



Appeal Decision

Site visit made on 17 July 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2019

Appeal Ref: APP/V5570/W/19/3228498

Garage and land rear of 87 Lady Margaret Road and 202 Brecknock Road, Islington, London N19 5ER

- 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 Steuart Padwick against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/2144/FUL dated 18 June 2018, was refused by notice dated 13 November 2018.
 - The development proposed is erection of a two-storey dwelling (two bedrooms) with basement levels plus associated private amenity space, refuse and cycle parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the appellant refers to a second application¹ he has submitted to the Council to address some of the previous reasons for refusal. The second application has been refused and the appellant has now lodged another appeal. The appeal for the second application will be dealt with separately. Therefore, I will not be considering it or the changes it makes to the proposed development in my decision.

Main Issues

3. The main issues are:
 - a) The effect of the proposed development on the character and appearance of the area,
 - b) Whether the proposed basement development is appropriate with regards to associated environmental effects,
 - c) Whether the proposal would provide acceptable living conditions to the basement habitable rooms for future occupiers, with particular regard to outlook and daylight,
 - d) The effect of the proposal on living conditions of the existing occupants of 87 Lady Margaret Road with regard to outlook, and
 - e) Whether the proposal makes adequate provision for any additional need for affordable housing and carbon offsetting arising from the development.

¹ LPA ref: P2019/1097/FUL

Reasons

Character and appearance

4. The appeal site is the former rear garden to 87 Lady Margaret Road, a three storey dwelling with lower ground floor located on the corner of Brecknock Road and Lady Margaret Road. As a result, the site forms a gap in the street scene. The site sits behind the tall boundary wall that runs along the side of 87 Lady Margaret Road. The site comprises a single garage fronting Lady Margaret Road, with metal double gates and space for parking one vehicle. Adjacent to the garage, and hidden from view, is a conservatory. Behind the two structures there is a small parcel of largely overgrown land. The site is surrounded by the 3-4 storey dwellings and gardens of properties on Brecknock Road and Lady Margaret Road.
5. The appeal also lies adjacent to, but contiguous with, the Tufnell Park Conservation Area (CA), a designated heritage asset. Whilst 87 Lady Margaret Road is just outside the CA, its design and style are similar to the nearby properties along Lady Margaret Road that lie within the CA. The area is predominantly residential comprising three and four storey spacious single and semi-detached villas and terraces, with a strong building line. It was built as part of the 19th century residential estate laid out by Lord Tufnell and there is a consistent pattern of design, layout and form, despite some variety of styles and detailing, that gives the area an attractive grandeur. Its significance is therefore both historic and architectural. The gap, boundary wall and the site's verdant nature as a 'former garden' positively contribute to the character and appearance of the wider street scene as well as the adjacent CA, of which it has an integral relationship.
6. The proposal is for the erection of a 2 bedroom detached dwelling of contemporary design with accommodation on four floors, three of which would be partially and totally underground. From Lady Margaret Road the dwelling would be read as a single storey flat-roofed structure projecting between approximately 1.3m – 1.6m above the boundary wall. From the rear, it would be read as two storey property, but partially subterranean. Below would be another two basement floors of accommodation. At entry level off Lady Margaret Road there would be an entrance hall, WC and kitchen/dining room that would lead onto a terrace with steps leading down to a small garden area. From the entrance hall stairs would lead down to the ground floor living room. Stairs would lead down to the basement level 1 that would have 2 en-suite bedrooms and a utility and the lowest basement 2 would have a studio room and the ground source heat pump and rainwater harvesting plant. A double storey lightwell would serve the rear of the dwelling. The building would be clad in handmade glazed tile and bronze metallic finish, whilst the part closest to the road and wall would be handmade bricks with glass brick headers. The property would have a green roof.
7. The proposed use of handmade bricks with glass brick headers, for the part of the dwelling that would be closest to the street, would contrast with the boundary wall. As the structure would protrude beyond the height of the wall, this contrast would be highly visible and create a discordant feature in the street scene. This would be counter to the Urban Design Guide Supplementary Planning Document (SPD) which advises that designs for gaps such as this, should appear as part of an existing front wall. The appellant's photomontage

- in his statement shows the contrasting materials that serves to highlight the incongruity. The contrast would be further exacerbated by the front part of the building that would be set right up to the wall and forward of the strong building line along Lady Margaret Road. Whilst materials could be conditioned, as could the replacement of the metal gates with solid wooden ones to create a more continuous line, these alone or in combination would not overcome other concerns.
8. The building would sit close to the site's boundaries and occupy most of the site, apart from a small garden and the lightwell. The lack of space around the dwelling would make the development appear cramped within its plot, which would be at odds with the prevailing pattern and spaciousness of the area. I find the massing and scale of extensions to neighbouring properties does not compare to the overall massing and scale of the proposed dwelling with its two basement levels and its extensive site coverage.
 9. Contemporary design can be successfully incorporated into historic streetscapes, as illustrated by some of the examples shown in the Council's Urban Design Guide SPD. I also note the appellant's photographs of examples of other contemporary dwellings, which he regards have already set a precedent, some of which are also within the Tufnell Park CA. However, I have not been represented with all the details or circumstances of each of these. Whilst there may be similarities and differences, I must consider the appeal proposal on its own merits.
 10. I find that the various elements of the proposal combined would result in a dwelling that would be out of keeping with the street scene. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA, which is a designated heritage asset. For the reasons above, I conclude the appeal proposal would fail to preserve or enhance the character or appearance of the CA and would harm the significance of the heritage asset. Where the harm to the heritage asset is less than substantial, paragraph 196 of the National Planning Policy Framework (the Framework) states that the harm should be weighed against the public benefits. Whilst there is likely to be some public benefit from the provision of an additional two-bedroom dwelling, this does not outweigh the harm I have identified.
 11. Accordingly, the proposal would conflict with Policies 7.4, 7.6 and 7.8 of the London Plan 2016 (LP), Policies CS8 and CS9 of the Core Strategy 2011(CS) and Policies DM2.1 and DM2.3 of the Development Management Policies 2013 (DMP). Collectively these seek to ensure development respects and responds to the streetscape and local character and that the borough's historic environment is protected and enhanced. It would also be in conflict with the Urban Design Guide SPD and Chapter 16 of the Framework which relates to the historic environment.

Basement development

12. The Council's Basement Development SPD (the 'Basement' SPD) advises that basements should not be more than one level beneath ground. This advice recognises the difficulties that can be encountered and created by excavating so deep, such as more excavated waste, longer construction times, reduced natural light and ventilation, increased chances of hitting groundwater and

more energy-intensive construction. There are also effects on biodiversity and landscaping as well as impacting on urban cooling and climate change. Furthermore, private gardens contribute to Islington's character, making up a significant proportion of the borough's open space and provide vital green infrastructure in a high density urban borough. The Basement SPD also requires that the amount of basement should be appropriate and proportionate to the site and context.

13. There may be situations where more than one basement level is deemed acceptable if the property has generous distances to surrounding properties and there is no significant impact on hydrogeology. There is no Council definition of 'generous distances' for this purpose, but the appellant considers the separation distances, which would range between 3.5 and 8m, would be generous.
14. From my site observations and from the proposed plans I do not regard the plot as spacious nor the distances to neighbouring properties 'generous' in this context to justify two basement levels, even taking into account higher density development often found in urban areas. Furthermore, the site is no longer part of the garden of the adjacent properties and therefore the site coverage by the proposed dwelling and its two basements, which also extend laterally in close proximity to the site's boundaries, must be assessed against the current site area. As such, I find the proposal to be excessive in scale and out of proportion to the plot.
15. I acknowledge that the proposed green roof and vegetated screens would provide some ecological habitat and biodiversity if planted appropriately, which could be conditioned. However, the loss of this area of private open space contributes to the borough's green infrastructure. The built form of the proposed dwelling and its basement would occupy most of the site area, extending in close proximity to the site's boundaries. This would leave a terrace, a lightwell and a small area of garden, but limited space for deep soil and meaningful landscaping. As such, the extent of proposed built development would have adverse effects on urban cooling, climate change, biodiversity and green infrastructure. The appellant's intentions to run his business from home and work towards zero carbon does not outweigh the environmental effects of building a two-level basement dwelling on the site.
16. Accordingly, the proposal would be in conflict with CS Policies CS10 and CS15, and DMP Policies DM6.3 and DM6.5. It would also be contrary to the advice in the Basement SPD. These seek to minimise the contribution new development makes to climate change and ensure that the borough develops in a way which respects environmental limits and improves quality of life, which includes avoiding loss of open space and maximising biodiversity benefits.

Living conditions for future residents

17. The two bedrooms on basement level 1 would be lit by light from a lightwell that would be circa 5.8m deep, approximately 8.7sqm and irregularly shaped. The Council regards the levels of natural light to these rooms would be poor. However, they are deemed to be acceptable overall taking into account that the rooms would meet the minimum average daylight factor based on assumptions that lighter reflective colours would be used on walls, ceilings and floor surfaces. The Council has not refused for this reason, but I concur that this weighs against the general unsuitability of the scheme.

18. The studio on the lower basement level 2 would have no natural light. The appellant refers to this being for his studio as part of his home and business and the room does not need windows, nor would it be a habitable room. As planning permission runs with the land, I must consider the planning merits of the case and therefore the needs of future occupants. I find it would be likely that the studio could be used as a habitable room by future occupants, such that its lack of natural light would create substandard accommodation.
19. The lightwell serving the two bedrooms would be formed by the high level boundary walls of the garden measuring up to 5.6m in height and the walls of the dwelling rising up some 7.4m. The height of the walls and their proximity to the bedroom windows would result in an oppressive sense of enclosure and limited sense of openness and would create an unsatisfactory outlook from the bedrooms for its occupants.
20. I accept that basement accommodation is not uncommon in London. But the proposed development would result in an unacceptably poor living environment and outlook that would be harmful to the living conditions of future occupants. Accordingly, the proposal would be contrary to London Plan Policy 3.5, the London Plan Housing SPG, CS Policy CS12, and DM Policies DM 2.1, DM2.2, DM3.4 and DM3.5. Collectively these seek to ensure, amongst other things, high quality development is enjoyable to use for everyone, with due consideration given to issues such as aspect, outlook from habitable rooms and light. The Council refers to Policy DM3.5. As this policy relates mainly to private outdoor space it is not directly relevant to this main issue.
21. The dwelling would generally meet the minimum space requirements with regards room sizes and storage. I note that some of the floor to ceiling heights and light levels to bedroom 2 fall short of the required standards, but the Council considers this to be marginal and not a factor to warrant refusal on its own. I have no reason to disagree, although it does count against the scheme overall.

Living conditions of occupiers of 87 Lady Margaret Road

22. The lower ground floor rooms of 87 Lady Margaret Road would be in close proximity to the boundary walls of the proposed dwelling. These would rise up beyond the existing boundary and the existing conservatory, despite some difference in ground levels. This would create an unneighbourly, dominant and overbearing effect that would create an unsatisfactory outlook for the occupants, even if the windows directly facing the proposed dwelling are not the only rooms serving the ground floor flat at No.87.
23. I therefore find the poor outlook that would be created would harm the living conditions of existing residents of 87 Lady Margaret Road. Accordingly, the proposal would conflict with LP Policy 7.6 and DMP Policy DM2.1 that seek, amongst other things, to ensure that development does not cause unacceptable harm to the amenity of surrounding users.
24. I note the appellant has tried to break up the views for residents and that light studies indicate there would not be a negative change. I acknowledge that there would be no windows to cause overlooking of the rooms or external open space of No.87. Existing views from the lower windows would be limited such that the proposed dwelling would not significantly alter that. Nonetheless,

these factors do not outweigh the harm to the poor outlook for existing occupiers.

Affordable housing and carbon offsetting

25. CS Policy CS12 part G requires housing schemes of less than 10 units to contribute towards the Council's small sites affordable housing contribution so that affordable housing can be provided elsewhere in the borough. The Council's Affordable Housing Small Sites Contributions SPD (the 'small sites' SPD) sets out the formula for calculating the contribution, which in this instance is £50,000. The appellant states that his submitted viability assessment (VA) demonstrates that the scheme was unviable and that payment was not possible. The Council sought independent verification of the appellant's VA from Adams Integra, who concluded that the scheme was viable and able to contribute the £50,000 towards affordable housing. As such, the appellant is required to enter into a written legal agreement with the Council to secure payment of £50,000. The fact that the main parties disagree on its findings is a matter for the parties to resolve. Therefore, based on the evidence, a financial contribution of £50,000 is required under CS Policy CS12 to ensure the continued provision of affordable housing on schemes deemed viable to contribute.
26. The appellant has made me aware that the VA undertaken and submitted for his second application has been accepted by the Council and the contribution is not required. However, the second scheme is not before me and does not form part of this appeal.
27. With regards carbon offsetting, CS Policy CS10 seeks to limit the borough's contribution to climate change. Amongst other things the policy seeks to promote 'zero carbon' development and in doing so requires development to offset all remaining CO₂ emissions associated with the building through a financial contribution, based on an established price per tonne of CO₂, set out in the Sustainable Design SPD, which forms part of the London Plan. However, the Council's delegated report and refusal reason specifically refer to an 'Environmental Design' SPD. It is not clear if these are separate documents, or the same document but incorrectly described. Also, CS Policy CS10 is not referred to in the reason for refusal. I take this to be an erroneous omission, considering the Council has specifically referred to it in its report for this matter. Nonetheless, the appellant has not agreed to pay the £1,000 contribution to offset the effect on CO₂ emissions.
28. Accordingly, the proposal would be in conflict with CS Policy CS12 part G (for the non-payment of the affordable housing small sites contribution) and CS Policy CS10 (for non-payment of the carbon offsetting contribution), whose aims are outlined above.

Other Matters

29. I acknowledge the appellant's concerns with the Council's handling of pre-application advice and the planning application. But in reaching my decision I have been concerned only with the planning merits of the case.
30. A number of nearby residents raise a series of other concerns about the proposal but in view of the reasons for refusal and my conclusions on the main issues there is no need for me to address these in the current decision.

31. The Council raises concerns in its Delegated report that the red line around the application site would exclude the existing parking space in front of the existing drive, but would still provide off-street parking contrary to policy. However, as this matter has not formed a reason for refusal and is not a main issue, I need not consider the matter further.

Conclusion

32. For the reasons set out above, having regard to all matters raised, I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR