kitchen/dining area, it would be unlikely to distribute light effectively to the other end of the room.

15. Consequently, I am not persuaded that the glazing would provide adequate natural light to the basement. I recognise that mechanical ventilation could be provided to serve the basement area. Nevertheless, I find that the proposal would not offer satisfactory living conditions for future occupiers with regard to natural light in the basement accommodation. As such, it would conflict with Policy DM01 of the DMP. Among other things, this policy requires proposals to allow adequate daylight and sunlight for potential occupiers. Nor would the proposal accord with the Council's Residential Design Guidance 2016 and Sustainable Design and Construction 2016 Supplementary Planning Documents to the extent that they have similar aims.
16. The third reason for refusal also refers to Policy CS5 of the CS. However, this policy is mainly concerned with matters of character and place making and adds little to my consideration of this issue.

Living Conditions of Neighbouring Occupiers

18 Hadley Highstone and 8 Mill Corner

17. Number 18 is a one and a half storey dwelling whose rear garden extends along the northern boundary of the appeal site. The proposed building would be sited a short distance from this boundary and its north elevation would have rooflights serving a bedroom and shower room. The height of the rooflights above the first floor level would allow occupiers standing in those rooms level and downward views out. Therefore, notwithstanding the somewhat constraining effect of the slope of the rooflights, short range views of the neighbouring garden would be available from these rooms. I consider that these views would result in a loss of privacy for the occupiers of No 18.
18. Given its location to the south of No 18, the appeal building would be visible in oblique views from the rear-facing windows of the neighbouring property. However, it would have little effect on direct views from those windows across the property's garden. As such, I find that the proposal would not have materially harmful effect on the outlook from No 18.
19. The two storey property at 8 Mill Corner is positioned at an angle to the north east of the appeal site. The elevation facing the site has two high-level first floor windows. They appear to be secondary windows in the rooms which they serve. Therefore, I consider that the proposed building would not have a harmful effect on the privacy or outlook of the occupiers of No 8.

14 and 16 Hadley Highstone

20. I have already referred to the limited depth of the rear garden of No 14. The same applies to No 16. Both properties have first floor windows which look across these gardens to the appeal site. The flank wall of the appeal building would be a short distance from the end of the gardens and directly opposite the windows. The Council's evidence, which has not been disputed by the

appellant, puts this flank wall at 6.2m wide and up to 6.7m high. However, the cited height is to the apex of the roof and the eaves level of the building is little more than single storey in height. Therefore, the views from the rear windows of Nos 14 and 16 would be of the sloping roof which, at first floor level, would be considerably less than 6.2m wide. Views from the windows are otherwise fairly open. Consequently, notwithstanding its proximity, I consider that the appeal building would have not an overbearing effect on the outlook from Nos 14 and 16 and would not, therefore, be detrimental to the living conditions of the occupiers.

21. Nevertheless, I find that the proposal would be detrimental to the living conditions of the occupiers of 18 Hadley Highstone with regard to privacy. As such, it would conflict with Policy DM01 of the DMP. Among other things, this policy requires proposals to allow adequate privacy for adjoining occupiers. Nor would it accord with the Council's Residential Design Guidance 2016 and Sustainable Design and Construction 2016 Supplementary Planning Documents to the extent that they have similar aims.
22. The fourth reason for refusal also refers to Policy CS5 of the CS. However, this policy is mainly concerned with matters of character and place making and adds little to my consideration of this issue.

Planning Balance and Conclusion

23. Framework paragraphs 7 and 8 require the social, economic and environmental roles of sustainability to be considered together. The proposal would make a limited, short term contribution to the economic role through the initial investment in the construction works.
24. Framework paragraph 47 seeks to boost the supply of housing and paragraph 17 favours the effective use of previously developed land. Nevertheless, the creation of a single dwelling would make a very limited contribution to the supply of housing in the area and, therefore, to the social role of sustainability. Moreover, there is no substantive evidence to suggest that the Council cannot demonstrate a five year supply of housing land.
25. I have also concluded that the development would be harmful to the character and appearance of the area and to the living conditions of future and neighbouring occupiers. In these regards, the proposal would have negative effects on the social and environmental roles of sustainability.
26. Overall therefore, I conclude that the proposal would not amount to sustainable development and so is not supported by the presumption in favour of sustainable development set out in Framework paragraph 14 and CS Policy CS NPPF. In terms of the assessment required by Framework paragraph 134, although the harm to the Conservation Area would be less than substantial, the public benefit of the proposal would not be sufficient to outweigh it.
27. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
28. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR