
Appeal Decision

Site visit made on 3 June 2021

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021.

Appeal Ref: APP/Y5420/W/20/3266152

4 Shakespeare Gardens, London N2 9LG

- 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 Nick Hasell against the decision of Haringey London Borough Council.
 - The application Ref HGY/2020/1337, dated 25 May 2020, was refused by notice dated 4 August 2020.
 - The development proposed is 'replacement of outbuildings with new dwelling to include basement and additional light wells'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Haringey London Borough Council's (the Council) second reason for refusal contains an error with regard to the addresses of the neighbouring properties. It refers to No 4 Shakespeare Gardens and No 4 Southern Road, whereas it is clear from the Council's other submissions that it should relate to No 4 Shakespeare Gardens and No 25 Southern Road. This error was acknowledged by the appellant and no matters of injustice arise. I have made my assessment on the basis of the correct addresses.
3. The Council's reasons for refusal included policies within the London Plan 2016, but this has now been replaced by the London Plan 2021. The London Plan 2021 (LP) does not diverge significantly from the previous plan in terms of the main issue considerations in this case. No party has been prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy and I have used the updated policy references where appropriate.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area, including whether the development would preserve or enhance the Fortis Green Conservation Area (FGCA).
 - The effect of the proposal on the living conditions of occupants of No 25 Southern Road and No 4 Shakespeare Gardens, with particular regard to loss of privacy and light disturbance.

Reasons

Background and planning history

5. No 4 Shakespeare Gardens is a traditional style detached 2 storey dwelling. It sits on a corner plot adjacent to the junction with Southern Road. The front of the house faces Southern Road and its east side elevation faces Shakespeare Gardens. To the rear of the house, there is a garden enclosed behind a timber panel fence running along the property boundary with Shakespeare Gardens. At the bottom of the garden are 2 connected domestic outbuildings, 1 of which is a garage. There are timber gates and a vehicular crossover from Shakespeare Gardens to access the garage.
6. There is some planning history relating to the outbuilding that is relevant to this appeal. There have been a number of applications and refusals for proposals to replace the outbuildings with a dwelling. However, in June 2019, the Council granted planning permission¹ for a scheme described as 'demolition of outbuildings and erection of single storey dwelling' (the 2019 permission). The red lined site area included the outbuildings and the small area immediately in front of them.
7. The approved dwelling comprised a rectangular building occupying most of the small site, with a patio garden to the front. The design is single aspect, with the front elevation being fully glazed in square panels and including an entrance door. There would be no windows or door openings in the other 3 sides. The roof would be a flat sedum 'green' structure with 3 rooflights. Internally, the dwelling would include an open plan format, with the main space being a kitchen / living / dining area; a bedroom area connected to the main area by sliding screens; and a separate bathroom.
8. Whilst the 2019 permission has not yet been implemented, it remains extant until June 2022 and is a fallback for the appellant. There is no evidence to suggest that it would not be implemented if this appeal were unsuccessful.
9. The appeal proposal is for a revised scheme which would include a full basement comprising a gym, study and WC. The site area has been expanded by a few metres, taking a further part of the garden of No 4, to enable a proposed lightwell to be created. The north basement elevation would be extensively glazed with windows and 2 doors, providing light to the basement areas. The doors would open onto the floor of the lightwell. The proposed end garden boundary of No 4 would be formed with a wire fence and low level planting.

Character and appearance and the FGCA

10. The appeal site is located in the southern part of the FGCA which was designated in 1974. There is no appraisal document for the FGCA and I have been given limited evidence regarding its significance as a heritage asset.
11. Based on my observations it appears to have grown from the Victorian period from the main thoroughfare of Fortis Green and comprises several residential streets, including Western Road, Eastern Road, a stretch of Southern Road and a small length of Shakespeare Gardens (which includes the appeal site).

¹ Borough of Haringey planning reference HGY/2019/1370

12. Whilst the northern part of the FGCA contains a mix of residential and some commercial properties along Fortis Green, the southern part, including the appeal site, is predominantly residential in land use and character. The houses in this part of the FGCA are an attractive mix of 2 and 3 storey period properties, typically set behind modest front gardens with trees and hedgerows.
13. The combination of Victorian dwellings and later seemingly early C20th houses, along with good sized gardens and trees, all contribute to the character and appearance of the FGCA. This further relates to the FGCA's historical context, and therefore its significance as a heritage asset, in terms of the historical evolution of this part of London over time.
14. I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the locality in a Conservation Area under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In making that assessment, I must take into account the fallback development which has an extant permission and there is no evidence to suggest that the appellant would not implement it if this appeal fails.
15. The appeal proposal would have a similar above ground appearance to the fallback scheme, which appears to have been designed to take on the appearance of an outbuilding. However, the key difference would be the addition of the underground basement accommodation and the lightwell structure. Clearly the basement accommodation itself would be under the building. However, the lightwell would be a significant engineered feature on this restricted site, which would be uncharacteristic and out of place in this part of the FGCA. The resultant dwelling would no longer appear as a simple outbuilding type structure like the 2019 permission scheme, but as a dwelling with 2 levels of accommodation, the lower level being engineered into the ground. I walked around the FGCA and did not observe any comparable basement / lightwell type structures, either forming part of the original building designs, or more recent interventions.
16. I am mindful that the uncharacteristic lightwell void and basement glazing would not be highly prominent in public views given the existing boundary treatment, which includes fencing and a coniferous hedge. However, the fact that it would not be readily visible from the street does not mean that it is not harmful, particularly given the statutory duty to pay special attention to preserving the character and appearance of the FGCA.
17. The resultant effect on the FGCA would be limited and would comprise 'less than substantial harm'² for the purposes of the National Planning Policy Framework (the Framework). This harm must be weighed against the public benefits of the proposal. However, there would be very limited public benefits arising from the proposal, as the basement accommodation would primarily serve the private interests of future occupiers. As such, there are no substantive public benefits arising from the proposal that would outweigh the limited harm identified.
18. Accordingly, on this main issue, I must conclude that the proposal would fail to preserve or enhance the character and appearance of the FGCA and that it would be harmful to it, and that the harm is not outweighed by public benefits

² National Planning Policy Framework – paragraph 196

in this case. This would be contrary to LP policy HC1, policy SP12 of the Haringey Local Plan (HLP) (2017), and policy DM9 of the Haringey Development Management Plan Development Plan Document (DPD) (2017), which all seek to protect designated conservation areas from harmful development. It further conflicts with LP policies D3 and D4, and DPD policies DM1, DM7 and DM12 which require a high standard of design which, amongst other matters, respects local character and context.

Living conditions – No 4 Shakespeare Gardens and No 25 Southern Road

19. The Council's second reason for refusal alleges that the proposal would be unduly harmful to the amenities of the neighbouring property, No 25 Southern Road, and the host property, No 4 Shakespeare Gardens, which is in the appellant's ownership. Both of these properties are set at a higher level than the appeal site. The specific concerns relate to light disturbance and loss of privacy from the lightwell / basement windows.
20. With regard to No 25, there is a substantial intervening boundary screen wall in the vicinity of the house and a stout timber fence running along the garden boundary towards the appeal site. As a result, there would be very limited inter-visibility between the lightwell and the rear windows of No 25. I assess that part of the lightwell could potentially be seen from the window in the rear dormer roof extension, but the view would be oblique, over some distance and filtered by intervening planting. This very limited effect, which might be akin to the glow of some low level garden lighting, would not be unduly intrusive or unneighbourly. I am also satisfied that occupants of the basement could not see into No 25's windows and there would not be any loss of privacy.
21. The host property, No 4 Shakespeare Gardens, would be separated from the lightwell by a wire fence and some low level planting, presumably to maximise the light entering the lightwell and basement windows. Due to the limited depth of the lightwell it would not be possible for basement occupants to look up into No 4's garden or into windows in its rear elevation. There is the potential for some light glow upwards in the evening and at night, but this would be filtered and screened by the planting, and it would be a comfortable distance away from the rear elevation, and elevated patio, of No 4.
22. On this main issue, I am satisfied that the appeal proposal would not cause undue harm to the living conditions enjoyed by occupants of the 2 neighbouring properties. I therefore find no conflict with the policies cited by the Council in this regard.

Conclusion

23. Whilst I have assessed that the proposal would not cause undue loss of amenity to near neighbours, I have found that it would be harmful to the character and appearance of the FGCA and there are no public benefits that outweigh that harm. For these reasons, the appeal is dismissed.

P. Staddon

INSPECTOR