
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: 4th December 2020.

Appeal Ref: APP/H5390/W/20/3251568

51 Sulgrave Road, London W6 7QH

- 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 Elliott against the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/02692/FUL, is dated 6 September 2019.
 - The development proposed is full demolition and rebuild of 4-storey terraced dwelling-house with modified rear and roof extension.
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Decision

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

Preliminary Matters

2. A number of iterations of the scheme and revised plans were submitted throughout the course of the application process. The original plans dated August 2019 and marked as Revision A were consulted upon. The primary difference between the two sets of plans is the retention of a street tree and the retention of the existing front elevation in revision B.
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 character and appearance of the area, have a detrimental effect on visually important street trees, harm the living conditions of neighbouring occupiers and would fail to provide satisfactory living conditions for future occupiers. I have had regard to the Council's statement in framing the main issues.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area; including the likely long-term effect on the nearby street trees and whether or not the proposal would preserve or enhance the character or appearance of the Melrose Conservation Area; and
 - the effect of the proposal on the living conditions of the occupiers of 53 Sulgrave Road with particular regard to outlook and light; and

- whether or not the proposal would provide satisfactory living conditions for future occupiers with particular regard to amenity space.

Reasons

Character and appearance

5. The appeal property, 51 Sulgrave Road, is an end of terrace dwelling which occupies a prominent corner location at the junction of Sulgrave Road and Melrose Terrace. The appeal site lies within the Melrose Conservation Area (CA). Nos 1 – 8 Railway Cottages, in close proximity to the appeal site are locally listed as buildings of merit.
6. The CA appears to draw its significance from its historical street pattern, its high quality residential development and character and the high quality of the townscape including the buildings and the spaces between them. Significance is also drawn from the area's mature street trees which make a notable contribution adding an important element of greenery to the CA's character.
7. The area is broadly characterised by attractive close knit terraces of three/four storey residential properties set back from the road behind small front garden areas. Though there are differences between them, these terraces nevertheless create a strong sense of uniformity. The terrace of which No 51 is part (the terrace) is characterised by bay windows at ground floor level and attractive architectural detailing, particularly around the windows and front door, which contributes positively to the character and appearance of the CA.
8. A large proportion of buildings in the area are of a brick construction, though some have been painted, and create a sense of cohesion. No 51 is largely of a brick construction though the flank elevation has been rendered and painted green.
9. The rear elevations of the properties within the terrace, particularly No 51 due to its corner location, are prominent in views from Melrose Terrace. Though alterations appear to have occurred at a number of properties similarities remain; including some window detailing and placements and, most notably, the 'stepped' appearance of the rear elevations. The rear of No 51 has a number of 'stepped' rear elements which include an elevated conservatory and a mansard roof.
10. I am required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. As the proposal is also within the setting of the nearby locally listed buildings the potential effect on this heritage asset should also be considered.
11. The proposal as originally submitted is for the full demolition and rebuild at No 51 with modifications to the rear and a roof extension. The front elevation as rebuilt would incorporate some of the same design elements as are currently present on site. However, the more intricate details, such as those around the windows, which add value to the character and appearance of the terrace and the CA would be removed. The resultant dwelling would appear notably featureless in direct juxtaposition with the articulation and architectural detailing that characterises the terrace. As such, this proposal would cause unacceptable harm to the character and appearance of the area.

12. The rear elevation of the rebuilt dwelling would be broadly similar to the existing dwelling in terms of form and the stepped design would be retained. The removal of some of the rear additions such as the conservatory would lessen the visual clutter. However, the proposed windows would lack the design detailing which currently exists both around the window openings and within the glazing itself. These details act to soften the appearance of the windows and are broadly similar to others in the area.
13. The rear roof slope would be significantly altered by the roof extension and addition of a large window with a glass Juliet balcony. This extension would breach the eaves of the dwelling, eroding the slope of the roof and 'squaring off' the flank wall to a greater extent than is currently the case. Due to its height and design the proposed roof extension would dominate the rear roof slope and would be an unsympathetic addition to the dwelling. In my view, the proposed roof extension would appear as a visually jarring interruption to the roof slope in a prominent, highly visible location.
14. Consequently, for the reasons I have outlined thus far, in my view, the design of the proposed dwelling would cause it to appear incongruous within the street scene. As such, I consider that it would cause harm to the CA and the setting of the nearby locally listed buildings of merit.
15. The revised plans indicate that the front façade of the existing dwelling would be retained, rather than demolished and replaced. Whilst this would address the concerns I have raised with regard to this elevation, the issues I have raised with regard to the proposed rear elevation would remain.
16. Moreover, both iterations of the proposal involve the total, or near total, demolition of a building which contributes positively to the character and appearance of the area and the significance of the Conservation Area. Though I note the appellant's statement that only the front elevation would appear to be original and whilst the retention of the front elevation would mitigate some of the harm, the building as a whole entity would lose its authenticity and the front elevation would effectively become a 'stage set' for an almost entirely new building.
17. Furthermore, the proposed development would occur within the Root Protection Area (RPA) of two mature street trees (an Alder and a Cherry tree). These street trees form part of a group of trees which line the pavement along Melrose Terrace providing greenery to break up the built form and contributing positively to the character and appearance of the CA.
18. A Tree Survey carried out by Arbtech in August 2019 categorises the Alder as a category B tree (a tree of moderate quality with an estimated remaining expectancy of at least 20 years) and the cherry as a category c tree (a tree of low quality with an estimated remaining expectancy of at least 10 years). The proposal initially included the potential removal (and replacement) of the cherry tree, however, the revisions to the scheme suggest that this tree would be retained.
19. An Arboricultural Impact Assessment Report (the Report) prepared by Central London Tree Surveys in August 2019 has been submitted by the appellant in support of the appeal. The Report was originally written on the premise that the cherry tree would not be retained and, as such, does not contain a full exploration of the possible effects on this tree or detailed measures to secure

its protection during construction. The Report sets out the pruning measures which would be required to the Alder in order to facilitate the scaffolding which would be required during the construction of the proposal. The Report goes on to conclude that the demolition and proposed foundations, subject to appropriate protection measures, would have no impact upon retained trees. However, the Council's Arboricultural Officer has raised some further concerns and suggestions regarding the protection of roots and the processes proposed on-site.

20. The proposal includes the addition of several, fairly large, rooflights which would serve the ground floor of the dwelling. These rooflights would be in close proximity to the street trees, particularly the cherry, and, as such, I consider it likely that the proposal could result in post-development pressure to prune the trees.
21. Though I note that the cherry tree has been categorised as a category c tree, it is nevertheless, a visually important street tree with a predicted lifespan of at least ten years. Taken together the potential for post-development pressure and the other concerns regarding the Report lead me to the view that I am not satisfied that the proposal would not have a detrimental long-term effect on the nearby street trees. Though, the appellant states that alternative tree protection measures could be secured by a suitably worded planning condition, in this instance, I do not consider that this would be appropriate in light of the other concerns I have outlined above.
22. I appreciate that careful consideration has been given to the design of the scheme and acknowledge that the proposal would make some improvements to the appearance of the dwelling by the removal of visual clutter and replacing the green render to the flank elevation which does not contribute positively to the character and appearance of the area. These considerations, however, would not be sufficient to mitigate the harm I have identified.
23. In addition to the requirement under section 72 of The Act, the CA is also a designated heritage asset as defined by the National Planning Policy Framework (the Framework), which seeks to ensure that heritage assets are conserved in a manner appropriate to their significance.
24. In this case due to the small scale of the proposal the proposed development would cause less than substantial harm to the significance of the designated heritage asset. Paragraph 196 of the Framework indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal.
25. I acknowledge that the proposal would result in a more sustainable and energy efficient building which would represent a public benefit of the scheme. I also note the minor benefits which would be secured through the improvements to the appearance of the dwelling. However, in my view, these benefits are limited by the scale of the proposal and could also be achieved through an alternative, less harmful, proposal. Therefore, I afford these public benefits limited weight in my assessment of the scheme.
26. Consequently, the public benefits I have identified would not outweigh the harm to the designated heritage asset and the proposed development would not pass the paragraph 196 balancing exercise.

27. For the reasons outlined above, the proposal would have a detrimental effect on the nearby street trees, the setting of the nearby locally listed buildings of merit and would fail to preserve or enhance the character or appearance of the CA. Consequently, the proposal would fail to accord with Policies DC1 and DC2 of the Hammersmith and Fulham Local Plan, February 2018 (LP) which seek, amongst other things, a high quality urban environment that respects and enhances its townscape context and heritage assets. The proposal would also conflict with LP Policy DC8 which states that applications affecting designated heritage assets will only be permitted if the significance of the heritage asset is conserved or enhanced.
28. Furthermore, the proposal would not meet the aims of LP Policy OS5 which seeks to enhance biodiversity and green infrastructure by seeking retention of existing trees.
29. The proposal would also fail to meet the aims of Key Principles CAG3 and AH2 of the Hammersmith and Fulham Planning Guidance Supplementary Planning Document, February 2018 (SPD) which state that there will be a presumption in favour of the conservation of heritage assets and expect new development to be sympathetic to the architectural character of the built context and not have a harmful impact on the character and appearance of the conservation area.

Living conditions of neighbouring residents

30. The proposed dwelling would be of a similar design to that of the existing property and would retain the 'stepped' layout with rear projections which reduce in size from the ground floor to the second floor. The proposed projection at first floor level would be approximately 1m deeper than that which is currently in-situ. This projection would be in close proximity to several windows in the rear elevation of No 53, most notably, one in the side elevation facing No 51 and one in the main rear elevation which is set back between the two projections.
31. Whilst a 1m increase in depth would not represent an extremely large increase, given the arrangement of the windows on site and the proximity to No 53, in my view the proposed projection would be a dominant feature in the outlook from the aforementioned windows serving No 53. This would lead to the proposal appearing as an oppressive feature which would create a harmful sense of enclosure for the occupants.
32. Furthermore, the orientation of the buildings is such that, due to its proximity and size, the proposed projection would be likely to reduce the levels of light reaching the rear windows, and rooflights of No 53.
33. A non-technical desktop review assessing the potential effect of the proposal on daylight and sunlight prepared by Anstey Horne and dated 13 August 2020 (the review) has been submitted by the appellant in support of the appeal. The review states that the proposed rear addition is not wholly dissimilar to the existing rear addition and is, therefore, unlikely to cause material reductions to the daylight and sunlight conditions at 53 Sulgrave Road, 41 Poplar Road and 18 Melrose Terrace.
34. However, notwithstanding the above, this review also indicates that the first floor element of the proposal is likely to have an effect on light levels reaching No 53, though this would be only a marginal reduction. In my view, as the

review has indeed identified a potential impact upon No 53 and goes on to base its conclusions that the loss of light would not be materially harmful on the basis of assumptions and a desktop study, I cannot be satisfied on the basis of the evidence before me that a reduction in the levels of light would not cause harm to the living conditions at this property.

35. The proposal would remove some of No 51's existing amenity space at first and second floor levels. This would represent an improvement to the living conditions of No 53 in respect of privacy. However, in my view, such benefits could be achieved through an alternative, less harmful, scheme and, in any event, would not be sufficient to outweigh the harm I have identified in other respects.
36. For the reasons set out above, the proposed development would cause harm to the living conditions of the occupiers of 53 Sulgrave Road with particular regard to outlook and light. The proposal would, therefore, fail to comply with Policies DC2, HO4 and HO11 of the LP. Amongst other things, these policies expect all housing development to provide a high quality residential environment and set out that all proposed development will be required to show that there will be no undue detriment to the general amenities enjoyed by existing surrounding occupiers of their properties.

Living conditions of future occupiers

37. The proposed dwelling would have approximately 25.4 sq. metres of private amenity space in the rear garden. A further area of around 10.2 sq. metres of amenity space is available at the front of the property. Should both areas be included, this would lead to a total of 35.6 sq. metres.
38. Key Principle HS1 of the SPD states that family dwellings (those with 3 or more bedrooms) should have access to amenity or garden space of no less than 36 sq. metres. Though I note that the shortfall is potentially minimal, nevertheless, the proposal would fail to provide the required amount of garden space.
39. Moreover, in my view, the amenity space to the front of the property would be in close proximity to the road, small and highly overlooked. Therefore, I do not consider that this area would represent usable garden space. Consequently, though the shortfall would be small, only approximately 25.4 sq. metres of amenity space would be high quality and, thus, though I note that the SPD does not appear to preclude the inclusion of a front garden area within its space requirement, I consider that the proposal would fail to provide satisfactory living conditions for future occupiers with particular regard to amenity space.
40. I note the appellant's view that the shortfall in amenity space is nominal and is more than compensated for in a dwelling with a proposed floor area of 195 sq. metres against a requirement of 130 sq. metres. I also recognise that the proposed arrangements are not dissimilar from those currently in situ. However, these considerations are not sufficient to outweigh the harm I have identified.
41. The proposal would conflict with Policies HO4 and HO11 of the LP and Key Principle HS1 of the SPD. Amongst other things these seek high quality

residential environments which are well designed internally and externally and provide amenity and garden space.

Other Matters

42. The appellant makes reference to the existence of another planning permission which was granted at No 25 Horder Road which could be considered similar to the appeal before me. However, each case must be determined on its individual merits and the circumstances in each case are likely to be different. For example, though No 25 Horder Road is in a Conservation Area the planning issues present on site were notably different; the property was structurally poor and situated in a less prominent mid-terrace location. Furthermore, this application was determined within a different policy context.
43. I recognise that the proposal would result in some, limited benefits to the character and appearance of the building and also note that the new dwelling would reduce carbon dioxide emissions, consume less energy, and reduce the flow of surface water run-off. However, as I have outlined above, I consider that these benefits could also be achieved through an alternative scheme and they would not mitigate the harm I have identified.
44. A number of concerns around the handling of the planning application by the Council have been raised by the appellant. However, issues such as this are outside of the remit of this appeal and must be pursued through the Council's own complaints process.

Conclusion

45. The proposed development would fail to accord with the development plan taken as a whole. Therefore, for the reasons given above I conclude that the appeal should fail.

L J O'Brien
INSPECTOR