
Appeal Decision

Site visit made on 19 June 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/H5390/W/17/3171730

1 Effie Place, London SW6 1TA

- 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 Simon Jones against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2016/05082/FUL, dated 21 November 2016, was refused by notice dated 17 January 2017.
 - The development proposed is the erection of a front and rear roof extension; erection of rear extensions at lower ground, upper ground and first floor levels; excavation of the front garden and part of the rear garden to form lightwells, in connection with the creation of a basement and conversion of property to use as 1 x 1 bedroom and 2 x 2 bedroom self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a front and rear roof extension; erection of rear extensions at lower ground, upper ground and first floor levels; excavation of the front garden and part of the rear garden to form lightwells, in connection with the creation of a basement and conversion of property to use as 1 x 1 bedroom and 2 x 2 bedroom self-contained flats at 1 Effie Place, London SW6 1TA in accordance with the terms of the application, Ref 2016/05082/FUL, dated 21 November 2016 subject to the conditions in the schedule of this decision below.

Procedural Matters

2. In the banner heading above, I have used the description of development given on the Decision Notice in respect of the scheme as opposed to the form of words within the planning application form¹, as this more comprehensively captures the scope of the proposed development.
3. I have been supplied with an amended version of the proposed floor plans drawing (drawing no. /11 Rev A). The decision notice in respect of the scheme gives the drawing reference for this plan as "/11". However, the revision A drawing that I have been supplied with includes substantive amendments only in relation to the position of the bin storage², the proposed arrangements for

¹ Which is "The proposal, which is based on the previously approved scheme 2016/03172/FUL is to divide the dwelling into 3 no. flats. The basement and lower ground would comprise a duplex 2-bedroom flat, the upper ground a 1-bedroom flat, and the 1st and 2nd floor a further duplex 2-bedroom flat."

² Shown also on the elevation drawing no. /13 Rev A, which is listed on the Council's decision notice.

cycle parking and the annotation regarding the installation of a grille over the proposed lightwell. All of these aspects of the proposed development are referred to by the Council in its Officer Report and its suggested list of conditions and due to this I consider that no parties would be prejudiced by my consideration of the appeal on the basis of the content of this revised drawing.

Main Issue

4. The main issue in this appeal is whether the proposed development would result in the loss of family housing.

Reasons

5. Situated close to Fulham Broadway, in a street with a mix of residential, commercial, community and educational uses, the appeal building is one of a pair of brick-faced bay-fronted dwellings. The appeal property benefits from planning permission³ for a mansard roof extension with dormer windows to the front and rear, which would resemble the alterations of its attached neighbour; the construction of a basement level and associated lightwells; and extensions to the rear. At the time of my site visit, however, I saw that these alterations had not been progressed. Externally, the proposed development would be substantially the same as that previously permitted scheme. However, the proposed development seeks to convert the resultant building into three separate dwellings.
6. Policy DMA1 of Hammersmith and Fulham's Development Management Local Plan (the DM Plan) (adopted July 2013) seeks to manage conversion of smaller houses in the borough that provide a source of accommodation suitable for families. Amongst other criteria the policy permits conversion of existing dwellings into two or more units only where the net floor area of the original dwelling is more than 120 SqM.
7. I note that the original floor area of the appeal dwelling is disputed; the Council estimate it at around 103 SqM and the appellant's estimate is of around 112 SqM. On either of these measures it is clear that the original floor area of the appeal dwelling is below the 120 SqM threshold, and thus the proposed development would conflict with the relevant criterion of Policy DMA1.
8. However, I am mindful that previous extension of the appeal property carried out since 1947, but apparently in situ for some time, has increased its floor space to around 143 SqM, and that the permitted extensions would further increase the amount of floorspace at the property to around 230 SqM. Both of these figures are clearly in excess of the 120 SqM threshold given in the DM Plan.
9. Moreover, whilst I am aware of the Council's comment that the DM Plan defines a family dwelling as one having three or more bedrooms, I note that the supporting text of Policy DMA1 sets a requirement for at least 50% of proposed units in conversions to be of two or more bedrooms to allow for the possibility of accommodation to be provided for families. The proposed development would exceed this requirement through supplying a pair of two-bedroom units of around 90 SqM each, which would thus appear be of a size and type that the policy seeks to retain. Moreover, one of the proposed two-bedroom units would benefit from access to the appeal property's rear outdoor space.

³ Council reference 2016/03172/FUL approved 19 July 2016

Consequently, due to this mix of dwellings achieved by the proposed development, I consider that it would not lead to a harmful loss of family housing.

10. Accordingly, these considerations, taken together with the increase in housing supply that the appeal scheme would achieve, weigh in its favour to a considerable degree; and in this instance clearly outweigh the proposed development's conflict with Policy DMA1 of the DM Plan insofar as it seeks to avoid the conversion of smaller terraced houses suitable for families.

Other Matters

11. The appeal property is situated within the Barclay Road Conservation Area. I am therefore mindful of the duty arising from section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In this regard, I am conscious that the proposed development relates to largely internal amendments of a previously permitted scheme to facilitate its use as separate dwellings. Moreover, I consider that conditions relating to the materials palette to be employed in the external construction of the proposed development would ensure that it is sensitive to the character and appearance of its host property and wider surroundings. For these reasons, in respect of the duty arising under s.72 (1), I conclude that the proposed development would therefore preserve the character and appearance of the Conservation Area.
12. The proposed development would not materially increase the level of overlooking of the community building to its rear over and above either the existing windows present at the site, or those of the consented scheme. I consider that it would therefore not lead to any material harm to the workers or users of that adjacent building in this regard.
13. I note comments regarding existing pressure on the sewerage system within the environs of the appeal site. However, I have been supplied with no substantive evidence to suggest that the proposed development would exacerbate this situation to any material degree. Moreover, attachment of a condition relating to water efficiency to minimise water use and foul water flows could help to reduce additional pressure on the sewerage system and services more generally.
14. I have been supplied with a copy of a letter from the Council's building surveyor regarding site investigations and remedial measures in respect of structural matters affecting adjacent properties⁴. However, I have been supplied with no substantive evidence to suggest that the appeal scheme would lead to further structural problems, and in any event, this aspect of the proposed development would fall under the ambit of the Building Regulations and other statutory schemes outside of the Planning Acts. As a result this is not a matter that weighs heavily against the proposed development in planning terms.
15. Accordingly, these matters, taken together or individually, do not weigh against the proposed development to a material degree. As a consequence, they do not alter my conclusions in respect of the main issue given above.

⁴ London Borough of Hammersmith and Fulham Letter dated 24 July 2013

Conditions

16. I have assessed the list of conditions submitted by the Council against the tests given in paragraph 206 of the National Planning Policy Framework. This states that conditions should only be attached where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. Where I have attached conditions I have amended their wording in some cases in the interests of clarity and precision.
17. In the interests of certainty, I have attached a condition which specifies the approved plans. However, as the ridge height shown is clear from these I have not found it necessary to refer explicitly to this in the condition. Neither for these reasons have I found it necessary to attach a separate condition relating to the height of the party wall upstand above the roof plane. Similarly, given the clarity of the plans in this respect, I consider it unnecessary to attach a separate condition regarding the form and dimensions of the proposed lightwell.
18. I have attached several conditions relating to the materials to be employed in the external construction and fenestration of the proposed development to ensure that these details are sensitive to the character and appearance of their host building and the wider conservation area. For these reasons too, I have attached a condition restricting the fixture of plumbing, extract flues and pipes, other than rainwater goods, to the front and side elevations of the building. I have also attached a condition requiring installation of a grille over the front lightwell but restricting the erection of railings and vertical structures around it in the interests of the character of the property and wider streetscene.
19. I have no substantive evidence before me to suggest that it is necessary in this case, given the proposed use and scale of the extensions, to attach a condition restricting the inclusion of water tanks, water tank enclosures or other structures upon the roof.
20. In the interests of the residential amenity of the occupants of adjacent properties I have attached conditions concerning the detailing of the proposed Juliet balconies, which would prevent harmful privacy effects occurring as a result of these elements of the appeal scheme.
21. As further subdivision of the property would require planning consent, I have not found it necessary to attach a condition restricting the basement level accommodation from being occupied as a self-contained flat.
22. In order that the proposed development makes adequate arrangements for the storage of refuse in the interests of the character and appearance of the area, and the amenity of its occupants and those of surrounding buildings, I have attached a condition regarding the provision of storage for bins and recycling receptacles. However, as I have attached such a condition I consider it neither necessary nor reasonable to attach a further condition restricting the proposed development's occupants from storing rubbish and recycling receptacles on the pavement or street.
23. In order that the proposed development makes adequate arrangements for cycle parking and to promote alternative and sustainable forms of transport, I have attached a condition requiring the implementation of a cycle parking scheme prior to the first occupation of the proposed development.

24. The appeal property is in an accessible location, close to services and employment opportunities; and I note that the Officer Report on the scheme indicates that it is within an area with a 'very good' Public Transport Accessibility Level rating of 5. Moreover, it would lead to a net increase of two dwellings one of these with only one bedroom. These considerations, taken together with the provision of cycle parking at the appeal property lead me to the view that the proposed development would not lead to a significant increase in the demand for on street car parking at the site. In arriving at this view I am mindful that no substantive evidence has been produced suggesting a level of parking stress in the environs of the appeal property that would be exacerbated to a harmful degree by any modest increase in parking demand created by the proposed development. For these reasons, I have not found it necessary to attach the conditions that would restrict the availability of parking permits for occupants of the proposed development.
25. Given the proposed use of the appeal property as flats, the necessity of a restriction of the permitted development right to convert the property to a smaller house in multiple occupation has not been established. I have thus not attached a condition in this regard.
26. To ensure the development manages surface water run off in a sustainable manner, and that additional foul water flows are minimized I have attached a condition requiring water efficient fixtures, fittings and appliances. This is of necessity a pre-commencement condition to ensure that development progresses in line with the approved details.
27. I have been supplied with no substantive evidence to suggest that sound insulation measures above those required by the Building Regulations are required in this case, and as a consequence I have not attached a condition to this effect.

Conclusion

28. The appeal scheme would conflict with the development plan insofar as the policy that has been drawn to my attention is concerned. However, for the reasons given above, material considerations have been demonstrated that justify a departure from the requirements of that policy in this instance.
29. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

Schedule of 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; Proposed-Floor Plans drawing no. /11 Rev A; Proposed-Floor Plans drawing no. /12; Proposed-Elevations (Proposed East and West Elevations) drawing no. /13; Proposed-Elevations (Proposed North Elevation) drawing no. /13 Rev A; Proposed-Section drawing no. /15.
- 3) Where openings are to be formed in the external faces of the development hereby permitted, the parts of the structure above such openings shall be supported by brick arches or brick-faced lintels.
- 4) Any alterations to the elevations of the existing building occurring as a result of the development hereby permitted shall be carried out in materials that match those of the existing elevation to which the alterations relate.
- 5) Other than rain water pipes, no plumbing, extract flues or pipes required in connection with the development hereby approved shall be fixed to the front or side elevation of the building.
- 6) The flank wall, the party wall and the walls of the extensions at lower ground, first and second floor levels of the development hereby permitted shall be constructed and maintained in London stock brickwork to match the existing building.
- 7) The faces of the front and rear roof extensions hereby approved shall be clad in slates.
- 8) The windows in the development hereby permitted shall be of timber framed construction and painted white. The new windows in the flank wall of the building, and those in the rear elevation shall be of a sliding sash design. The windows in the front elevation of the basement extension hereby approved shall be of timber framed construction to match those elsewhere in the building's front elevation.
- 9) The doors to the Juliet balconies within the roof shall open inward only. The balustrades of the Juliet balconies shall be installed flush to the rear elevation.
- 10) No part of the extended basement shall be occupied or used until the proposed metal grille as shown on drawing no. /11 Rev A is installed over the approved front lightwell, and the grille shall be permanently retained in place. At no time shall railings or other vertical elements be constructed around the lightwell.
- 11) Alterations to the side boundary wall hereby approved shall be constructed in materials to match the existing building.
- 12) The development hereby approved shall not be occupied until the cycle parking arrangement as shown on drawing no. /11 Rev A is installed and permanently retained thereafter for such use.
- 13) The residential units hereby permitted shall not be occupied until the refuse storage arrangements have been installed as shown on drawing

nos. /11 Rev A and /13 Rev A and permanently retained thereafter for such use.

- 14) The development hereby permitted shall not commence until details of installing water efficient fixtures, fittings and appliances to help minimise water use and foul water flows in the new unit have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved details prior to occupation of the development hereby permitted, and thereafter permanently retained and maintained in line with the agreed plan.