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## Appeal Decision

Site visit made on 4 November 2019

**by David Wyborn BSc(Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 December 2019**

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**Appeal Ref: APP/H5390/W/19/3235745**

**Hazel House, Sulgrave Road, London W6 7QF**

- 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 ASPECTSAVER Ltd against the decision of the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2019/00670/FUL, dated 5 March 2019, was refused by notice dated 1 May 2019.
  - The development proposed is the formation of a new self contained 1 bed, 1 person dwelling in roof space with new rear mansard roof and loft conversion involving raising of the ridge line and a rear roof terrace, inset into the roof slope over the rear wing.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellant has submitted revised plans at the appeal stage which seek to address the first reason for refusal. The plans show changes to the height and form of the roof extension. Annexe M of the "Procedural Guide – Planning Appeals – England" advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh application. The guidance indicates that if an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
3. I note that the appellant seeks to amend the scheme to that which is said to have been permitted elsewhere within the terrace and therefore argues that local residents would have been consulted on the other cases. However, a reasonable number of local residents have made detailed comments on the original scheme at this site.
4. While it may be thought that the changes are beneficial and of little overall significance, I am concerned that if I were to accept the revised plans that local residents may be prejudiced because they have focused their comments on the original submission. Having regard to the Wheatcroft Principles<sup>1</sup> I consider that the proposed amendments should not be considered and that the appeal has to be decided on the proposal as set out in the application and considered by the Council.

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

## **Main Issues**

5. The main issues are:

- the effect of the proposal on the character and appearance of the area, in particular whether the scheme would preserve or enhance the character or appearance of the Melrose Conservation Area, and
- whether the occupiers would have acceptable living conditions, having particular regard to the bedroom accommodation and its relationship to the layout of the flats below.

## **Reasons**

### *Character and appearance*

6. The Melrose Conservation Area (the CA) is significant because of the distinctive rows of uniform terrace properties, usually of 3 stories and with 2 storey front bay windows. The buildings date from about the late 19<sup>th</sup> century and are predominantly brick with slate roofs. A particular aspect of the character of the area derives from the long street scene views of the terraces and the general uniformity of the buildings within each terrace.
7. In examining the proposal, I am mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a Conservation Area.
8. Hazel House is one of a number of properties which form part of a larger terrace of 3 storey buildings within the CA. The properties form an attractive and virtually uniform group and make a positive contribution to the CA.
9. The front roof slope of Hazel House is visible within parts of the road, in particular in angled views from Sulgrave Road in areas broadly south east of the junction with Poplar Grove. As the terrace of buildings has such a virtually uniform appearance even minor changes would have the potential to detract from the distinctive appearance of the terrace. I am aware of other permissions<sup>2</sup> in this terrace that have been drawn to my attention and I have taken them into account. However, in this case the upstand at the ridge of the front roof slope would not be a characteristic feature of the other buildings or one that I am aware has been permitted elsewhere in this terrace.
10. I consider that the upstand would be perceptible within the street scene, and while only a minor addition it would be at odds with the character of the roof forms visible from the road within this terrace and it would raise the height above other ridges. In this way it would detract from the character and appearance of the frontage of Hazel House and in turn the terrace as a whole.
11. At the rear, the mansard roof would have a steep rake and the evidence indicates that this would be steeper than other rear roof additions that have been permitted to some other buildings within the terrace. While this rear elevation is not widely visible, it is still within the CA. Policy DC4 of the

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<sup>2</sup> In particular Applications 2007/00434/FUL, 2014/02692/FUL, 2014/02854/FUL, 2015/00344/FUL, 2015/04272/FUL, 2017/03247/FUL and 2018/01617/FUL. I have also taken into account the refusal of application 2015/05734 and the related appeal decision APP/H5390/W/16/3160276.

Hammersmith and Fulham Local Plan (February 2018) (the Local Plan) requires a high standard of design in all alterations and extensions to existing buildings so that they successfully integrate into the architectural design of the existing building. I am not satisfied that the almost vertical rear elevation of the mansard roof linked to the near flat roofed section of the roof would constitute good design within the CA in this case.

12. The combined effect of the proposal would be to cause minor harm to the character and appearance of the CA and therefore detract from the significance of this heritage asset. The harm to the CA would be less than substantial within the meaning of paragraph 196 of the National Planning Policy Framework (the Framework). In accordance with the Framework, this harm should be weighed against the public benefits of the proposal. The benefits of the scheme would be the provision of an additional unit of accommodation in a location that has very good access to services and facilities, and links to public transport. The proposal would use an already developed site in the form of an upward extension. However, as a single unit of accommodation would be provided the public benefits would be minor and afford limited weight.
13. The Framework advises that any harm to the significance of a heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal afford limited weight and therefore do not outweigh the harm to the CA and its significance, which although minor, in accordance with the Framework, is required to be attributed great weight.
14. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area and not preserve or enhance the character or appearance of the CA. It would therefore conflict with policies DC1, DC4 and DC8 of the Local Plan and Key Principle CAG3 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (2018) (the SPD) which seeks, amongst other things, that all development should create a high quality urban environment that respects and enhances its townscape context and heritage assets.

#### *Living conditions*

15. As submitted, the plan shows the main part of the proposed accommodation would be a single space that would combine a kitchen, living and bed area. As the bed area is shown at the other end of the open space from the kitchen the plan indicates that it would be over the living room of Flat 5 below. While it is accepted that it is not known with certainty that this lower floor has this layout, given all the information this seems a possible situation. In principle therefore the bed area would be stacked over the lower floor living room and this could give rise to noise disturbance when future occupiers may be trying to sleep.
16. Key Principle NN3 of the SPD requires, in summary, careful consideration should be given to stacking and the layout of rooms, and to ensure the amenity of occupiers is not adversely affected by noise, the Council will expect that all parts of adjoining dwellings to enhance the sound insulation.
17. At the appeal stage the appellant has submitted technical details and a report to seek to demonstrate that sound insulation could be incorporated between the floors that would meet the Building Regulations requirements in this

respect and would provide a satisfactory living environment. The Council has not submitted a statement to challenge this assertion at the appeal stage and therefore I attribute this evidence substantial weight.

18. I have noted the comments from the owner of Flat 6 that the terrace would be above the bedroom accommodation of this lower floor flat and that the use of the proposed terrace would cause disturbance. In any permission it would be possible to require sound insulation to the floor of the terrace. I also note the conclusions of the Inspector when he considered roof terraces in the appeal for Hazel House and 7 other properties<sup>3</sup> when he concluded that the use of terraces was unlikely to give rise to unacceptable noise and disturbance.
19. Based on the evidence before me, I conclude that in any permission a suitably worded condition could require sufficient sound insulation so as to provide acceptable living conditions for occupiers of the accommodation. In this regard the proposal would comply with Policy HO11 of the Local Plan and Key Principle NN3 of the SPD which seek, amongst other things, to provide housing that will meet the needs of future occupants and respect the principles of good neighbourliness.

### **Conclusion**

20. I have found on the evidence before me that subject to an appropriately worded condition in any approval that the living conditions of occupiers of the accommodation would be acceptable. This is, however, neutral in the considerations, rather than a benefit of the scheme. I have also found that the scheme would harm the character and appearance of the area, and in particular not preserve the character or appearance of the CA. The benefits of the scheme outlined above afford minor weight and do not outweigh the harm I have identified.
21. For the above reasons, and having regard to all other matters raised, the proposal would not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and the associated development plan conflict. I therefore conclude that the appeal should be dismissed.

*David Wyborn*

INSPECTOR

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<sup>3</sup> Appeal Ref APP/H5390/W/16/3160276