



Appeal Decision

Site visit made on 29 January 2020

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2020

Appeal Ref: APP/H5390/W/19/3240012

134A Percy Road, London W12 9QL

- 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 Wright against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/02186/FUL, dated 18 July 2019, was refused by notice dated 26 September 2019.
 - The development proposed was originally described as 'New build infill scheme housing a modern one bedroom contemporary dwelling on a brownfield derelict and vacant plot which currently represents an inefficient and dilapidated use of land.'
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Decision

1. The appeal is allowed, and planning permission is granted for infilling of the undercroft by the erection of a part single storey with a mezzanine floor level single family dwellinghouse in between Nos.134 and 132 Percy Road; excavation beneath the existing building and rear garden to create a lower ground floor and rear lightwell; associated landscaping at 134A Percy Road, London W12 9QL in accordance with the terms of the application, Ref 2019/02186/FUL dated 18 July 2019, subject to the conditions set out in the Schedule to this Decision.

Procedural Matter

2. The description of development set out in the banner heading above is taken from the application form. However, I note that the Council's decision notice and the appeal form describe the proposal as 'Infilling of the undercroft by the erection of a part single storey with a mezzanine floor level single family dwellinghouse in between Nos.134 and 132 Percy Road; excavation beneath the existing building and rear garden to create a lower ground floor and rear lightwell; associated landscaping'. This more fully and appropriately describes the proposed development, and so I have considered the appeal on that basis, since no party would be prejudiced or caused any injustice by my doing so.

Background and Main Issue

3. A previous appeal (Ref APP/H5390/W/18/3210780) for the erection of an infill dwelling at the appeal site was dismissed, with the Inspector finding that the one bedroom two person dwelling proposed in that case would be cramped and provide inadequate access, to the detriment of the living conditions of future occupants.

4. This appeal relates to an amended scheme which proposes a single bed space in the bedroom rather than the previous double bed space and has sought to address accessibility requirements. In determining the application, the Council concluded that the revisions satisfactorily address earlier concerns regarding access. Based on the evidence before me, I see no reason to take a different view.
5. The main issue is therefore whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of internal living space.

Reasons

6. The Government's 'Technical housing standards – nationally described space standard' (THS) sets out requirements for the gross internal floor area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, including bedrooms.
7. The proposed development is a one bedroom house, and the submitted plans clearly show a single bed space in the bedroom. The proposal would exceed the THS requirements for a one bedroom one person dwelling in all respects. As such, it would not be cramped or oppressive and would meet the reasonable needs and expectations of future occupants.
8. I note the Council's concerns regarding the potential for the dwelling to be occupied by two people, however I have no evidence that this is likely to occur. Whilst the dwelling would be fairly generous in terms of its overall size and layout, it would not be excessively so. Moreover, the THS are minima not maxima. On that basis, it would be unreasonable to withhold permission in this instance.
9. For the reasons set out above, I conclude that the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of internal living space. It would therefore accord with the housing quality and amenity protection aims of Policies HO4 and HO11 of the Hammersmith and Fulham Local Plan and the THS.

Conditions

10. The Council has suggested planning conditions which I have considered against paragraphs 54 and 55 of the National Planning Policy Framework and the Planning Practice Guidance (PPG). Where appropriate I have re-drafted and combined these suggested conditions to ensure they are precise and kept to a minimum.
11. In addition to the standard time limit, I have imposed a condition specifying the relevant drawings as this provides certainty. To protect the health of future occupants, I have imposed a condition relating to land contamination; it is necessary to secure this by way of a pre-commencement condition. Conditions relating to sound insulation and restricting the use of the development to a residential unit falling within Use Class C3 are necessary in the interests of the living conditions of future occupants of the development and neighbouring properties. I have imposed a condition relating to detailed drawings in order to ensure a high quality form of development.

12. In order to achieve well-designed places and promote healthy communities I have imposed conditions requiring the provision of refuse, recycling and cycle storage facilities. Whilst not set out in the Council's list of suggested conditions, these are referred to in the Council's delegated report and so their imposition will not come as a surprise to the parties.
13. The Council's suggested condition 3 refers to works to reduce the existing crossover on Thorpebank Road, and states 'The alterations shall be paid for by the developer, who will be required to enter into an agreement with the local highways authority under Section 278 of the Highways Act 1980.' The appeal site is located on Percy Road, and therefore this condition would not be relevant to the development permitted. Moreover, as set out in the PPG, 'a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases.' I have not been provided with evidence to demonstrate that exceptional circumstances exist to justify the imposition of this condition. Nor have I been provided with any evidence to demonstrate the Council's suggested conditions 5 or 6 are necessary. Therefore, I have not imposed these conditions.

Conclusion

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

CL Humphrey

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: 072-P-001, 072-P-005, 072-P-006, 072-P-007, 072-P-008, 072-P-009, 072-P-010 (all Rev A).
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 10 working days of the report being completed and approved in writing by the local planning authority.
- 4) Notwithstanding condition 2 no development shall take place above ground level until detailed drawings, at a scale of no less than 1:20, of the front and rear of the dwellinghouse in plan, section and elevation have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details prior to first occupation of the dwellinghouse hereby permitted and thereafter shall be retained and maintained in accordance with the approved details.
- 5) No development shall take place above ground level until details of a sound insulation scheme for the building envelope of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The sound insulation scheme shall be installed in accordance with the approved details prior to first occupation of the dwellinghouse hereby permitted and thereafter shall be retained and maintained in accordance with the approved details.
- 6) Notwithstanding condition 2 prior to first occupation of the dwellinghouse hereby permitted details of a refuse and recycling store shall have been submitted to and approved in writing by the local planning authority and the refuse and recycling store shall have been installed in accordance with the approved details. Thereafter the refuse and recycling store shall be retained and maintained in accordance with the approved details.

Contd.

- 7) Prior to first occupation of the dwellinghouse hereby permitted cycle storage shall have been installed in accordance with the approved plans. Thereafter the cycle storage shall be retained and maintained in accordance with the approved details.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the development hereby permitted shall only be used as a residential unit falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and not as a house in multiple occupation falling within Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

END OF SCHEDULE