



Appeal Decision

Site visit made on 27 August 2019

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th October 2019

Appeal Ref: APP/V5570/W/19/3230948

Garage and Land to the 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 P2019/0197/FUL, dated 14 January 2019, was refused by notice dated 15 May 2019.
 - The development proposed is erection of a two-storey dwelling (two bedrooms) with basement level plus associated private amenity space, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Steuart Padwick against the Council of the London Borough of Islington. This application is the subject of a separate Decision.

Procedural Matter

3. The appellant has made a separate appeal¹ against a previous refusal on this site. For the avoidance of doubt, I have determined the appeal before me strictly with regard to the evidence submitted with this appeal.

Main Issues

4. The main issues are the effect the proposed dwelling would have on:
 - the character and appearance of the site and surrounding area with particular reference to (i) whether the proposed development preserves or enhances the character or appearance of the Tufnell Park Conservation Area and (ii) whether the scale of the development has environmental effects;
 - the living conditions of the occupiers of No. 87 Lady Margaret Road, with particular regard to outlook and enclosure; and

¹ APP/V5570/W/19/3228498

- whether satisfactory living conditions would be provided for the future occupiers, with reference to room sizes, outlook, light and enclosure.

Reasons

Character and appearance

5. The appeal site is located on the western side of Lady Margaret Road, towards the junction with Brecknock Road and opposite the junction with Celia Road. It is situated between No. 87 and No. 89 Lady Margaret Road and was part of the rear gardens of No. 87 Lady Margaret Road and No. 202 Brecknock Road. The existing built form on the site consists of a boundary wall, a single storey garage and a conservatory, the rest of the site is left as a garden. The Tufnell Park Conservation Area (TPCA) borders the site, the edge of the TPCA runs along the boundary with No. 89 and the centre of the road outside the site.
6. The area surrounding the site is predominantly residential in character. Lady Margaret Road consists mainly of semi-detached properties of 3 and 4 storeys. The properties are slightly set back from the road with low brick boundary walls and shrubbery to the front. The area has a spacious and pleasant feel, with trees planted on the pavement along the road. The application proposes the construction of a 2 bedroom, detached dwelling, but would appear as single storey when viewed from the street. The site is overlooked from the surrounding residential properties in Brecknock Road, which are visible from Lady Margaret Road.
7. The open and green nature of the site makes a positive contribution to the character and appearance of the surrounding area, with views through to the rear gardens and the associated landscaping. The adjacent property No. 87 and the surrounding properties on Brecknock Road, although not within the conservation area, are similar in style and design to those within the TPCA. Whilst there are slight variations to the houses within the street, there is a consistent historic and architectural quality to the rhythm and pattern of the existing development, giving the area a special character.
8. Islington Urban Design Guide (2017) (UDG), sets out the Council's advice regarding end of terrace infill. Paragraph 5.143 describes the importance of gaps in the corner return of Victorian/Edwardian residential street layouts, stating that they are desirable to retain as they allow light and air in to the rear elevation and gardens of existing houses, and that by allowing a glimpse of the rear gardens, these gaps also provide a soft backdrop to the street. The proposal would fill a gap which currently exists and would cover some of the views into the rear gardens. I therefore consider this would be harmful to the existing character and appearance of the site and the surrounding area.
9. The appellant has provided examples of other infill developments within the borough that have previously been granted planning permission. Whilst, I have been provided with photographs, I do not have all the details of these other developments before me. In any event, development in other locations does not automatically mean this proposal before me is acceptable.
10. Whilst I note that the proposed development would be less visible than examples such as 44 Ecclesbourne Road, I must assess the scheme on its own individual merits. Therefore, I give these matters limited weight. I note the appellants suggestion that the existing gates could be replaced with gates of a

more aesthetically pleasing design by way of a planning condition. However, this area is excluded from the red line boundary in the application plans and there are no firm plans before me. Moreover, replacing the metal gates would not overcome the identified harm.

11. As the site is adjacent to the TPCA, it forms part of the setting of the Conservation Area. The Islington Conservation Area Design Guidelines: A supplement to the UDP, adopted January 2002, identifies that the TPCA is a historic area of some considerable quality. The significance of the TPCA is derived in part from historical and aesthetic values, which is characterised by residential properties.
12. The TPCA is largely made up of the Tufnell Park Estate, which was laid out during the 1860's and 1870's as a residential estate by Lord Tufnell. It consists mainly of spacious single and semi-detached villas and also terraces of three and four storeys, many of which were designed by Truefitt, then Surveyor to the estate. The special characteristics of the Conservation Area derive from the high architectural quality of the area, with its variety of styles, flamboyant use of different materials and decoration. The unusual relationship between houses of different styles and the variety of architectural details and materials used in the buildings gives the area a special quality.
13. As the property is located within the setting of the TPCA, which is a designated heritage asset, paragraphs 193 – 194 of the Framework advise that great weight should be given to a designated heritage asset's conservation, and that any harm to the significance, should require clear and convincing justification.
14. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The proposed dwelling would be contemporary in design and would add development to an area that is currently open, therefore, it would alter the existing rhythm on the street. The proposal would be higher than the front boundary wall and due to its location near to the junction with Brecknock Road, would be a prominent feature when arriving into this part of the TPCA. It would also be readily visible when arriving to the site from Celia Road, appearing as an incongruous feature, with blank expanses of brick visible. Although localised in its effect, I consider that this would result in harm to the designated heritage asset.
15. In terms of the scale and site coverage, the design of the building would occupy a considerable part of the site and would be out of keeping with the existing character of the area. There would be little space around the property and the nature of the design and site layout, would be in contrast to the surrounding properties, therefore I find harm in this regard.
16. There is dispute between the parties regarding what percentage of the original garden the basement covers. The Supplementary Planning Document: Basement Development (2016) (SPDBD) does not provide guidance on how to deal with land that has been separated into new ownership. However, it does provide guidance for residential infill development and states basements should be proportionate, subordinate to the above ground building element, and reflect the character of its surrounds. The proportion of the site that is built upon/under to the proportion unbuilt upon when compared with surrounding buildings is of particular importance to achieving a compatible scale of development on infill sites. The proposed design of the new dwelling due to the

restrictive nature of the site, seeks to provide a large part of the dwelling underground, therefore I do not consider that it is subordinate to the above ground building.

17. In terms of the environmental effects, the introduction of the proposed development on this site would remove the landscape that currently exists. The scale of the proposed dwelling would cover a large area of the site. Whilst I acknowledge that the introduction of a green roof and vegetation on the proposed louvre would offer some mitigation, I consider that the proposal would not provide adequate areas to compensate for the loss of the existing landscape. As such the proposed development would have a harmful effect on the landscape of the site, and also the drainage, cooling effect and biodiversity which the site currently offers.
18. The harm I have identified falls within the category of "less than substantial harm" to the significance of the heritage asset. Paragraph 196 of the National Planning Policy Framework states that where a development proposal will lead to less than substantial harm of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The public benefits of one additional dwelling do not outweigh the harm caused to either the character and appearance of the area or the character or appearance of the TPCA.
19. For the above reasons, I find that the proposal would harm the character and appearance of the site and surrounding area and the TPCA. Therefore the proposal would be contrary to Policies 7.4, 7.6 and 7.8 of the London Plan (2016) (LP), adopted March 2016, Policies CS8 and CS9 of the Islington Core Strategy (2011) (ICS), adopted February 2011, Policies DM2.1 and DM2.3 of the Islington Local Plan: Development Management Policies (2013) (DMP), adopted June 2013, and the guidance in the Supplementary Planning Document: Urban Design Guide (2017). These policies, amongst other things, seek to ensure that new development is high quality, incorporates inclusive design principles and make a positive contribution to the local character and distinctiveness of an area.
20. I also find that the scale of the development would have harmful environmental effects. Therefore, the proposal would be contrary to Policies CS10 and CS15 of the ICS (2011), Policies DM6.3 and DM6.5 of the DMP (2013), and the SPDBD (2016). These policies, amongst other things, seek development to protect, contribute and enhance the landscape of the site and surrounding area. As well as avoiding the loss of open space where there would be an impact on character and appearance, biodiversity, cooling effect and flood alleviation.

Living conditions of the occupiers of No. 87 Lady Margaret Road

21. As the appeal site was part of the former gardens of No. 87 Lady Margaret Road and no. 202 Brecknock Road it has a close relationship with these properties. Due to their lower ground floor extensions, the ground floor level of each of these properties have windows which face on to and are closer to the appeal site than the floors above. The proposal would be higher than the existing structures on the site and despite its set back nature it would also decrease the gap that currently exists between the existing structures. Due to its positioning and overall height, the proposal would appear oppressive and

would be overbearing. This would negatively impact the current outlook that both of these properties currently have, particularly for No. 87 giving a sense of enclosure.

22. The appellant has suggested that the basement level flats at No. 87 Road and No. 202 have been laterally converted to form a single flat. The Council has no planning records to indicate that this is the case and suggest that both flats still pay separate Council Tax. However, irrespective of the number of dwellings that exist on the site currently, I consider that No.87 would be negatively impacted by the proposal, I therefore find harm in this regard. The appellant has also stated that in the sales pack when he bought the appeal site, the occupier of No. 87 suggested having a wall higher than what is proposed. However, this is not the proposal that is before me and it would not make the current proposal acceptable.
23. For the above reasons, I find that the proposal would cause harm to the living conditions of the occupiers of No. 87 Lady Margaret Road with regard to outlook and enclosure. This would therefore be contrary to Policy 7.6 of the LP (2016) and Policy DM2.1 of the DMP (2013). These policies, amongst other things, seek to ensure that new development is of high quality and does not cause unacceptable harm to surrounding buildings.

Living conditions of future occupiers

24. Policy 3.5 of the LP (2016) sets out minimum overall flat size and space standards. The Council also sets out minimum room size standards in Policy DM3.4 of DMP (2013). The proposed dwelling would meet the overall floor and storage space requirements. However, both bedrooms would be 0.2 square metres smaller than the 12 square metres required for a double bedroom. I consider the bedroom size would be acceptable in this instance as they would only be marginally below the recommended size.
25. The proposed basement level of the dwelling would each have a floor to ceiling height of approximately 2.95m which would accord with the SPDBD. The entry and ground floor levels would have floor to ceiling heights of approximately 2.5m and 2.4m, respectively. This is smaller than the 2.6m required in the Development Management Policies 2013. However, given the marginal difference, I consider this to be acceptable.
26. In terms of outlook and light, the basement rooms would receive light via the lightwell at the north-western corner of the site. I note the appellant has provided a Daylight and Sunlight Assessment², in which it states that the Average Daylight Factors of the habitable rooms of the proposed dwelling exceed those recommended in BR 209 and BS 8206-2. However, it also states that the Annual Probable Sunlight Hours received by the main living room, would fall slightly below the recommended levels and that during the winter months the Kitchen/ Dining and living room drop below the 5% of annual probable sunlight hours in the winter months.
27. Given the site constraints in terms of size and overlooking the appellant has sought to overcome these with innovative solutions. However, I consider that

² Land to the rear of 87 Margaret Road London N19 5ER Daylight and Sunlight Assessment – Brooks Development (May 2018)

due to the limited area of the lightwell, together with the significant height of the surrounding walls, the proposed dwelling would provide an inadequate opportunity for outlook and would provide a sense of enclosure for the future occupiers. Whilst the louvre screening around the property would provide light and privacy for the future occupiers, as well as prevent overlooking for the surrounding properties, it would also create a sense of enclosure. The sense of enclosure would be exacerbated by the planting of vegetation and would also reduce the opportunities for light to reach the appeal site.

28. The Council has provided other appeals³ which were dismissed and had rooms which would be set behind high level walls and have restricted outlooks. I note that they are not directly comparable with the appeal site due to the other issues which were considered. However, it does provide examples where not having a meaningful outlook was an important factor in their dismissals. Although I have considered these other appeals, I have assessed the appeal before me on its own individual merits and circumstances.
29. For the above reasons, I find that the proposal would cause unsatisfactory living conditions for the future occupants with regard to room sizes, outlook, light and enclosure. The proposal would therefore be contrary to Policy 3.5 of the LP (2016), Policy CS12 of ICS (2011) and Policies DM2.1, DM2.2, DM3.4 and DM3.5 of the DMP (2013) and the Housing Supplementary Planning Guidance (2016). These policies and guidance, amongst other things, seek to ensure that new development is well-designed and provides high quality internal and external spaces.

Other Matters

30. It has been raised that the proposed development would impact on light and sunlight on a number of the surrounding properties. The Daylight and Sunlight Assessment⁴ concludes that the proposed development would cause only a slight reduction in both the annual probably sunlight hours and winter probable sunlight hours for a number of windows to the surrounding properties. Due to the scale of the reduction, it would be a minor, and the proposal would have a largely imperceptible impact on the sunlight received by the existing surrounding residential properties.
31. It has been raised that the construction of the basement would be detrimental to the foundations of the area and that the noise from the basement pumps would be excessive. However, I have no evidence before me to substantiate these claims, therefore they do not add to my reasons for dismissing the appeal.
32. I note the appellant's comments regarding the actions of the Council in its determination of previous planning applications. Dissatisfaction with the Council's procedural policies should appropriately be made in the first instance through the authority's own complaints procedure.
33. The appellant has also suggested that the proposal would tidy up the site and offer a more pleasing view. However, this does not outweigh the harm that I have identified above.

³ APP/V5570/W/19/3222956 Dismissed - 6 July 2019 and APP/V5570/W/19/3224055 Dismissed - 7 June 2019

⁴ Land to the rear of 87 Margaret Road London N19 5ER Daylight and Sunlight Assessment – Brooks Development (May 2018)

Conclusion

34. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

D Peppitt

INSPECTOR