The Planning Inspectorate

Appeal Decision

Site visit made on 16 September 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2019

Appeal Ref: APP/X5210/W/19/3232754
Flat 7, 8 Hampstead Hill Gardens, London NW3 2PL

- 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 Mark Cousins against the decision of the Council of the London Borough of Camden.
- The application Ref 2019/2293/P, dated 30 April 2019, was refused by notice dated 13 June 2019.
- The development proposed is the creation of a terrace at main roof level with associated glazed balustrade and roof access hatch.

Decision

1. The appeal is allowed and planning permission is granted for the creation of a terrace at main roof level with associated glazed balustrade and roof access hatch at Flat 7, 8 Hampstead Hill Gardens, London NW3 2PL in accordance with the terms of the application, Ref 2019/2293/P, dated 30 April 2019, subject to the following 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: HAMP001 Rev.A, HAMP002 Rev.A.

    3) No development shall commence until details of the materials to be used in the construction of the glazed balustrade hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Procedural Matter

2. The description of development above is taken from the appeal form rather than the original planning application form, as it more succinctly and accurately describes the proposed development.

Main Issue

3. The main issue is the effect of the proposed development on the host building and the Hampstead Conservation Area.

Reasons

4. The appeal site sits within the Hampstead Conservation Area (the Conservation Area). I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 194) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196).

5. The 2000 Hampstead Conservation Area Statement describes the Area's significance as deriving from, among other things, the large number of listed buildings of architectural interest. Hampstead Hill Gardens includes several stucco-faced semi-detached villas as well as substantial red brick houses, all of which make a strong positive contribution to the character of the Conservation Area and some of which are Listed. I note that the Council does not appear to consider that the proposed development would affect the setting of any of the Listed buildings close by, and I accept their judgement on that matter.

6. The appeal property is a flat occupying parts of the second and third floors of 8 Hampstead Hill Gardens. No 8 is a purpose-built block of flats, finished in brick and with strong vertical fenestration facing the street. The building is described in the Conservation Area Statement as making a neutral contribution to the area. The proposed development is the creation of a terrace with a glazed balustrade and an access hatch located towards the rear of the roof of No 8, to serve and accessed from Flat 7.

7. Policy D1 of the 2017 Camden Local Plan (CLP) and Policy DH1 of the 2018 Hampstead Neighbourhood Plan (HNP) seek to secure developments with high quality design which respects local character and context. Policy D2 of the CLP and Policy DH2 of the HNP seek to ensure that development proposals preserve or enhance the character or appearance of Conservation Areas.

8. The proposal complies with the advice set out in the 2019 Camden Planning Guidance 'Altering Your Home', which indicates that roof terraces should be set behind the roof's parapet, and that they should be located to the rear of the property. The glazed balustrade would be behind the building's parapet, set in by at least 1.2 m from the edge of the flat roof, and located towards the rear of the host building. Taken with the height of the building this would mean that the impact of the proposed terrace would be limited when viewed from the street. The visual impact of the roof terrace would also be limited by the topography and street trees. I acknowledge that No 8 is already taller than the prevailing pattern of development along the street, and the proposed development would increase this slightly, but the visual effect of the terrace would be reduced by the depth of the balustrading's setback from the parapet, as well as the fact that the proposed hatch access would not require a prominent rooftop extension. It would of course be visible from some neighbouring dwellings, but its limited scale, the choice of materials and the proposed hatch access arrangement would mean that it would not be significantly intrusive or detrimental to the appearance of either the host building or the wider area.

9. Overall therefore, I consider that the proposed development would not be harmful to the character or appearance of the Conservation Area, and would comply with the requirements of Policy D2 of the CLP and Policy DH2 of the HNP. It would also respect the character of its host building and the context of the wider surrounding area, and so would comply with the requirements of CLP Policy D1 and HNP Policy DH1.

Other matters

10. Interested parties have objected to the proposed development on the ground that it could lead to increased overlooking of neighbouring properties. In dealing with the application originally the Council indicated that in their view although the roof terrace would lead to a slight intensification of views over neighbouring rear gardens, this would be mitigated by the extent to which the balustrade would be set back from the edge of the host building. From the information available to me, and from what I was able to see at the time of visiting the site, I agree with that assessment and consider that there would be no significantly detrimental increase in overlooking of neighbours.

11. I note also that one interested party responded to support the proposed development, on the basis that it would create an outdoor space which the appellant could enjoy with his family. This would be a private benefit to the appellant rather than a public one, and I am mindful of the advice contained in national Planning Practice Guidance 'What is a material planning consideration?' that in general planning is concerned with land use in the public interest. It is therefore a factor to which I have been able to give very little weight, notwithstanding that I have determined the appeal in the appellant's favour.

Conditions

12. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Policy Guidance. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. I have also included a condition requiring the details of the glazing for the balustrade to be approved by the Council. This is required in order to protect the character and appearance of the host property and the Conservation Area. Given the small scale of the development it is necessarily a pre-commencement condition, and accordingly I note the appellant's acceptance of this in paragraph 3.1 of their Planning Statement submitted as part of their appeal documentation.

Conclusion

13. For the reasons given above I conclude that the appeal should be allowed.

M Cryan

Inspector