



Appeal Decisions

Site visit made on 29 September 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2020

Appeal A Ref: APP/H5390/W/19/3243229

Flat A, 32 Vereker Road, London W14 9JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Joseph Asombang against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/01730/FUL, dated 6 June 2019, was refused by notice dated 20 September 2019.
 - The development proposed is replacement of existing roof with a new raised mansard roof, with rooflight, excavation of the basement to provide accommodation at lower ground floor in connection with the existing residential unit. Repairs to the brickwork, parapet and doorway portico. Replacement of the existing window with new double glazing window, and replacement of front door to the Fairholme Road elevation.
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Appeal B Ref: APP/H5390/W/20/3253728

Flat A, 32 Vereker Road, London W14 9JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Joseph Asombang against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/03879/FUL, dated 30 December 2019, was refused by notice dated 3 April 2020.
 - The development proposed is replacement of existing roof with a new raised mansard roof, with rooflight, excavation of the basement to provide accommodation at lower ground floor in connection with the existing residential unit. Repairs to the brickwork, parapet and doorway portico. Replacement of the existing window with new double glazing window, and replacement of front door to the Fairholme Road elevation.
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Procedural Matters

1. As set out above, there are two appeals on this site. Whilst the planning history of the site is relevant to the consideration of both proposals, I have considered each proposal on its own individual merits. However, to avoid duplication I have dealt with the two appeals together, except where otherwise indicated.

Decisions

Appeal A - Ref: APP/H5390/W/19/3243229

2. The appeal is dismissed

Appeal B – Ref: APP/H5390/W/20/3253728

3. The appeal is dismissed

Main Issues

4. The main issues in respect of the appeals are:

- whether the development proposed in **Appeal A** would preserve or enhance the character or appearance of the Barons Court Conservation Area (CA);
- the effect of the development proposed in **Appeal A** on the living conditions of the occupiers of No 32 Vereker Road with particular regard to outlook, privacy and light pollution; and
- whether or not the developments proposed in **Appeals A and B** would provide suitable living conditions for occupiers of the host dwelling with particular regards to outlook, light and outdoor space.

Reasons

Appeal A

Character and appearance of the CA

5. The significance of the CA derives from being a relatively well-preserved section of Victorian urban development. The appeal building is contemporary with the Victorian growth of the area and distinguishing features include the large ground level window and modestly proportioned glazed roof to the elevation facing the street which allude to its original use as an artist's studio.
6. The Inspector dealing with the most recently dismissed appeal¹ (Appeal 1), noted that the 'northern lights' to the front roof slope have traditionally been a low-key feature of the building that were partly set behind the parapets either side of the street facing window. Furthermore, he observed that they are simple non opening rooflights which are reflective of the original use of the building. I agree and find that the glazed roof's understated appearance is integral to the positive contribution the building makes to the character and appearance of the CA.
7. The proposal under Appeal A would increase the height of the roof so that the new rooflights would terminate at a higher level. Consequently, the rooflights would be larger than those in the existing roof. Collectively this would result in the glazed roof having a significantly increased presence, diminishing the discreet characteristics of the building and resulting in an intrusive addition to the street scene.
8. I acknowledge that the number of opening windows to the front glazed roof slope has been reduced in number and that those that would be openable would be partially obscured by the brick parapet. However, this alone would not be sufficient to reduce the pronounced appearance of the glazed roof. As a result of its increased scale, the glazed roof would have a detrimental effect on the appearance of the building and would unacceptably disrupt the relatively well-preserved characteristics of the CA.
9. The harm to the significance of the CA would be less than substantial. This harm must be weighed against the public benefits of the proposal in

¹ Ref APP/H5390/W/19/3232410

accordance with Paragraph 196 of the National Planning Policy Framework (the Framework).

10. The proposals include retention and repairs to brickwork, to the entrance architrave as well as a replacement timber front door and a new metal framed window to the front elevation. These alterations have the potential to enhance these elements of the building and make a positive contribution to the character and appearance of the CA. Even so, S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I must pay special attention to the desirability of preserving the setting of the CA. The increased scale of the glazed roof design would be a conspicuous feature in the street and would not preserve or enhance the CA. Overall, I find that the less than substantial harm that would result in that regard would not be outweighed by the identified public benefits.
11. I conclude that the proposals under Appeal A would not preserve or enhance the character or appearance of the CA. In that regard, the development would therefore conflict with the design and conservation requirements of policies DC1 (Built Environment), DC4 (Alterations and Extensions) and DC8 (Heritage and Conservation) of the Hammersmith and Fulham Local Plan (2018) (LP), the Framework and the guidance within Key Principles AH1, AH2 and CAG3 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document (2018) (SPD).

Living Conditions - No 32 Vereker Road

12. The basement flat at No 32 is served by obscure glazed windows to the elevation facing the site. Furthermore, outlook for the basement flat and the kitchen serving the main dwelling at No 32 are already inhibited by the eastern wall of the appeal building. The increase in height to the side facing brick façade of the appeal building would be relatively modest and the roof above would be hipped away from the boundary. Consequently, the increase in height would be unlikely to be highly perceptible from these respective neighbouring levels.
13. Bedroom windows serving the main dwelling at No 32 facing the appeal site are at an elevated height relative to the proposed roof extension. In combination with the spacing between these windows and the proposed roof, the proposal would not be overbearing when appreciated from these bedrooms.
14. The side facing roofslope nearest to No 32 would be faced in lead and no windows are proposed to the side elevation facing this neighbouring dwelling. Consequently, the development would not cause material harm to the privacy of the occupiers of the neighbouring property. Given the relative position of the proposed front and rear facing sloped rooflights and 'plateau rooflights' from windows serving No 32, any artificial light omitted from the appeal building would be unlikely to result in levels of luminance that would adversely impact on the internal living environment for occupiers of No 32.
15. I conclude, the development would not result in material harm to living conditions for the occupants of either No 32 or the basement flat at No 32 with regards to levels of outlook and privacy and in terms of any artificial light emanating from the appeal building. In that regard, the proposal would comply with Policies HO11 (Detailed Residential Standards) and DC4 (Alterations and Extensions (Including Outbuildings)) of the LP which, amongst

other things, seek to protect neighbouring amenity and require that proposals for extensions will be considered acceptable where there is no detrimental impact on privacy enjoyed by neighbours and outlook from windows in adjoining properties. In that regard, the development would also comply with the guidance within Key Principles HS7 and NN7 of the SPD.

Appeals A and B:

Living conditions for occupiers of the host dwelling

16. The Inspector dealing with another previously dismissed appeal² (Appeal 2), which also included extensions to the roof and basement, concluded that the development in that case would have the same outcome as a proposed rebuild scheme³ (Appeal 3) that they had found to be harmful to the living conditions of future occupants. However, in that particular instance they found the scheme under Appeal 2 to be unobjectionable noting that the internal works did not require planning permission, and even if they did, that they would not conflict with Policy HO11 (Detailed Residential Standards) of the LP.
17. In the case of Appeals A and B, conflict with Policy 7.6 (Architecture) of the London Plan (2016) is cited in the Council's decision notices. I am not aware that this policy was before the previous Inspector and it is not referred to in the appeal decision. The policy forms part of the development plan and is relevant to the current appeals as, amongst other things, it requires that buildings and structures provide high quality indoor and outdoor spaces. This is consistent with Paragraph 127 of the National Planning Policy Framework which amongst other things requires that decisions should ensure a high standard of amenity for existing and future occupiers.
18. When taken in isolation, the extensions to the roof and basement would not result in harm to living conditions. To that end, I concur with the Inspector that dealt with Appeal 2. However, it is this development which would facilitate the provision of three internal floors. Accordingly, I must assess the resultant living environment, which is only achievable as a result of the development, against Policy 7.6 and the Framework.
19. The reduction in basement level would result in this floor being significantly below the street level window with an intervening floor. Consequently, the proposed dining area and kitchen would have no means of outlook. An optimum means of outlook would also not be provided to the open plan living area given the floor level would be set significantly below the bottom of the street level window. The proposals under Appeal 3 were similar in terms of these relationships. The previous Inspector noted in that instance that whilst outlook would be constrained, it would not be dissimilar to the basement flats nearby. Even so, I must assess the proposal against the development plan policy before me and I find that there would be conflict with Policy 7.6 and the Framework as occupants of the appeal development would be afforded a poor level of outlook and hence the overall internal living environment would be oppressive.
20. The only natural light to the reduced basement level would be borrowed light penetrating through a structural glass floor. As was the case with Appeal 3, most of the windows for the proposed development would be north facing, the

² APP/H5390/W/18/3198570

³ APP/H5390/W/18/3193560

building is surrounded by taller structures, the street level window would probably need to be obscured in some way to protect privacy and there is a street tree directly outside it. These factors are all likely to inhibit the ability of reasonable amounts of daylight to enter the building. The effect of this would be likely to be most acutely experienced at basement level. The appellant has not provided a daylight and sunlight assessment to demonstrate that the basement would receive adequate levels of light. Without evidence to convince me otherwise, I am not satisfied that levels of light for occupiers of the building would be such that they would provide a high quality living environment for future occupiers.

21. The constrained living conditions inside the building would be compounded by the limitations of the small external yard in terms of its potential usability for the enjoyment of future occupiers.
22. The established lawful use of the building as a dwelling represents a legitimate fallback position. It is also the case that the current building could be internally altered without planning permission and hence that means of outlook, light and outdoor space would be unlikely to be of a particularly high standard. Even so, it is likely that there would be less scope for additional floors and occupation of the building without the roof and any basement extensions would be less intensive. Without the proposed extensions the floor levels, including the basement, would also be more likely to be aligned closer to the street level window. This would have the potential to facilitate better levels of outlook and light than those proposed. For these reasons, the proposals under Appeals A and B would be likely to result in a deterioration in the standard of living conditions when compared to this fallback position.
23. My attention has also been drawn to a recent planning permission on the site⁴. Both the Council and the appellant agree that the planning permission is likely to be quashed. Accordingly, the existence of the planning permission holds limited weight in decision making terms as a fall-back position. The existence of the planning permission as a fall-back position, does not alter or outweigh the very significant harm that I have identified in terms of the effect of the proposal on the living conditions for future occupiers of the building.
24. Taking the all the above factors into consideration, I conclude that the proposals in **Appeal A** and **Appeal B** would not provide suitable living conditions for future occupiers of the host dwelling in respect of outlook, light and outdoor space. There would be particular conflict with the amenity requirements of Policy 7.6 of the London Plan and paragraph 127 of the Framework.

Other Matters

25. I acknowledge the appellant's concerns in respect of the Council's handling of planning applications on the appeal site. In respect of Appeal A, I also note that the appellant contends that Council's Planning Committee did not give due regard to their professional planning officer's recommendation and that discussions at the Committee meeting did not reflect the reasons for refusal on the decision notice. Furthermore, it has been drawn to my attention that the decision notices did not include a statement relating to the Council working in a positive and proactive manner with the appellant. Procedural matters relating

⁴ LPA Ref 2020/01112/FUL

to the planning application process are not matters for me to assess in relation to appeals made under s78 of the Act. I have therefore assessed the appeal on the basis of the reasons set out on the formal decision notices issued by the Council.

Overall Conclusions

Appeal A - Ref: APP/H5390/D/19/3243229

26. I have found that there would be no harm to the living conditions for neighbouring occupiers at No 32 Vereker Road. However, the development would not preserve or enhance the CA and none of the identified public benefits would outweigh the less than substantial harm. Furthermore, the development would not provide a high standard of living conditions for future occupiers of the building. None of the other matters raised alter or outweigh my conclusion on this matter. Therefore, I conclude that the appeal should be dismissed.

Appeal B – Ref: APP/H5390/D/20/3253728

27. The development would not provide suitable living conditions for future occupiers of the host dwelling. None of the other matters raised alter or outweigh this conclusion. I therefore conclude that the appeal should be dismissed.

M Russell

INSPECTOR