
Appeal Decision

Site visit made on 7 May 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2019

Appeal Ref: APP/H5390/W/18/3219527
13 Aldbourne Road, London W12 0LW

- 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 Ahmed Fakir against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2018/01439/FUL, dated 30 April 2018, was refused by notice dated 17 October 2018.
 - The development proposed is the demolition of the existing dwelling and erection of a new residential dwelling to provide three flats and amenity space and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal, the appellant has submitted plans omitting the proposed roof terrace. Whilst the Council has had the opportunity to comment on this amendment, I am conscious that interested parties commented on the planning application and I cannot be satisfied that they have had sufficient and fair opportunity to comment on the amended details. I have therefore considered the appeal on the basis of those details on which the Council based its decision, in order to avoid prejudice to the interested parties.

Main Issues

3. The main issues raised in this case are the effect of the proposal on:
 - the availability of on-street parking,
 - the character and appearance of the area, and
 - the living conditions of the occupiers of neighbouring properties, with particular regard to privacy, noise and disturbance.

Reasons

On-street parking

4. Policy T4 of the Hammersmith and Fulham Local Plan - 2018 (the Local Plan) requires car parking permit free measures on all new development unless evidence is provided to show that there is a significant lack of public transport available. The Council highlights in its officers' report that the site has a Public Transport Accessibility Level (PTAL) of 3 and that the Council will only consider issuing

permits for on-street parking in locations where the PTAL is 2 or lower. As such, there is no evidence of any lack of available public transport.

5. The site is located within a generally residential area where parking is provided on-street. The Council contends that it is necessary to prevent an increase in parking stress in the area. The appellant contends that the area does not suffer from parking stress, however I observed that at the time of my site visit (12:35), the majority of parking spaces were occupied and there were very few vacant spaces. I am conscious that this was in the middle of the day and the demand for parking spaces was likely to be even greater at the end of the working day and evening. In my view, the increase in number of units that would result from the scheme would exacerbate the demand for parking to an unacceptable degree.
6. In order to accord with Policy T4 of the Local Plan it would be necessary for there to be some form of control to prevent occupiers from obtaining parking permits. This is also necessary in order to safeguard against harm to the living conditions of occupiers of neighbouring residential properties, that would result from adding to parking demand and parking stress in the area. The Council has suggested conditions to ensure that the development is car-free.
7. Suggested condition 9 seeks to prevent occupiers of the additional units from applying to the Council for, or retaining if one is issued, a parking permit. It further seeks to instruct that if a permit is issued it shall be surrendered to the Council on written demand. The restrictions sought by the condition are on the acts of an individual person, and do not relate to the land or building. As such, as worded the condition takes an unreasonable approach to seeking to prevent the occupiers from applying for a permit.
8. Suggested condition 10 requires that there be no occupation of the basement and ground floor units until a scheme, ensuring that all occupiers of the units have no entitlement to parking permits and are informed of such a restriction prior to occupation, has been agreed. It is not clear what such a scheme would comprise, but I consider it likely that some form of legal agreement would be necessary in order to achieve this. I am conscious that the Planning Practice Guidance (PPG) makes it clear that the use of negatively worded conditions, requiring a planning obligation or other agreement to be entered into, should be confined to cases that involve more complex and strategically important development, where there is clear evidence that the delivery of the development would otherwise be at serious risk. Given that the scheme is for only two additional units, these circumstances do not apply in this instance.
9. I consider that in order to comply with the policy of the development plan and to safeguard against an adverse effect on neighbouring occupiers, that some form of control is needed to ensure that the development is car-free. However, I consider that the suggested conditions, are not appropriate mechanisms of securing such, notably as they fail to meet the requisite tests and are contrary to the guidance of the PPG. I also have no other means of control before me to ensure that the development would be car-free and no substantive evidence to demonstrate that the scheme would not result in unacceptable parking stress. Consequently, the scheme would fail to accord with Policy T4.

Character and appearance

10. The existing building comprises an end of terrace property, located along a residential street. The dwellings in the area are characterised by their two storey forms and front gardens along the highway, which create strong building lines.

There is a regularity to the street scenes, with little variation in the scale and massing of buildings.

11. The appeal scheme seeks the demolition of the existing dwelling and its replacement with a new building, that would contain three flats. The external appearance of the new building would, to a large extent, replicate that of the existing. The Council highlight that the houses within the terrace, of which the appeal building is part, display attractive detailing which includes mouldings above ground floor bay windows and corbels either side of front entrances. There is also reference to party wall upstands, front gables, timber and render detailing and chimneys. I note the presence of these features within the area and acknowledge that they contribute to a sense of consistency in the elevation treatment of existing properties in the area.
12. The submitted drawings do however show that these features would be replicated in the new building. Whilst I agree that some additional detail may be required in respect of the precise external materials, and this could be controlled by planning condition, based on the evidence before me, I am satisfied that the appearance and architectural detailing of the new building would satisfactorily replicate the existing building. Furthermore, it would not be out of keeping with the character and appearance of the existing residential properties in the area.
13. I further note that the new building is proposed to be constructed from yellow stock brick, whereas the existing building appears to utilise red stock brick. However, I note the use of yellow stock brick in the area, particularly in respect of the dwelling directly opposite the site on the junction of Aldbourne and Sedgeford Roads. This material would therefore not be alien in its context and would integrate appropriately with surrounding townscape features. I also note concern of the lack of any "aged" appearance to the new brick, however as the site does not lie within any conservation area, I do not consider that this would have any appreciable adverse effect.
14. The site benefits from a previously approved scheme¹ for extensions to the property. From the evidence before me, the appeal scheme would be similar to the approved scheme but would differ as now also proposed is the inclusion of a roof terrace to the side extension including two glazed doors, as well as an increase in the size of the rear lightwell. I note from the Council's Statement of Case that no objection is raised to the lightwell and given the location of this within the rear of the site where it would not be visible from public vantage points, I have no reason to reach a different conclusion.
15. Turning to the proposed roof terrace, this would be located above the side extension to the property, directly alongside the highway at first floor level. Whilst at an elevated position, the terrace would be enclosed by glass balustrading which would have a limited bulk and mass above the side extension. The balustrading would also be set back behind the front elevation. In my view, it would appear as a subservient element when viewed within the context of the building as a whole. Whilst I am not aware of any other examples of similar terraces within the area, I consider that the terrace, given its location on the side elevation, would not be a feature that would detract from the uniformity that is present in the frontage of the surrounding terraces. Thus, it would appear as an appropriate element attached to the building. Similarly, the two glazed doors providing access to the roof terrace are proportioned such that they would not be overly dominant features and would not be discordant elements.

¹ Council reference 2017/04222/FUL

16. Consequently, the scheme would not have an adverse effect on the character and appearance of the area and would accord with Policy DC2 of the Local Plan, which seeks to ensure development is of a high standard of design and compatible with the scale and character of existing development and its setting.

Living conditions

17. The Council's Officers Report, states that the terrace would be 17 metres (m) from the adjacent property of 11 Aldbourne Road. There is also a highway between the appeal site and this property. I note there was a side extension to 11 Aldbourne Road, with roof lights. However, whilst the terrace would be at an elevated position, given the intervening road and the separation distance, there would not, in my view, be any unacceptable effect on the privacy of occupiers through overlooking. The Council's Officers Report also states that there is 24m between the terrace and the boundary shared with 2 Sedgeford Road. Any views towards this property would be of the side and front elevation, which are in any event visible from the adjacent highway. As such, there would also be no unacceptable effect on the occupiers of this property.
18. The use of the terrace as an outdoor area would have the potential to result in some noise and disturbance. However, given its limited extent, it would not be likely to accommodate large numbers of people. Furthermore, the noise and disturbance that could result would be little different from that which could emanate from other nearby outdoor garden areas. As such, any noise or disturbance that may result from the use of the terrace would not be of such a degree as to materially reduce the living conditions of nearby occupiers.
19. Accordingly, the scheme would not have an unacceptable effect on the living conditions of the occupiers of neighbouring properties. The scheme would therefore accord with Policy CC11 of the Local Plan, which seeks to ensure that development does not materially increase the noise experienced by occupiers in the vicinity.

Conclusion

20. Whilst I have found that the scheme would be acceptable in respect of its effect on the character and appearance of the area and the living conditions of nearby occupiers, it would fail to ensure that there would not be unacceptable pressure on on-street parking in the area. This matter is decisive.
21. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR