



Appeal Decision

Site visit made on 13 February 2019

by Euan FS Pearson BA(Hons) BTP FRGS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2019

Appeal Ref: APP/H5390/W/18/3210767

Flat 6, 49-67 Fitz-George Avenue, London W14 0SZ

- 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 Orme Properties against the decision of London Borough of Hammersmith & Fulham.
 - The application Ref 2018/00682/FUL, dated 27 February 2018, was refused by notice dated 2 May 2018.
 - The development proposed is the creation of one self-contained 1 bedroom flat at lower ground floor level through change of use of existing basement storage area and excavating and enlarging the existing basement level and associated installation of new windows and doors; and erection of a bike store.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. These are whether: the proposed development would be at an unacceptable risk of flooding; the effect of the proposed development on the living conditions of existing and future occupiers; and whether satisfactory provision would be made for car parking.

Reasons

3. The appeal relates to part of the basement of a large Edwardian mansion block, one of a series, on the south side of Fitz-George Avenue within the Fitzgeorge and Fitzjames Conservation Area (FFCA). It is proposed to enlarge through the excavation the of basement and create a 1 bedroom flat with outdoor amenity space. This would involve the loss of a parking space between buildings.

Flood risk

4. The appeal site is located in an area at high risk of flooding, Zone 3 as it is defined by the Environment Agency. The National Planning Policy Framework 2019 (Framework) sets out a commitment to direct, by application of the Sequential test (ST), new development away from areas at risk of flooding and steer it towards those areas at lowest risk. In terms of the ST, as it is specific to the appeal scheme, it would not be possible to steer it towards an area at lowest risk since it would comprise an extension to an existing building.

5. The Framework however goes on to state that if it is not possible for development to be located in zones with a lower risk of flooding, the Exception Test (ET) may have to be applied depending on the vulnerability of the site. Planning Practice Guidance (PPG) identifies basement dwellings as highly vulnerable. For the ET to be passed, it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh flood risk; and the development will be safe for its lifetime, taking account of the vulnerability of users, without increasing flood risk elsewhere and, where possible, reduce risk overall. Both elements of the ET should be satisfied for development to be permitted.
6. I observed during my inspection of the basement evidence of moisture/damp on some parts of the floor. A Flood Risk Assessment has been submitted with the appeal. However, the assessment, dated 10 November 2017, only covers land on the north side of Fitz-George Avenue and is not specific to the appeal property. Further, the proposal would involve development below ground but no details of structural waterproofing measures or measures to protect against sewer flooding have been provided.
7. With the above in mind, both elements of the ET have not been satisfied and consequently, as per the Framework, the appeal scheme cannot be permitted. Therefore, it has not been demonstrated that the proposal would not be at an unacceptable risk of flooding and, consequently, would be contrary to policy CC3 of the Hammersmith and Fulham Local Plan 2018 (Local Plan) which requires an assessment of flood risk of the proposed development and, where appropriate, flood proofing measures to minimise risk.

Living Conditions

8. The size of the proposed flat would meet the minimum space standards for a 2 person, 1 bedroom unit. The double bedroom would satisfy the national standard and be of an appropriate size for this type of flat. Residents in this large mansion block share communal outdoor amenity space, as there are few balconies. Much of this space fronts the street. The proposed development would include private outside amenity space within a lightwell, accessed directly through living room French windows and bedroom doors. There would also be stairs up to the communal areas in addition to the principal access/egress into the shared stairwell. I consider that none of this would result in either cramped conditions or a sense of confinement.
9. Therefore, I conclude that the proposal would comply with paragraph 125 of the Framework; policy 3.5 of The London Plan (2016); and policies HO4 and HO11 of the Hammersmith and Fulham Local Plan 2018 (Local Plan), amongst which require residential development to be of the highest quality design internally and externally.
10. There is concern, shared by a number of residents, that the proposed development would impact on their living conditions by virtue of noise, other nuisance, and loss of privacy. This appears to stem from the creation of the amenity space within the lightwell.

11. The large mansion block has extensive areas of communal open space that seem, to me, capable of hosting organised social events. I observed evidence of smoking having taken place at the rear of the block where there are views into ground floor windows. The proposed lightwell is not a big area only about 2m wide thus restricting the level of use. Sound can reverberate resulting in noise fading slower. However, the proposed development would not involve any commercial activity and the outside space afforded to the unit would be of a similar scale to that which exists. I am therefore satisfied that, taking into account the high density urban environment the appeal site is located in, the proposed development would not materially alter the existing situation in terms of how neighbours will be affected.
12. Residents also raised the issue of disruption to daily life. Short lived construction impacts such as noise and dust, could be dealt with by condition requiring a Construction Management Plan to be agreed.
13. Therefore, I conclude that the proposal complies with policies DC4, DC11 and HO11 of the Local Plan amongst which seek to achieve a high standard of design in all proposed alterations or extensions to existing buildings, including basements and lightwells.

Parking

14. I observed that Fitz-George Avenue and neighbouring streets are within Controlled Parking Zone E. On street parking is not limited to permit holders and restrictions apply only part of the day. The Council's car parking standards require a 1-2 bed unit to have less than 1 space. The existing parking space, that would be lost, is located in a small gap between two building walls, and was not occupied at the time of my inspection. It was not clear to me if that space was allocated or for general use. Fitz-George Avenue is accessible by public transport, and with a PTAL rating of 6a, it would therefore not be unacceptable, in my view, for the appeal scheme to provide no off street parking. Therefore, I conclude that the proposal would comply with policy T4 of the Local Plan as that sets maximum parking standards but no minimum for residential development.

Other Matters

15. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is of considerable weight and importance. This is reflected in the Framework at paragraph 193 which states that great weight should be given to the asset's conservation irrespective of the degree of harm. Having regard to the above and the proposal involving below ground development, I conclude the proposal would preserve the character and appearance of the Fitzgeorge and Fitzjames Conservation Area.
16. I am aware that there are other proposals for basement development within this residential complex and the Council asks that the cumulative impact be considered. Residents have also expressed concern about setting a precedent. However, this proposal must be assessed on its own merits and it has.

17. Residents have raised concerns about the technical feasibility of the proposal including the possible effect on the foundations. These are matters for consideration by the building control authority on receipt of notification or full plans.
18. Other issues raised include questions of ownership, natural lighting levels, outlook and waste recycling. The granting of planning permission does not give an absolute right to undertake development, rights of owners are maintained. I observed from my site inspection that the basement is artificially lit. The proposal would introduce lightwells and windows/doors allowing light to reach new rooms in the proposed flat and that calculations demonstrate that satisfactory standards can be met. The outlook from windows/doors would be onto amenity areas which is not uncommon in this type of development. A system of communal waste management is currently operating and I am satisfied that the proposed development can be similarly serviced.

Conclusion

19. I have found the appeal scheme would not be harmful in terms of either the living conditions of existing or future occupiers and that the lack of parking provision would be acceptable. However, this lack of harm would not be sufficient in light of the fact that it would be at an unacceptable risk of flooding. This would result in conflict with both the Framework and the development plan, as I have identified. It is for this reason, taking into account all other matters raised, that the appeal is dismissed.

Euan FS Pearson

INSPECTOR