



Appeal Decision

Site visit made on 28 October 2019

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2019

Appeal Ref: APP/T5720/D/19/3232757

14 Highbury Road, Wimbledon Village, London SW19 7PR

- 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 & Mrs Gaj and Kathy Ragunathan against the decision of the Council of the London Borough of Merton.
 - The application Ref 18/P4442, dated 27 November 2018, was refused by notice dated 20 June 2019.
 - The development proposed is removal of contemporary garage extension at ground floor level together with new single storey rear extension, alteration to first floor balcony terrace and balustrade, second floor dormer windows to the rear, with basement beneath part of the garden.
-

Decision

1. The appeal is allowed and planning permission is granted for the removal of contemporary garage extension at ground floor level together with new single storey rear extension, alteration to first floor balcony terrace and balustrade, second floor dormer windows to the rear, with basement beneath part of the garden at 14 Highbury Road, Wimbledon Village, London SW19 7PR in accordance with the terms of the application, Ref 18/P4442, dated 27 November 2018 subject to the conditions contained in the schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr & Mrs Gaj and Kathy Ragunathan against the Council of the London Borough of Merton. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the development would preserve or enhance the character and appearance of the Wimbledon North Conservation Area (CA).

Reasons

4. The appeal site comprises a large two storey detached dwelling house with roof space accommodation, situated on the south side of Highbury Road in Wimbledon Village. The existing dwelling is designed in the Voysey style and dates from 1910 and is a Locally Listed Building. The application property is within the Wimbledon North Conservation Area (CA) that is characterised as

being a spacious and verdant residential area of various property styles. Its topography and the pleasant Wimbledon Park form key features of the CA. The surrounding area is predominantly made up of detached houses of various styles, many of which have been altered or extended.

5. The proposed development has a number of features, including the removal of the contemporary garage extension, a new single storey rear extension, alteration to first floor balcony terrace and balustrade, and second floor dormer windows to the rear. The Council raise no objection to these elements of the proposed development, and I have no reason to disagree with the Council's expressed views on them. I am satisfied that these parts of the development would preserve the character and appearance of the CA.
6. The point of contention between the main parties relates to the proposed basement beneath part of the rear garden. The basement level contains a swimming pool, cinema room and other leisure facilities. It is for purposes incidental to the enjoyment of the large dwelling, and therefore represents an extension to the existing dwelling. It would require excavation of part of the rear garden and following its construction 1m of soil would be reinstated to form a new garden. It would not be visible from the street-scene and its subterranean nature means that following development only minimal features would be visible.
7. The Council considers that the proposal would result in an overdevelopment of the site, being disproportionate to the size of the site and other properties in the local area. The Council's policy on basements states, amongst other things, that they should not exceed 50% of either the front, rear or side garden of the property and result in the unaffected garden being a usable single area. The Officer's report to the Planning Committee outlined that the proposed basement would cover 39.6% of the garden area. I do not find that this would amount to overdevelopment, taking into account the size of the appeal property and its gardens.
8. I find that the minimal amount of visible development that would be created following construction of the basement would not be visually harmful and would not harm, and thereby preserve, the appearance of the CA. On the matter of character, subterranean development, although for the most part not visible, can impact upon the character of a conservation area. In this instance, I find that as a landscaped rear garden would be reinstated, combined with the size of the development and that its use would be for the residential property to which it relates rather than a separate use, it would not harm, and thereby preserve, the character of the CA.
9. The construction phase of development within a CA can impact upon its character and appearance. In this instance I find that as the construction phase would be temporary and mainly confined to the rear of the property, it would not harm, and thereby preserve, the character and appearance of the CA.
10. In a previous appeal¹ at the site for a similar form of development to that currently proposed, the Inspector dismissed the appeal on the grounds that it would harm the living conditions of adjacent residents. The Inspector, however, considered that the proposals would preserve the character and appearance of the CA. Although I am not bound by the previous Inspectors findings and have

¹ APP/T5720/D/18/3209230

considered the appeal proposal on its own individual merits, the decision and its findings are a material consideration which I have given significant weight to and find no reason or evidence before me to form a different view.

11. I therefore conclude that the proposed development would not cause harm, and thereby preserve, the character and appearance of the CA. It would not result in overdevelopment or have a visually harmful impact on the local surroundings. The proposal therefore complies with Policies DM D2, DM D3 and DM D4 of the Sites and Policies Plan (Merton Local Plan) 2014, Policy CS14 of the London Borough of Merton Core Strategy (2011) and Policies 7.4 and 7.8 of the London Plan (2016). These policies require, amongst other things, that: development respects, reinforces and enhances the local character; alterations and extensions to existing buildings achieves high quality design and protection of amenity; that basement extensions, do not harm heritage assets or exceed 50% of either the front, rear or side garden of the property and result in the unaffected garden being a usable single area; and that development conserves historic assets.

Other Matters

12. A number of objections were received to the planning application from surrounding residents including the Belvedere Estates Residents Association and the Wimbledon Society. In addition to concerns relating to the effect of the development on the character and appearance of the CA, objections were received in relation to flooding, structural integrity, disturbance during construction, soil instability, noise from air conditioning units, lack of useable garden as a result of development, impact on underground hydrological features, possible future commercial uses, and loss of/impact on trees, hedges and biodiversity.
13. In relation to objections concerning the impact on trees and hedges, flooding, underground hydrological features, provision of a useable garden and disturbance during construction I consider that the imposition of appropriate planning conditions can suitably deal with these matters. Concerning objections regarding structural integrity, soil instability, noise from air conditioning units and impact on biodiversity, I have no evidence before me that would give me reason to consider the proposal to be unacceptable on this basis or which would lead me to disagree with the information submitted and the Council's consideration of these matters. In relation to concerns regarding possible future commercial uses, these would require a separate planning application and have little weight in the consideration of the appeal.
14. It has been suggested in representations that in the previous appeal decision, the Inspector was of the view that, due to a reduction in the size of the basement, the concerns of neighbours, The Wimbledon Society and The Belvedere Residents Association had been addressed. It is clear from the representations before me that the reduction in the size of the basement did not, and continues not to have, successfully addressed the concerns which were made on this and the previous application. These concerns cover a wide range of matters, particularly those of a technical nature. However, on the matter of character and appearance in relation to the CA, the Inspector concluded on the scheme as a whole, which they state would not be harmful. It is clear to me that the Inspector, taking the decision as a whole, did not

conclude on the issue simply due to thinking that the concerns which had been made had been addressed.

15. Notwithstanding the matters relating to the effect of the development on the CA in terms of character and appearance, the Council have not refused planning permission due to any of the issues raised through representation. For the reasons given above, I do not find them pertinent to the main issue in the appeal. I have had regard to all the matters raised in representations submitted with the planning application. None of the matters raised are considered sufficient to dismiss the appeal in view of my finding on the main issue.

Conditions

16. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty. The Council has suggested several conditions which I have considered against advice in the National Planning Policy Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
17. Conditions requiring the submission of facing materials and surfaces are necessary in the interests of character and appearance. This does not need to be prior to commencement of development, as prior to commencement of construction will be sufficient. A condition requiring the submission of details of boundary walls or fences is not necessary as none are shown on the proposed plans. A condition removing permitted development for windows and doors is not relevant to the development proposed and such a condition should only be imposed in exceptional circumstances that I do not consider exist in this instance. A condition to restrict the hours of construction is necessary in the interests of the living conditions of surrounding residents.
18. A condition requiring the submission of details of landscaping is necessary for the reinstatement of the garden, in the interest of character and appearance of the CA. This should be done prior to commencement to allow for the timely delivery of approved landscaping once the development is complete. A condition is required for the implementation of the landscape scheme following its approval. A condition requiring compliance with the tree protection measures is necessary to ensure protection of landscape features which are to be retained. It is necessary that tree protection measures are installed prior to commencement of development to ensure the protection of landscape features for the duration of the construction phase. A condition requiring the site supervision of tree protection is necessary to ensure the continued protection of landscape features that are to be retained, throughout the construction phase.
19. A condition requiring a Construction Management Plan is necessary to ensure the impacts of the construction phase are minimised on the local area. It is required prior to commencement to ensure that the measures are in place for the duration of the construction phase. A condition regarding surface water drainage is necessary to ensure that the development does not increase flooding or the risk of flooding. It is required prior to commencement to ensure that the measures are in place for the duration of construction or, where necessary, are built into the development.

Conclusion

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

A M Nilsson

INSPECTOR

Schedule of 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: Site Location Plan EX01, Existing Site Plan EX02, Existing Plans and Elevations EX03, Proposed Site Plan P01 Rev D, Proposed Basement and Ground Floor Plan P02 Rev E, Proposed First and Second Floor Plan P03 Rev A, Proposed Elevations P04 Rev B, Proposed Elevations P05 Rev A, Proposed Site Section P06 Rev B.
- 3) No construction shall take place until samples of all external facing and surface materials have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Demolition or construction (including excavation and pilling) works shall take place only between 0800 and 1800 on Monday to Friday, and 0800 to 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The details and measures for the protection of the existing retained trees as specified in the approved document 'BS 5837:2012 Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan' by ATS dated March 2018 including drawing titled 'Tree Protection Plan' with the filename 14 Highbury TPP.mpd shall be fully complied with. The protective fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be

altered, nor shall any excavation be made, without the prior written consent of the local planning authority. Other methods for the protection of the existing retained trees shall fully accord with all measures specified in the report and be retained and maintained until the completion of site works.

- 8) The details of the Arboricultural Method Statement and Tree Protection Plan shall include the retention of an arboricultural expert to monitor and report to the Local Planning Authority not less than fortnightly the status of all tree works and tree protection measures throughout the course of the site works. The works shall be carried out strictly in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) construction sequence of the development including any temporary works;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage, location and access of plant and materials used in constructing the development;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from excavation and construction works;
 - vii) the impact of construction works on drainage and hydrological features;
 - viii) the impact and monitoring of construction works on ground stability and structural integrity of adjacent buildings and highway structures;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) No development shall take until a scheme for the provision of surface water drainage has been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan Policy 5.13 and the advice contained within the National SuDS Standards. Where a sustainable drainage scheme is to be provided, the submitted details shall: i) provide information about the design storm period and intensity, the method employed to delay (attenuation provision of no less than 15m³ of storage) and control the rate of surface water discharged from the site to no greater than 5l/s and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; ii) include a timetable for its implementation; iii) include a CCTV survey of the existing surface water outfall and site wide drainage network to establish its condition is appropriate.