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## Appeal Decision

Site visit made on 12 August 2020

**by L J O'Brien BA (Hons) MA MRTPI**

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

**Decision date: 22<sup>nd</sup> October 2020.**

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**Appeal Ref: APP/H5390/W/20/3251263**

**1A Ravenscourt Road, London W6 0UH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Hackner against the Council of the London Borough of Hammersmith & Fulham.
  - The application Ref 2019/03084/FUL, is dated 25 September 2019.
  - The development proposed is demolition of the existing single storey office building and erection of a replacement 2 storey office building (Class B1). Alterations to the front boundary treatment and installation of new gates to the front boundary wall; associated car and cycle parking.
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### Decision

1. The appeal is dismissed and planning permission is refused.

### Application for costs

2. An application for costs was made by Mr Hackner against the Council of the London Borough of Hammersmith and Fulham. This application is the subject of a separate Decision.

### Preliminary Matters and Main Issues

3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application for planning permission. The Council's concerns are that the proposal would cause significant harm to the living conditions of neighbouring occupiers and would also have significantly detrimental effects in terms of accessibility and inclusion. I have had regard to the Council's statement in framing the main issues.
4. Therefore, the main issues in this appeal are:
  - the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to outlook, light and privacy; and
  - whether or not the proposal would provide adequate access including for mobility impaired people.

## Reasons

### *Living conditions*

5. The application site is located on Ravenscourt Road, close to the junction with King Street. The site currently comprises a disused and somewhat dilapidated single storey building with surrounding courtyard/garden areas. Vehicular and pedestrian access is taken from Ravenscourt Road.
6. The site is bounded by other buildings on three sides; King Street on one side, the building known as the Polish Cultural Centre to the rear, and on the other side No 1 Ravenscourt Road. The Polish Centre is a large building which, due to its height and bulk, appears as a dominant feature which has an overbearing effect when viewed from neighbouring dwellings.
7. No 1 Ravenscourt Road (No 1) is a two-storey semi-detached dwelling with accommodation in the roof space. The garden area which serves this property is situated at the side of the dwelling, adjacent to the appeal site. A number of openings are sited on the elevation of the property which faces the appeal site. At ground floor level, these include the only window serving the kitchen, the windows serving the conservatory and a set of French doors which are the only opening serving a ground floor reception room which is currently in use as a bedroom and main living accommodation for one of the occupants of No 1. Several first floor windows also have an outlook from this side of the property.
8. The proposed building would be of a considerable size and height. The ground floor element would span almost the full width of the appeal site and would be sited in extremely close proximity to the boundary with No 1. Though the first floor and roof would be set in from the ground floor, it would, nevertheless, be close to, and visually prominent from, the openings in the side elevation and the only enclosed private garden space serving No 1.
9. The proximity, height, scale and massing of the proposed building would lead to it appearing as a visually intrusive and dominant form of development when viewed from a number of well used internal rooms and the garden area of No 1. This, combined with the effect of the Polish Centre, would result in an oppressive sense of enclosure for the occupiers of No 1. The harm to the living conditions of the occupiers of No 1 Ravenscourt Road in this respect would be significant.
10. The proposal would be sited south of No 1 and of a significant height and bulk. The proposal would, therefore, affect the direct sunlight to No 1 for a significant portion of the day throughout the year. This effect would be noticeable in the garden of No 1 as well as in the living spaces with windows looking onto the site. In my view, the impact would be particularly noticeable in the ground floor kitchen and reception room. The reception room is served by a single opening on the effected elevation and the kitchen receives its light from a window which faces the appeal site.
11. A Daylight and Sunlight Report was provided by the appellant in support of the appeal. This report suggests that the proposal would not cause undue harm to light levels at neighbouring properties. However, the Daylight and Sunlight Report would appear to be based on the same methodology as a report previously submitted in support of a similar, previous application and appeal<sup>1</sup>

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<sup>1</sup> APP/H5390/W/19/3233614

- on the site. The previous Inspector reached the view that the assessments could only be given very limited weight as there were some discrepancies within the evidence and a lack of clarity on certain points.
12. Similar discrepancies are present in the assessment submitted in support of the current appeal. The No-Sky Contour drawings show a single room labelled 'Ground R2' served by three windows (W17, W18 and W19), however, in reality this room is, in fact, two separate rooms; a kitchen and a reception room. Window W19 is the only opening serving the reception room. I accept that a degree of assumption as to the internal layouts may be necessary when such assessments are prepared. However, the previous Inspector stated his concerns with the assumptions which had been made previously and made clear that there were inconsistencies. In my view, therefore, it is not unreasonable to expect that such discrepancies would be addressed as part of any revised assessment. Indeed, within the statement of case, the appellant refers to making amendments based on the previous Inspector's decision, however, the assessment itself does not appear to have been altered.
  13. The previous Inspector also highlighted a concern regarding the consideration of the nature of the existing boundary treatments. The Daylight and Sunlight Report Explanatory Note dated 11 July 2019 was submitted as part of both appeals. This note states that the eastern part of the garden space belonging to No 1 Ravenscourt Road is heavily enclosed by the mature tree and boundary walls such that the 'real-world' amenity in this area is likely to be somewhat compromised. The Note, however, does not identify that the top section of the boundary is a section of permeable trellis thus ensuring that any reduction of light is minimal. Consequently, I share the view of the previous Inspector that it is unclear to what extent the nature of the boundary treatments, in respect of their impact on light, has been taken into account in the assessment. I therefore concur with the previous Inspector in giving only very limited weight to the Daylight and Sunlight report and the associated assessments.
  14. For the reasons set out above, I consider that the proposal would reduce the levels of light at No 1 to such an extent so as to cause harm to the living conditions at that property.
  15. The proposed building would have a small first floor roof terrace with glass balustrades facing the street. The building would also have a large window at first floor level in both side elevations. Due to the orientation of the buildings on site both the terrace and window facing No 1 would be positioned so as to allow views onto the front garden area of the property. In my view, this would not allow direct overlooking of any habitable room windows or of the enclosed, private garden space and would not cause harm in this respect.
  16. However, the proposal would also be next door to Nos 232 – 236 King Street (Nos 232 – 236). The side window and terrace on the side of the building facing King Street would allow direct overlooking of the properties along King Street and would have a strong adverse effect on the living conditions at those properties in this respect. I note the appellant's statement that the separation distance between the proposal and neighbouring dwellings would be within the guidelines set by the Council. Nevertheless, due to the nature of the proposal, in my view, the development would cause harm in this regard.
  17. I note the appellant's suggestion that the terrace could be removed by condition. However, I have not been provided with any details regarding the

practicalities of such a condition and, in any event, as I have found other harm further exploration of this is not necessary.

18. Furthermore, the proposal would appear as a large building which would dominate the outlook from Nos 232 – 236 King Street and, when combined with the effect of the existing nearby buildings, create a harmful sense of enclosure. Due to the location of these properties I do not consider that there would be any adverse effects on direct sunlight levels reaching Nos 232 – 236.
19. I therefore consider that the proposal would cause harm to the living conditions of the occupiers of No 1 Ravenscourt Road with particular regard to outlook and light and to the occupiers of Nos 232 – 236 King Street in respect of outlook and privacy. The proposal would, therefore, fail to comply with Policy DC1 and DC2 of the Hammersmith and Fulham Local Plan, February 2018 (LP). Amongst other things, these policies seek to ensure development within the borough creates a high quality urban environment and respects good neighbourliness and the principles of residential amenity.
20. The proposed development would also conflict with Policy 7.6 of the London Plan, March 2016 (London Plan). This policy encourages high quality design and states that buildings should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy and overshadowing amongst other things.
21. Key Principle HS6 of the Planning Guidance Supplementary Planning Document (SPD) sets out that any new development should not, as a general rule, result in an infringing angle of more than 45 degrees. There is some disagreement between the parties as to whether or not such an infringement would occur. However, the key principle is also clear that on-site judgement depending on the circumstances of the site and proposal will be considered in determining proposals. Irrespective of whether or not the proposal would infringe upon the 45 degree angle, my judgement on-site is that the proposal would create unacceptable conditions for adjoining occupiers and should be resisted in line with the aims of Key principle HS6.
22. The Council also make reference to Policy HO11 of the LP. However, in my reading, this policy is mainly concerned with new residential housing development. Similarly, the Council refer to Key principle HS7 of the SPD. This principle relates to residential extensions. This Policy and principle, therefore, cannot apply in my assessment of the scheme before me. However, this does not affect my overall finding on this main issue.

#### Access

23. The proposal would have an entrance from the street on Ravenscourt Road and an entrance from within the recessed courtyard. The appellant's statement suggests that the courtyard would accommodate an accessible disabled parking bay. No indication as to the precise placement within the courtyard or size of this parking bay has been provided.
24. The Courtyard is a fairly constrained area and the plans indicate that it would also contain refuse and cycle storage. In my view, based on the evidence before me, I cannot be certain that a disabled parking bay which would have the additional space to allow access for those with additional needs could be provided whilst also allowing unimpeded access to the doorway.

25. I note the appellant's suggestion that details of the disabled parking space could be secured by condition. However, I am not convinced that with the constraints shown on the submitted plans an adequately sized space could practically be accommodated and it would, therefore, not be appropriate to attach a condition in this case.
26. The proposal, therefore, would fail to provide adequate access including for mobility impaired people. As such, the development would fail to accord with Policies DC1 and DC2 of the LP and Policies 7.1 and 7.2 of the London Plan which seek accessible and inclusive design. Key principles DA1 and DA7 of the SPD which promote inclusive design and appropriate access to facilities would also not be met.
27. The Council additionally refer to Key principle DA6. However, my interpretation is that this principle relates to providing access to entrances to buildings which are above or below street level. This does not appear to be in question in this instance and therefore carries limited weight in my assessment of the scheme before me.

### **Other Matters and Planning Balance**

28. The site is located within the Ravenscourt and Starch Green Conservation Area (CA) and there are a number of locally listed Buildings of Merit nearby. A Townscape, Heritage and Visual Impact Assessment (October 2019) has been provided as part of the evidence in support of the appeal. I agree with the report in its conclusion that the present condition of the site can be considered to detract from the CA. The proposal would improve the appearance of the site in a number of ways and would enhance the character or appearance of the CA. However, these heritage benefits could also be achieved through alternative proposals for the development of the site and I give them limited weight.
29. I note that the area is well-served by public transport; the site has a PTAL of 4 according to Transport for London's methodology, indicating very good access to public transport. I also acknowledge the economic and social benefits associated with the scheme through the effective use of land and the provision of office accommodation. Though, due to the small scale of the scheme I afford these benefits limited weight.
30. I acknowledge that the current scheme has been decreased in size and altered from the previously refused proposal with the aim of overcoming the concerns which were raised. However, as set out above, in my view the alterations are not sufficient to overcome the identified harm.
31. I am also aware of the previously approved scheme<sup>2</sup> on the site. However, I have not been provided with details of the specifics of that scheme which was approved a considerable time ago. In any event, that permission has now lapsed and is not, therefore, a viable fallback position.
32. I have reviewed the submitted evidence in respect of the health condition of a neighbouring resident. However, as I have already found substantial harm to the living conditions of neighbouring residents and also concluded that the proposal would not provide adequate access, it is not necessary for me to

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<sup>2</sup> Ref 2002/01710/FUL

consider whether additional weight should be applied due to any potential harm to the living conditions of the individual.

33. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the proposal would cause harm to the living conditions of neighbouring occupiers and would fail to provide satisfactory access.

### **Conclusion**

34. The proposal would not accord with the development plan when it is considered as a whole. For the reasons given above I conclude that the appeal should be dismissed.

*L J O'Brien*

INSPECTOR